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Procedures and Practices

Relevant to Parliamentary Scrutiny



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Introduction

This is the eighth bi-annual report from the COSAC Secretariat.

COSAC's bi-annual reports

The XXX COSAC decided that the COSAC Secretariat should produce factual bi-annual reports, to be published ahead of each plenary conference. The purpose of the reports is to give an overview of the developments in procedures and practices in the European Union that are relevant to parliamentary scrutiny.

All the bi-annual reports are available on the COSAC website <http://www.cosac.eu/en/documents/biannual/>

The five chapters of this report are based on information provided by the national parliaments and the European Parliament. The COSAC Secretariat is very grateful to them for their cooperation.

Chapter one aims to provide a short presentation of the different scrutiny systems of European Union affairs in the national parliaments of the 27 Member States. There is a particular focus on how the national parliaments see their influence in both national and European level decision-making and policy formulation, but this chapter also highlights some other aspects of the EU scrutiny.

Chapter two describes national parliaments' expectations of the Reform Treaty and their views on the role they may wish to assume in the future institutional system of the EU. The statements and suggestions are compiled with a view to the deliberations of the XXXVIII COSAC in Estoril.

Chapter three seeks to analyse the role of the national parliaments in the Lisbon Process. This analysis focuses on whether and how parliaments can influence the definition of policies and the setting of priorities, whether and how they can influence and monitor the implementation of the Strategy and finally, how far the revision of the Lisbon Strategy in 2005 had any influence on the role and participation of Parliaments in the process.

The aim of **chapter four** is to provide background information on the Mediterranean Dimension of the EU, in order to inform the discussion that will take place at the XXXVIII COSAC. The chapter intends to look into the concept of the Mediterranean Dimension, its development and the challenges it faces.

Chapter five deals with the role of the national parliaments in monitoring of the EU's financial programmes, their priority settings and the allocations from their funds. The chapter also refers to the possible future plans of national parliaments to participate in the 2008-2009 review of the EU Budget.

A note on numbers

Of the 27 Member States of the European Union, 14 have a unicameral parliament and 13 have a bicameral parliament. Owing to this mixture of unicameral and bicameral systems, there are 40 national parliamentary chambers in the 27 EU Member States.

Although they have bicameral systems, the national parliaments of Austria, Ireland, Italy, Romania and Spain each sent a single response to the COSAC questionnaire. The COSAC Secretariat received a response to its questionnaire from all national parliaments of the 27 Member States. These answers are published in a separate annex which is also available on the COSAC website.

Summary

- **An assessment of the influence of national parliaments in EU policy** is difficult to make. There are nevertheless a few generally accepted elements when assessing influence. Early starters have greater possibilities to influence decisions—both on the national and the EU level. There is a clear and relatively recent tendency among national parliaments to focus more attention than before on the pre-legislative phase of EU decision-making.
- Most national parliaments concentrate their scrutiny efforts on the national level (i.e. controlling their governments); irrespective of the scrutiny model they follow. Some parliaments engage the European Commission during its consultations and in relation to the application of subsidiarity and proportionality principles. Several national parliaments mention the Commission's initiative of direct communication with national parliaments as a welcome development that has also had some positive spill-over effects on national scrutiny systems.
- Only a couple of national parliaments appear to be trying proactively to influence decisions at the national or the EU level. National parliaments—even those with power to influence decisions—seem to be quite reactive in their approaches to policy formulation.
- **The expectations** national parliaments have of the **Intergovernmental Conference and the Reform Treaty** appear very much in line with the negotiating mandate agreed by the heads of state and government in June 2007. The majority of national parliaments insist that the substance of the 2004 Constitutional Treaty must be preserved as closely as possible and that the negotiations must carefully respect the June mandate.
- National parliaments **expect to see their role in the EU decision making process enhanced and strengthened** as a result of the new subsidiarity procedures and additional provisions which engage them. They anticipate a stronger role *vis-à-vis* their governments in EU affairs as a result and a greater involvement of their members and committees in European more matters generally. This is generally welcomed as an important contribution towards transparency, democracy and legitimacy of EU legislation.
- The implementation of the new rights and obligations of national parliaments is expected to necessitate changes in internal procedures. Additional financial and human resources may have to be made available. Improved cooperation and coordination between parliaments and an enhanced dialogue between national parliaments and European institutions is considered necessary.
- **The involvement of parliaments in** the open method of coordination in the framework of the **Lisbon Strategy** is on the whole rather limited. Although parliaments do not exert much influence on the formulation of policy and the setting of priorities, they are mostly actively involved in the implementation of the Lisbon Strategy, especially in their role as national legislator. As parliaments thus bear great responsibility regarding the implementation of the Strategy, it would seem to be in their interest to try to influence the earlier stages of the process as well, in order not to be confronted with policies to which they cannot contribute much, but which they then have to implement as a legislator.

- Since the review of the Lisbon Strategy in 2005, national parliament awareness of the Lisbon Strategy generally seems to have risen. Increasing exchanges over the subject at interparliamentary level might further contribute to this development.
- **The Mediterranean Dimension** of the EU comprises the set of policies developed towards a region of strategic importance for the EU since the beginning of the so-called Barcelona Process in 1995. More than a decade after this Euro-Mediterranean Partnership was established, differences still exist over the meaning and significance of what has been achieved so far. A general overview and assessment of the Dimension and its main instruments, such as the Euro-Mediterranean Partnership and the European Neighbourhood Policy, provide the background for the debate on how the parliamentary dimension of this process can be further deepened and strengthened.
- **Procedures for scrutiny of EU financial programmes** appear in essence very similar to the scrutiny of any other EU proposal. Nevertheless, decisions on the spending of European funds require agreement at three levels, requiring scrutiny of three different forms of legislation: the multi-annual financial framework, the individual spending programmes and the annual budget. This three-tier scrutiny gives a broader and deeper insight in the structure of EU financial programmes.
- Some national parliaments already invite representatives of the European Commission, the European Court of Auditors or Members of the European Parliament to hearings where EU financial programmes are debated.

1 Overview of the EU scrutiny systems of the national parliaments of the EU–27

This chapter aims to provide a short presentation of the different scrutiny systems of European Union affairs in the national parliaments of the EU's 27 Member States. There is a particular focus on how the national parliaments see their influence in both national and European level decision-making and policy formulation, but this chapter also highlights some other aspects of the EU scrutiny. An attempt is made to categorise different scrutiny systems by looking at what the national parliaments are scrutinising (documents and/or procedures), who are the objects of the scrutiny (their respective governments and/or EU institutions), at what point during the EU decision making process the national parliaments enter the process, and at what point the scrutiny process is considered to be complete.

In most national parliaments, a European affairs committee is at the heart of the scrutiny procedure, though in an increasing number of parliaments sectoral committees also participate in the scrutiny process, by providing specialist advice to European affairs committees in the early stages of EU decision making and/or in particular focusing on subsidiarity and proportionality aspects.

The different scrutiny models can be roughly divided in two main categories by examining what national parliaments choose to focus on as part of their scrutiny procedures. Some chambers have chosen what the 3rd bi-annual report called a “document-based” system, which focuses on scrutiny of documents emanating from the EU institutions. Others have developed procedures which focus on scrutiny of the EU decision-making process, often concentrating on their government's position in the Council. This system, which can be termed a “procedural” system, includes instances where a European affairs committee is empowered or required to give a direct mandate to a national government before a minister can give agreement to proposed legislation in Council meetings. Most of these so-called mandating systems are procedural systems, but not all procedural-based systems include the element of giving a mandate.

A small group of parliaments have chosen more informal channels of influence. In practice, most systems can be seen as hybrids, containing elements from both the document-based and the procedural models.

Naturally this is only one way to categorise different systems—an observation that several parliaments make in their answers to the questionnaire. The very detailed answers provided by each of the 27 national parliaments well illustrate the variety of scrutiny models operated in the EU's 40 national parliamentary chambers.

It is worth noting that since the last time these questions were asked—in the framework of the COSAC 3rd bi-annual report during the spring of 2005—several chambers or parliaments have adopted new working methods or have made more fundamental changes to their scrutiny systems. Several so-called document-based systems have adopted elements common in procedural models, such as organising hearings with ministers responsible for negotiations in the Council. Likewise, many

procedural systems now appear to pay more attention to documents emanating from EU institutions. In several cases this is due to the fact that in September 2006 the Commission started its procedure of direct transmission of legislative proposals to national parliaments, and renewed its system for transmission of Green and White Papers and Communications to national parliaments (an obligation under the Amsterdam Treaty Protocol on the role of national parliaments in the EU). A clear and relatively recent tendency to focus more attention than before on the pre-legislative phase of EU decision-making also seems to be developing.

A short presentation of the different types of scrutiny systems is set out below.

1.1 DOCUMENT-BASED SCRUTINY SYSTEMS

One widespread type of scrutiny system is the document-based model. This system focuses on examining legislative proposals and other documents emanating from the EU institutions. The system does not in general focus on proceedings at individual Council meetings, nor does it systematically seek to mandate ministers formally or informally.

The principal feature of a document-based approach is a sift of EU documents at the early stages of the decision-making procedure. Typically, the responsible committee will report to its chamber on the political and legal importance of each EU document, and will determine which documents merit further consideration. These systems are often accompanied by a *scrutiny reserve* which provides that ministers should not agree to legislative or other proposals in the Council until the parliamentary scrutiny process has been completed. Some systems have a statutory basis, while others are based on parliamentary resolutions. Systems also differ in the extent to which their provisions are binding on governments.

The classic example of this document-based model is the scrutiny system adopted by both chambers of the UK Parliament in 1974. The parliaments of Czech Republic, Cyprus, France, Germany, Italy, Ireland, Portugal, the Belgian Senate, the Netherlands *Eerste Kamer*, and (since January 2006) the Luxembourg *Chambre des Députés* have established similar document based scrutiny systems. The Bulgarian *Narodno Sobranie's* EU scrutiny system can also be classified as document based.

If the question is formulated as “what is under scrutiny?”, the parliaments of Austria, Belgium, Bulgaria, Cyprus, France, Germany, Ireland, Italy, Luxembourg, Netherlands (*Eerste Kamer*), Portugal, Slovakia, Spain and the United Kingdom all answer that they concentrate primarily on the scrutiny of documents emanating from the EU institutions.

1.2 PROCEDURAL SYSTEMS

As the name indicates, systems where the focus is on the *process* of EU decision-making rather than on an individual document emanating from the EU institutions belong to this scrutiny model. The principal subject of scrutiny is often the national government’s position in the Council. The *procedural system* includes in some cases a power for a European affairs committee to give a direct *mandate* to a government before a minister can endorse legislation in Council meetings.

The parliaments of Denmark, Estonia, Finland, Latvia, Lithuania, Poland (*Sejm*), Slovakia, Slovenia and Sweden belong to the class where the European affairs committee systematically mandates the government. The governments in these countries are all in principle obliged to present a negotiating position—in writing or orally—to the competent committees on all items to be adopted by the Council. These parliaments have developed different ways of filtering the legislative proposals before them, so as to avoid spending time on proposals which are considered less important.

If the question is presented in the form “what is under scrutiny?” the parliaments of Denmark, Finland, Greece, Malta, Poland (*Sejm*), Slovenia and Sweden name the government’s position as the main focus of scrutiny. The scrutiny mechanism in the Romanian *Camera Deputatilor* has not yet been finalised yet, but it is anticipated that its main focus will also be on the government.

1.3 MIXED SYSTEMS AND OTHER SCRUTINY SYSTEMS

Even if most of the scrutiny systems do present elements of both document-based and procedural systems, the parliaments of Estonia, Hungary and Lithuania and the Dutch *Tweede Kamer* would appear to be the most obvious cases of mixed systems which combine elements of both a document-based and a procedural system (combined with a power to mandate the government.) The future EU scrutiny system of the Romanian *Camera Deputatilor* is also classified as being a mixed system.

Some national parliaments have adopted systems which do not really fall into either of the two main categories of system described above. This group of scrutiny systems is quite heterogeneous, but it is characterised by the absence of a systematic examination of EU draft legislative acts and other EU documents. Insofar as these parliaments wish to exert influence over EU policies, they do so via more informal or political channels rather than via systematic or formal mechanisms in parliamentary committees. Parliamentary committees on European affairs in these parliaments have a primary function of initiating or generating debate on important general European issues inside parliament as well as in relation to the public.

1.4 INFLUENCE OF NATIONAL PARLIAMENTS ON DECISIONS TAKEN AT NATIONAL AND EU LEVEL

Mere categorisation according to the procedure of scrutiny also requires reflection on the perceived influence of national parliaments on policy and decisions taken at both national and EU levels. National parliaments were therefore asked to indicate what they considered to be their prime object of influence.

1.4.1 The object of scrutiny

When asked to identify the object of scrutiny almost all national parliaments named their national government as the main object of scrutiny and influence, irrespective of whether their scrutiny system was document-based or procedural. Some parliaments—the two Austrian chambers, the Belgian Senate, the Czech Senate, the Irish *Oireachtas*, the German *Bundesrat*, the Polish Senate, the Portuguese *Assembleia da República* and the UK House of Lords—also indicated that the European Commission

was the object of their scrutiny. The Commission is also mentioned in the specific context of scrutiny of subsidiarity and proportionality by the parliaments of Bulgaria, and Cyprus, the Dutch *Tweede Kamer* and the French Senate. A few parliaments, such as the Belgian House of Representatives and the Danish *Folketing* mention specifically that they aim to influence the Commission's policy formulation in its early phases.

1.4.2 Timeline of the scrutiny

The precise point at which national parliament structures engage with an EU issue is a question closely related to the actual influence of national parliaments on decisions taken at the national and European level.

An encouraging number of national parliaments start their process of scrutiny of EU legislation almost, if not immediately after the publication of a Commission legislative proposal. This is irrespective of the basic scrutiny model adopted, i.e. whether its main focus is on the Commission legislative proposal or the related government position.

Most national parliaments which seek to adopt formal positions on legislative proposals seek to do so during the Council working group phase. Only a few leave formal adoption of a position until the last minute, i.e. immediately prior to the relevant Council meeting where the proposal is on the agenda.

A significant number of national parliaments have also developed procedures aimed at influencing decisions during the pre-legislative phase in the Institutions, by focusing more attention on Green and White Papers, Communications and other consultation documents.

In most cases, formal scrutiny is considered complete when the relevant decision has been taken at the EU level: i.e. when a common position has been adopted in the Council or a legislative act has been concluded. In some parliamentary scrutiny is completed when the government's final report on its participation in the decision-making process has been adopted.

Participation in the implementation and transposition phase following the adoption and entry into force of EC and EU legislation is often considered a quite technical activity.

1.4.3 Perceived influence

Several parliaments simply refer to their existing national legislation or their rules of procedure as a guarantee of their influence, normally *vis-à-vis* their governments.

More interesting are the responses where this question is analysed on a broader scope and with reference to specific examples.

In most national parliaments with a mandating system, mandates given to governments are politically binding and are reported to be in general strictly observed by governments.

Traditionally the Danish *Folketing* is considered to have a strong influence on the Danish government's EU policy. This is primarily secured through the mandating system. According to this system, which was originally established in 1973, the Danish government is obliged to obtain a mandate for its position on each legislative proposal from the EU affairs committee, and is obliged to negotiate in the framework of the Council's activities on this basis. In practice it is rare for the EU affairs committee to reject the Government's proposed mandate: but it would be wrong to infer from this that the committee has only limited influence on the government's EU policy. During examination of the mandate in the EU affairs committee, the government may, for instance, change or modify the mandate it originally sought. Danish civil servants who participate in EU negotiations at an early and informal stage—often before the European Commission tables its legislative proposals—have to take into account the fact that, at some point, the government will need to have the outcome of these negotiations approved by the committee.

The influence of the Finnish *Eduskunta* is essentially guaranteed through a mandating system. The effectiveness of the Finnish parliamentary system is secured in the Finnish Constitution as well as through parliamentary practice. Yet as the *Eduskunta* points out there is an important distinction to be made between parliaments that scrutinise their Government's negotiating from the start, including the participation in working groups, and those that address only the decisions of ministers in the Council, which are frequently *pro forma* if agreement is essentially reached at the working group stage.

The scrutiny process starts very early in the Lithuanian Parliament, where sectoral committees assesses the relevance of further scrutiny of EU proposals and, wherever necessary, adopt recommendations which they send to the European affairs committee. In Lithuania the shaping of a national position on EU legislative proposals or other EU documents implies a permanent dialogue between the *Seimas* and the government at various stages of the process. In Lithuania the *Seimas* gives a political mandate to the government to represent the Lithuanian position: the members of the government are then responsible for representing and defending this national position. In the event that the expected results are not attained, the minister responsible is obliged to demonstrate to the *Seimas* that the agreement in Council does not run counter to the national interest and that it will benefit Lithuania. The overall system underpinning the process of consideration of EU matters places the *Seimas* in a strategic and tactical position to voice its opinion at various stages of the process, including at the early stages of the process, which are considered particularly important. The European affairs committee of the *Seimas* indicates that it has successfully placed a number of items on the government's EU agenda and has been equally successful in adjusting and amending government positions, as well as initiating a continuous political discussion. This kind of proactive approach to the EU affairs appears quite rare among national parliaments, where the approach tends to be quite reactive, even in the best of conditions.

A mandating procedure is naturally just one of the ways to influence a government's position. The EU Committee of the UK House of Lords considers that it has influence at both national and EU levels. On the national level, it considers that the government

always considers its proposals and recommendations very carefully because of the experience and expertise of committee members.

Several actors consider that the Lords EU Committee has influence in Brussels. Commissioners and MEPs have written to the committee to praise its work. The UK government has written to the Committee at least twice in the past six months to inform them of instances where its report recommendations have been taken up (regarding the work of OLAF and the issue of national statements of assurance on the spending of EU funds); and other recent Committee recommendations—on the Court of Auditors, the funding of the CAP, the Fundamental Rights Agency and the Consumer Credit Directive—have been taken up by MEPs. The Committee's reports have been cited in European Parliament plenary sessions, in EP resolutions, in EP committee meetings and by a Commissioner.

Several national parliaments, for example the Czech Senate, have highlighted the Commission's initiative, announced in May 2006 and operational from 1 September 2006, of sending its legislative proposals directly to national parliaments. The Commission's innovation in asking national parliaments to send their comments concerning individual proposals or other documents directly to the Commission is considered to be one way of augmenting the role of national parliaments at European level. In both Italian Houses, a significant change occurred when the Commission started direct transmission of legislative proposals in September 2006: as a consequence of this initiative, the Italian government gave the relevant committees access to the database of the Council of Ministers. Since then, a more intensive dialogue with the government and with the Italian permanent representation in Brussels has led to more substantial influence for the Italian parliament on decisions taken at national level.

1.5 CONCLUSION

When describing the different scrutiny systems of national parliaments, some simplification is necessary in order to explain and understand very complex systems. Naturally there are as many scrutiny systems as there are national parliaments or chambers. By looking at what national parliaments are scrutinising, who are the objects of their scrutiny and at what point they enter the EU's decision-making process some general categorisations can be made.

An assessment of the influence of national parliaments appears even more difficult. Quite a number of parliaments avoided answering this question directly. A review of the question of influence reveals a few common elements. Early starters have more possibility to influence decisions, at both the national and the EU level. There is a clear and relatively recent tendency among national parliaments to focus more attention than before on the pre-legislative phase of EU decision-making.

Irrespective of their scrutiny model, most national parliaments concentrate their efforts on the national level (i.e. on controlling their government). Some parliaments make contact with the European Commission during the consultation phase and in their examination of subsidiarity and proportionality principles. Several national parliaments mention the Commission initiative of direct communication with national

parliaments as a welcome development that has also had some positive effects on national scrutiny systems.

Only a couple of national parliaments appear to be actively trying to influence decisions at either national or EU level. National parliaments—even those with power to influence decisions or to mandate their governments—seem to act in reaction to policies formulated in Brussels rather than acting themselves to initiate or to shape debates.

Overview of different systems based on the answers to the questionnaire

Member State	What is scrutinised?	Subject of scrutiny	Involvement in the process
Austria Nationalrat & Bundesrat	Primarily documents emanating from EU institutions	Government. Indirectly also EU institutions.	In general, scrutiny starts after the Commission proposal. It may take place at any time of the EU decision-making process and usually comes to an end when a final decision has been taken. <i>Answer to the question on Category: "Mandating system"</i>
Belgium Chamber of Deputies	Documents from the Commission and the activities of the Council (=Government)	Primarily Government. Commission for policy shaping purposes	Parliamentary control is continuous project without clear beginning or end. <i>Category: "Proposed categorisation is too simplistic"</i>
Belgium Senate	Documents from the Commission	Commission (but there are ambitions to extend control over the Government)	Scrutiny starts after the legislative proposal from the Commission. The process is concluded when the document returns to the Commission. <i>Category: "Document based system"</i>
Bulgaria	Commission Legislative proposals with Government position	Government. Commission in relation with subsidiarity and proportionality principles.	Scrutiny starts after the legislative proposal is received from the Commission. Scrutiny is considered concluded when the decision is adopted in the Council and the parliament has received Government's report about its participation in the decision-making process. <i>Category: "Document based system"</i>
Czech Republic Chamber of Deputies	EU-documents on the basis of the Government's preliminary position.	Government	The scrutiny procedure is set as being preliminary and precedes the deliberation of EC/EU documents in the Council. <i>Category: "Document based system"</i>
Czech Republic Senate	EU document is only scrutinised when an explanatory memorandum is provided by the Government.	Primarily Government. Indirectly also the Commission.	In general, process starts after the Commission's proposal is delivered to the Senate. There is also emphasis on scrutiny of consultative and other communication documents that are considered to fall into the pre-legislative phase. The scrutiny is considered complete after the proposal is either taken note of or a resolution is passed by the plenary. <i>Category: "Document based system except in relation to CFSP"</i>
Cyprus	Primarily documents emanating from EU institutions	Document, Government position, Commission in relation with subsidiarity and proportionality principles.	Scrutiny starts either at the pre-legislative stage or during the discussion in the Council working groups. Later, when the relevant implementing legislation is submitted before the House of Representatives for adoption, the sectoral committee examining the proposal can scrutinise the government decisions and position taken at the EU level. <i>Category: "Document based system"</i>

Member State	What is scrutinised?	Subject of Scrutiny	Involvement in the process
Denmark	Oral evidence and other information by the Government. Also other relevant documents.	Mandating Government. The committees also monitor Green and White papers and address resolutions to the Commission	The initial debate may take place at the time, when the Commission proposal is on the first time on the Council agenda. A negotiating position must be presented to the EAC before the Danish position is determined. Committees also monitor Commission's Green and White Papers to identify important developments in the policy-making. The scrutiny process is considered to be completed by the time the proposal is agreed by the Council. <i>Category: "Mandating system"</i>
Estonia	Both EU documents and the Government position	Government position ON a specific document	Committees scrutinise Green Papers, White Papers, Communications, Inter-institutional Agreements, Directives, Regulations etc. At the same time, the EAC scrutinises the Government's positions in the Council meetings - also on working group level. The implementation-transposition follows the normal lines of internal legislative process. <i>Category: "Mixed system"</i>
Finland	Government's negotiation position, with EU documents as background material.	Government—as part of formulation of the national position	Scrutiny starts as soon as the Government has informed the Parliament about a proposal. The Eduskunta normally issues its statements on EU matters early enough for them to be available for the Council's working groups. The Government is expected to resubmit the matter when any significant change concerning the proposal or the Finnish position is foreseen. The scrutiny is considered completed when the act has been adopted at the EU level. <i>Category: "Procedural system"</i>
France National Assembly	EU documents submitted by the Government	Government	Normally the Government is obliged to submit documents to parliament a month before their adoption in the Council. The EAC is also entitled to examine the Green and White papers. It may examine proposals for resolutions of the European delegation, which they may adopt, amend or reject. <i>Category: "Document based system"</i>
France Senate	Legislative proposals emanating from the EU Institutions. Commission proposals on the grounds of subsidiarity and proportionality.	Government. After the Barroso initiative also the Commission	The EU-documents are examined as soon as an official document is available. This includes also Green and White papers and sometimes participation in the Commission's consultation procedures. The process can be considered final only when the legislation has been transposed to the national legislation. <i>Category: "Document based system"</i>
Germany Bundestag	Primarily documents emanating from EU Institutions	Government	The Government is obliged to notify the Bundestag comprehensively and at the earliest opportunity possible, i.e. before participating in the legislative process. The Government must wait and if necessary use the parliamentary scrutiny reserve until the Bundestag has had time to deliberate on the topic. <i>Category: "Document based system"</i>

Member State	What is scrutinised?	Subject of Scrutiny	Involvement in the process
Germany - Bundesrat	All Council and Commission documents important the federal states.	Government. Since the direct transmission of documents important points have been sent to the Commission also.	Scrutiny of EU documents by the Bundesrat generally begins when the Federal Government transmits documents adopted by the Commission to the Bundesrat. <i>Category: "Document based system"</i>
Greece	Until recently the government's position. After the June 2006 European Council decision this will change	Primarily the Government. More attention will be paid to the Commission in the future.	Both at pre-legislative phase –in case of Commission communications or white and green papers, or during the examination at the Council, or in some cases before the European Parliament's vote. <i>Category: "Procedural system"</i>
Hungary	EU documents and the related government position.	Government	The scrutiny procedure is launched after the publication of the Commission's legislative proposal and it runs parallel with the EU decision-making procedure: the EAC requests the Government position, asks the opinion of the responsible parliamentary committee and before the relevant COREPER or Council meeting adopts the parliamentary standpoint <i>Category: "Mixed system"</i>
Ireland	Primarily documents emanating from EU institutions	Government and Commission	Depending on the proposal and its particular importance from a national perspective. <i>Category: "Categories need redefining in the light of the implementation of the early warning mechanism."</i>
Italy Chamber and Senate	Primarily documents emanating from EU institutions	Government	Depending on the political importance of the subject. In general the two chambers get involved after legislative proposal but in an increasing number of cases Committees scrutinise the pre-legislative documents. <i>Category: "Document based system"</i>
Latvia	Government position	Government	Depending on the significance of the issue. If a matter is very important, special meetings devoted to that topic are called in the pre-legislative phase and after the Commission's legislative proposal. The majority of documents are scrutinised after the Government has worked out its national positions. <i>Category: "Procedural system"</i>
Lithuania	Both the Government position and EU-documents	Government - as part of formulation of the national position	The Seimas comes into the process of drawing up and deliberation of the national position at different stages, depending on the relevance of the topic. The Government has to get the parliament's approval for the national position every time the matter or its part is considered at the Council meeting. The final decision of the EAC is usually adopted before the Council meeting. <i>Category: "Mixed system"</i>

Member State	What is scrutinised?	Subject of Scrutiny	Involvement in the process
Luxembourg	Primarily documents emanating from EU institutions. Less systematically government positions.	Government	In principle during the pre-legislative phase. <i>Category: "Document based system"</i>
Malta	Government positions	Government	Scrutiny starts as soon as there is the explanatory memorandum from the government. The scrutiny process comes to an end either when the Committee deems that a particular document can be cleared or at a later stage, up to the time that a decision is taken on the EU-level, if the Committee retains it under its scrutiny for any reason <i>Category: "proposed categorisation is too simplistic"</i>
Netherlands House of Representatives	Primarily Government's position. Furthermore, the subsidiarity check is conducted on Commission (legislative) proposals.	Government, but the purpose is also to influence the decision making process in Brussels	Directly after the Commission's legislative proposal when it is submitted to the subsidiarity check and/or when government has drawn a fiche about it. Parliament is also involved in the process when a proposal is on the agenda of the Council. The scrutiny process is considered to be completed when the proposal is adopted. <i>Category: "Mixed system"</i>
Netherlands Senate	The proposals presented by the Commission, mostly together with the government's position	Government	The procedure starts as soon as the government's position is received. All European dossiers are officially closed when the European proposal has been published in the Official Journal. <i>Category: "Document based system"</i>
Poland Sejm	The government delivers relevant EU documents and its draft positions on the legislative proposals.	Government (as recipient of all deliberations)	The EAC takes stands on the legislative proposals in three stages of the EU decision process: In regard to legislative proposals by the Commission, in regard the government's information on the EU law-making process and the Council's draft positions and in regard to legislative proposals, which are supposed to be considered by the Council. The position of the EAC should be the basis for the Government's position. <i>Category: "Mixed system"</i>
Poland Senate	Primarily documents (legislative proposals) transmitted from the Council as well as the government's positions	The primary target is the Commission as the author of legislative proposals and – indirectly – the government.	The scrutiny starts as early as the publication of a green paper, then the EAC analyses the Commission's legislative proposals submitted through the government, the next stage is issuing opinions on the government's positions related to those legislative proposals at an early stage of negotiations and, once again before the Council's meeting. Scrutiny during the implementation phase belongs to the sectoral committees which may ask the EAC for an opinion

Member State	What is scrutinised?	Subject of Scrutiny	Involvement in the process
Portugal	Primarily documents emanating from EU institutions and also from the Government when available	Government and Commission	The relevant documentation emanates from both EU institutions and the government. Special emphasis on the direct transmission of the documents by the Commission. The scrutiny may start either at the pre-legislative phase or after commission legislative proposal. In theory the parliament may intervene at any time until the process is concluded. <i>Category: "Document based system"</i>
Romania	System not finalised yet, but main focus is in the Government positions	Government	The scrutiny system has been designed to start the process as early as possible, even in the pre-legislative phase. The scrutiny is considered to be completed when the decision is taken by the EU institutions concerned <i>Category: "Mixed system"</i>
Slovakia	Documents emanating from EU institutions and subsequent documents on government's negotiation position	Government	The parliament comes in to the process after Commission's legislative proposal and follows it until it is discussed in the Council and the European Parliament. Specialised committees (excluding the EAC) are involved in the implementation phase in the course of the standard legislative procedures <i>"Categorisation is not necessary"</i>
Slovenia National Assembly	Primarily Government's negotiation position	Government	The EAC can enter the EU decision making process in different phases, either at the very beginning or later - depending how important the legislative matter is. The competent committee or the plenary may declare the intention to discuss particular EU affair and take the position of the Republic of Slovenia within a certain time limit, in accordance with the envisaged discussion in EU institution. <i>Category: "Procedural system"</i>
Slovenia National Council	Government's negotiation position	Government	The EAC can enter the EU decision making process in different phases, either at the very beginning or later in the process. It deals above all documents that the Government hands over to the Parliament before the Council meeting. <i>Category: "Procedural system"</i>
Spain Congress and Senate	Legislative proposals from the Commission	Government	According to the relevant legislation, the Joint Committee of the Cortes is able to scrutinise legislative proposals from the Commission. It has also, in some occasions, held debates on documents at a pre-legislative phase <i>Category: "The Spanish Cortes is in the process of renewing their EU Scrutiny system"</i>

Member State	What is scrutinised?	Subject of Scrutiny	Involvement in the process
Sweden	Government	Government	As early as possible. The specialised committees come in to the process when they examine Green and White Papers and other EU documents. Also later legislative proposals are examined. During the whole procedure it's possible for the committees to confer with the government on positions or request information within their respective field of responsibility. The final negotiating mandate is given by the EAC before the matters are decided in the Council. The parliament is involved during the implementation phase if law-making is necessary <i>Category: "Mixed system"</i>
United Kingdom House of Commons	All European documents ¹ deposited by the Government	Government	The Government deposits EU documents for scrutiny together with explanatory memoranda (EMs) setting out the Government's position. The Committee may ask further questions when examining a document, and may examine previous reports in the policymaking stream. Its report on a document will indicate whether it is politically or legally important and whether it should be debated. Documents for debate are sent to debating committees ("general committees") or to the plenary, and are debated on motions for resolution drafted by the Government. <i>Category: "Document-based system"</i>
United Kingdom House of Lords	Documents emanating from the EU institutions, with Government memorandum	Government and Commission	The Committee aims to begin its work at the earliest possible stage in the policy-making cycle. This is facilitated by examining the Commission's annual policy strategy and annual legislative and work programme. The Committee reports on legislative proposals and on early discussion documents. In the past year it has produced reports on green papers, Communications, and legislative proposals (at first reading and at second reading in the co-decision process). <i>Category: "Document based system, but doesn't cover all work"</i>

¹ A "European document" is defined in the Committee's Standing Order as:

(i) any proposal under the Community Treaties for legislation by the Council or the Council acting jointly with the European Parliament;

(ii) any document which is published for submission to the European Council, the Council or the European Central Bank;

(iii) any proposal for a common strategy, a joint action or a common position under Title V of the Treaty on European Union which is prepared for submission to the Council or to the European Council;

(iv) any proposal for a common position, framework decision, decision or a convention under Title VI of the Treaty on European Union which is prepared for submission to the Council;

(v) any document (not falling within (ii), (iii) or (iv) above) which is published by one Union institution for or with a view to submission to another Union institution and which does not relate exclusively to consideration of any proposal for legislation;

(vi) any other document relating to European Union matters deposited in the House by a UK Government Minister.

2 National parliament expectations of the IGC

On 23 July 2007, the Intergovernmental Conference (IGC) was convened and began its work on a so-called Reform Treaty. The drafting of the Reform Treaty is taking place on the basis of the negotiating mandate agreed by Heads of State and Government in June 2007.² The future role of National Parliaments in the European Union is one of the issues that will be dealt with during the IGC and in the Reform Treaty.

In its contribution to the EU Institutions, the XXXVII COSAC in Berlin insisted that “the National Parliaments and the European Parliament will be kept fully involved and that their views will be duly taken into account” and formulated a number of demands with regard to the role of national parliaments in the European Union.³

The purpose of this chapter is to describe the expectations which national parliaments have of the Reform Treaty and their views on the role they may wish to assume in the future institutional system of the EU. The following statements and suggestions are compiled with a view to the deliberations of the XXXVIII COSAC in Estoril.

2.1 EXPECTATIONS OF THE REFORM TREATY

2.1.1 General expectations

A large number of national parliaments expect the IGC to maintain and safeguard the political substance of the Constitutional Treaty agreed by the previous IGC and signed in October 2004. Among the expectations of a Reform Treaty highlighted by national parliaments are a reinforced Common Foreign and Security Policy (CFSP), a more stable Council Presidency, an extension of qualified majority voting in the Council, the necessity of a legal personality for the EU and the importance of transcending the present pillar structure of the Union. The Italian *Camera dei Deputati* and *Senato* and the German *Bundestag* stress the significance of giving legal force to the EU Charter of Fundamental Rights. It is expected that the Reform Treaty will clarify the division of competences between the Union and its Member States. Several national parliaments express the conviction that by strengthening direct relations between national parliaments and the European Commission, the Reform Treaty will increase transparency and democracy in the EU legislative process.

A number of parliaments express the hope that the conclusion of the Reform Treaty will lead to the resolution of the current perceived institutional impasse in the EU and will ensure greater efficiency in the decision making process of a Union of 27 Member States. The Italian *Camera dei Deputati* and *Senato* both stress that any new institutional arrangements ought to be put in place before the European Parliament elections due to be held in June 2009. To this end, many parliaments stress that the negotiating mandate agreed by Heads of State and Government in June 2007 must be fully respected. The German *Bundestag* underlines in particular that the institutional

² All relevant documents and further information concerning the IGC can be found at : http://www.consilium.europa.eu/cms3_fo/showPage.asp?id=1297&lang=en&mode=g

³ The Contribution and Conclusions can be found at: <http://www.cosac.eu/en/documents/contributions/>

package must not be opened up to renegotiation and that the protocols on the role of national parliaments and on the application of the principles of subsidiarity and proportionality must not be undermined.

While sharing the generally very positive assessment of the majority of national parliaments, the Luxembourg *Chambre des Députés* is concerned that the Reform Treaty will not contribute to a simplification of the Treaties. The German *Bundesrat* regrets that the symbols of the EU will not be enshrined in the new treaty and that the Charter of Fundamental Rights will not be reproduced in the text.

2.1.2 Expectations of the future role of national Parliaments

Concerning their own role in the future EU, almost all national parliaments expressly welcome the developments outlined in the Reform Treaty mandate and expect that it will strengthen the role of national parliaments at EU level. They insist that the provisions for national parliaments which were already part of the draft Constitutional Treaty must be maintained in the Reform Treaty. The French *Assemblée nationale* and *Sénat* both consider that the involvement of national parliaments could be further improved by including the recently-established procedure for dialogue with the European Commission in the Treaty⁴ and by broadening the grounds for national parliaments' formal participation in the EU legislative process to the issue of proportionality.

The Portuguese *Assembleia da Republica* notes that while the involvement of national parliaments has been improved with regard to the review of Treaties, new accessions and in Justice and Home Affairs, there will be no enhancement in participation in foreign policy issues.

The proposed extension of the period for national parliaments to scrutinise EU legislative proposals from 6 to 8 weeks is welcomed by a great number of parliaments as a very positive development.

Some parliaments especially welcome the “more robust” subsidiarity mechanism and the introduction of the so-called “orange card” procedure, while others point towards the additional “ex post” subsidiarity control by European Court of Justice (ECJ). The parliamentary chambers of Austria and the Czech Republic highlight the decisive role of national parliaments in the application of the proposed *passerelle* clauses, in specific aspects of justice and home affairs policy, in the proposed treaty revision process and in application procedures for future accessions to the EU are also highlighted.

Concerning their future rights and obligations, the Polish *Sejm* points to the high number of national parliaments needed to trigger the orange card procedure. The Lithuanian *Seimas* regrets that even a large majority of national parliaments cannot prevent EU legislation without the active assent of the EU legislator. Interestingly, however, the Hellenic Parliament seems to welcome the new threshold to be applied by the “orange card” procedure. The Belgian House of Representatives welcomes the new possibilities for dialogue between national parliaments and the European

⁴ Established in September 2006 as part of the Barroso Commission's “Citizen's Initiative”

institutions, but is opposed to too formal and rigid a procedure for the examination of subsidiarity and proportionality.

The Finnish *Eduskunta* stresses that parliamentary scrutiny of proposed EU legislation should first and foremost take place in the context of relations between national parliaments and their respective government. The Estonian *Riigikogu* intends to concentrate its efforts on domestic scrutiny: it is not planning to seek direct access to EU institutions, and expects “business as usual” in its handling of EU affairs.

Regarding the parliamentary ratification procedure that will follow the IGC, several national parliaments demand proper information about the progress of the treaty negotiations, especially about the provisions concerning their future role within the EU. The Latvian *Saeima* insists that a consolidated text should be available before the informal summit of heads of state and government on 18–19 October 2007.

2.2 IMPACT OF THE REFORM TREATY ON NATIONAL PARLIAMENTS

2.2.1 An enhanced role for national parliaments in the EU

A great number of parliaments expect that the Reform Treaty will lead to an increased role for national parliaments at European level. It is assumed that national parliaments will gain greater influence over EU matters and will have a greater impact on the EU’s decision-making process, in particular through reinforced monitoring of compliance with the subsidiarity principle. On the other hand the Estonian *Riigikogu* expects the new treaty to have no impact whatsoever on the role of national parliaments.

Many national parliaments consider that they will be in a better position to contribute to transparency and democratic participation in the political process and to provide better information for their citizens. According to the German *Bundestag* and the Swedish *Riksdag*, enhanced participation by national parliaments will increase the legitimacy of EU legislation.

Many parliaments presume that they will generally be encouraged to become more actively involved in EU affairs. The Czech *Poslanecká Snemovna* (Chamber of Deputies) expects that national parliaments will gain better access to EU documents. The Danish *Folketing* anticipates stronger involvement in the EU legislative process and in deliberations on important EU policy initiatives. The Latvian *Saeima* sees an obligation on national parliaments to increase their level of involvement in EU matters.

The Hungarian National Assembly and the Polish Senate anticipate that the new provisions on the “yellow card” and “orange card” mechanisms will lead to a “new dimension in subsidiarity control”. The Irish *Oireachtas* expects that the new responsibilities for national parliaments will lead to a greater focus on scrutinising proposals at an earlier, pre-legislative stage of the policy-making process. On the other hand, the Luxembourg *Chambre des Députés* warns that subsidiarity checks must not create obstacles for the EU’s legislative procedures.

2.2.2 The need for changes in the internal organisation of parliaments

Many parliaments foresee that the new provisions involving national parliaments will lead to internal changes in their working methods and in their relationship with their respective governments.

A number of parliaments expect that the level of interest in EU matters of specialised committees could be raised. The Irish *Oireachtas* and the Polish *Sejm* consider that the specific new competences for national parliaments could facilitate the involvement of all members of parliament in the EU policy-making process, and not only members of European affairs committees.

In addition, some parliaments expect that the new provisions concerning the participation of national parliaments in the EU legislative process will enhance their role *vis-à-vis* their national government, either through tighter control over EU matters handled by the government or through greater independence in relation to their government.

Many parliaments point out that the impact of the proposed new provisions will greatly depend on their practical implementation. The necessity to change national procedures for monitoring subsidiarity and to invest more time and resources into scrutinising EU matters is a clear theme in the responses. The French *Assemblée nationale* points out that has already implemented an internal procedure for subsidiarity and proportionality checks. The Finnish *Eduskunta* warns that the implementation of these new rights and obligations might be burdensome on smaller parliaments.

2.2.3 A call for an enhanced cooperation and coordination between parliaments

Almost all national parliaments point out that effective implementation of the subsidiarity control mechanism will encourage a greater cooperation between national parliaments, foster the exchange of best practice and even lead to greater coordination of their actions. The German *Bundestag* sees an important role for COSAC in this respect and recommends an increased use of the IPEX platform developed by the Conference of EU Speakers. The German *Bundesrat* adds that cooperation through IPEX alone will not be sufficient. The Dutch *Eerste Kamer* and the Czech House of Representatives want joint scrutiny of legislative proposals to continue. Several parliamentary chambers mention a need for greater information exchange within COSAC and through its secretariat.

The Irish *Oireachtas* and the Bulgarian National Assembly underline that there is a need to develop a common understanding among national parliaments of the principle of subsidiarity as defined in the Treaties.

Cooperation between national parliaments and the EU institutions is considered an important field. The Polish Senate expects that a constructive dialogue between the European Commission and national parliaments could lead to a substantive change in the EU's legislative output, so that proposed legislation is more respectful of subsidiarity, less frequent and better targeted. The Belgian House of Representatives considers that dialogue between national parliaments and EU institutions could be even more important than formal subsidiarity and proportionality procedures. The Portuguese *Assembleia da República* points out that national parliaments should not

only focus on the issue of subsidiarity, but should also examine the impact assessments of Commission legislative proposals.

The UK House of Commons raises a very specific point regarding the drafting of the new article on the role of national parliaments, Article 8c of Title II TEU. It is concerned that the proposed wording “national parliaments *shall* contribute actively to the good functioning of the Union” and the stipulation that they should do so “by seeing to it that the principle of subsidiarity is respected” places an obligation on national parliaments which may hinder their independence of action. These provisions appear to impose legal duties on national parliaments and could be interpreted as constraining the ability of national parliaments to participate in EU affairs.

2.3 CONCLUSION

Comparing the views summarised above with the expectations national parliaments expressed both in answering the questionnaire for the 7th bi-annual report⁵ and during the XXXVII COSAC in Berlin,⁶ it is somewhat surprising that almost all parliaments appear to be satisfied with the probable outcome of the 2007 IGC. The overwhelming majority seem to have no expectations above and beyond what is foreseen in the negotiating mandate endorsed by heads of state and government in June 2007. Only the French *Assemblée nationale* and *Sénat* suggest further provisions, namely the inclusion of the issue of proportionality in the scope of the checks by national parliaments expressly authorised by the Treaty text and the establishment in the Reform Treaty of the newly established procedure for dialogue with the European Commission. Despite the fact that during the two joint subsidiarity and proportionality checks already conducted by COSAC national parliaments also verified the legal base of Commission proposals, no parliamentary chamber suggested that this responsibility be included in the proposed Protocols on national parliaments. From the results of the questionnaire, it can therefore be concluded that a great majority of parliaments will be satisfied with the result of the IGC as long as the draft Reform Treaty reflects the negotiating mandate as closely as possible.

⁵ <http://www.cosac.eu/en/documents/biannual/>

⁶ For the Contribution and Conclusions of the XXXVII COSAC in Berlin see: <http://www.cosac.eu/en/documents/contributions/>

3 The Role of Parliaments in the Lisbon Strategy

At the Lisbon European Council in March 2000, the European Union set itself a new strategic goal for the next decade, namely to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion.⁷ The strategy was designed to enable the Union to regain the conditions for full employment and to strengthen cohesion by 2010.

The main tool for the coordination of Member States' policies in the framework of the Lisbon Strategy is the so-called open method of coordination (OMC). This process entails the setting of guidelines by the European Council, the implementation of these guidelines at national level and the monitoring of Member States' progress in achieving the goals envisioned.

Although the most important areas of policy and practice for the revitalisation of the European economy fall almost exclusively within the competence of the Member States, e.g. labour market reforms, changes in tax systems, improving opportunities for education etc., the Lisbon Strategy has very often been mainly discussed at EU rather than at national level. The national, regional and local levels have barely taken ownership of the strategy so far.

This chapter seeks to analyse the role of national parliaments in the process on the occasion of the upcoming review of the Lisbon Strategy at the Spring European Council 2008 under the Slovenian Presidency as well as the ongoing preparations for the Strategy's new three-year implementation cycle from 2008 to 2011

This analysis focuses on whether and how national parliaments can influence the definition of policies and the setting of priorities, whether and how they can influence and monitor the implementation of the Strategy and finally, in how far the revision of the Lisbon Strategy in 2005 had any influence on the role and participation of national parliaments in the process.

3.1 THE 2005 REVIEW OF THE PROCESS

In 2004, the European Council and the Commission decided to prepare a mid-term review of the Lisbon Strategy. This review was mainly prepared by a group of experts chaired by the former Dutch Prime Minister Wim Kok. The Kok report⁸ presented to the November 2004 European Council came to the conclusion that little progress had been made over the first five years and recommended that the agenda be refocused on the achievement of stronger, lasting growth and the creation of more and better jobs.

In March 2005 the European Council agreed to relaunch the Lisbon Strategy, refocusing priorities on growth and employment and thus aiming to increase the EU's

⁷ For the Presidency Conclusions of the European Council of 23/24 March 2000 see http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/00100-r1.en0.htm

⁸ For the report "Facing the challenge: the Lisbon strategy for growth and employment" see http://ec.europa.eu/growthandjobs/pdf/kok_report_en.pdf

competitiveness, growth potential, productivity and social cohesion through better education, innovation and the optimisation of human capital.⁹ On top of the resetting of priorities, the coordination and implementation tools of the Strategy via the open method of coordination were improved.

The European Council of June 2005 adopted a new Integrated Guidelines Package for Growth and Jobs for the period 2005–2008, which provides a roadmap for the design of national reforms.¹⁰ Following the new three-year governance cycle Member States had to set up national reform programmes for the same period of time, granting them the opportunity to identify their own priorities and to share best practice. In the framework of their national reform programmes which set out detailed commitments for action at national level, Member States have to submit annual progress reports to the Commission which complement the Commission's annual progress report. Together with the Community Lisbon Programme¹¹, which sets out clear patterns for action at EU level to complement national, regional and local efforts and which was approved by the European Council of December 2005, the national reform programmes are the main tools for implementation of the Lisbon Strategy. Furthermore, coordination is meant to be improved through the appointment of a national coordinator for the Lisbon Strategy in each Member State.

3.2 INVOLVEMENT OF PARLIAMENTS IN THE DEFINITION OF POLICIES

The great majority of national parliaments report that they hold parliamentary debates on political developments and policy documents relating to the Lisbon Strategy, mainly in the EU Committee, in sectoral committees, in the plenary or in combinations of all three. The subject of discussion is in many cases policy documents on the definition of policies submitted to national parliaments by their governments. Ministers are often heard or examined during these parliamentary debates; in some cases social partners and civil society representatives are involved in parliamentary hearings as well. Any influence on the definition of policies and the setting of priorities is mostly exerted in an indirect way, , if at all, namely through the adoption of parliamentary opinions, resolutions or recommendations which are submitted to government and in some cases also to the European Commission.

A number of national parliaments say that they actively influence the setting of political priorities through their government or that their opinion at least matters when it comes to policy planning: In Finland, activities in the framework of the open method of coordination (OMC) are subject to the same reporting requirements as other EU-related activities, which means that the government is expected to inform the *Eduskunta* on actions that have an impact on civil rights and liberties. The *Eduskunta* takes a critical approach to the OMC, owing to a comparative lack of transparency in the mechanisms as well as deficient political and judicial

⁹ For the Presidency Conclusions of the European Council of 22/23 March 2005 see http://ue.eu.int/ueDocs/cms_Data/docs/pressdata/en/ec/84335.pdf

¹⁰ For the Presidency Conclusions of the European Council of 16/17 June 2005 see http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/85349.pdf

¹¹ Communication from the Commission to the Council and the European Parliament, Common Actions for Growth and Employment: The Community Lisbon Programme, COM (2005) 330 final, http://ec.europa.eu/growthandjobs/pdf/COM2005_330_en.pdf

accountability. The German *Bundesrat* has also commented on the open method of coordination on a number of occasions. It has reservations about extending this method to further policy areas. The *Bundesrat* also considers that it has influenced on the definition of policies through its opinions submitted to government. The German *Länder*, who are represented in the *Bundesrat*, will be consulted by the German government on the contents of the new set of Lisbon guidelines for 2008-2011.

The Danish *Folketing* states that its EU Committee receives regular information from the government on Lisbon matters provided that they have been placed on the agenda of the Council and are considered as of considerable importance. In case decisions of major significance have to be taken, the government is obliged to present its proposed negotiating position to the EU Committee.

The Swedish *Riksdag* explains that it exerts influence on the definition of policies and the setting of priorities in the sense that the government is formed on the basis of the representation of the different political parties in Parliament and has to act accordingly. This observation is broadly true for every national parliament surveyed..

The Hellenic Parliament reports that its Standing Committee on European Affairs often initiates dialogue among competent ministries, the national Lisbon coordinator and Parliament and that its opinions matter in the planning of policies. The Italian Parliament says that its chambers have a strong influence on the definition of policies and the setting of priorities through its resolutions submitted to the government: for example, binding parliamentary resolution on the government's Annual Economic and Financial Planning document.

A number of national parliaments state explicitly that their influence on the definition of policies is rather limited and/or that they are not directly involved in the open method of coordination: the Cyprus *Vouli ton Antiprosópon*, the French *Assemblée nationale*, the French *Sénat*, the Estonian *Riigikogu*, the Dutch *Tweede Kamer*, the Maltese House of Representatives, the Polish Senate, the Portuguese *Assembleia da República*, the Slovenian *Državni Zbor* and the Spanish *Congreso*. The majority of these parliaments do hold regular debates on Lisbon Strategy issues and submit resolutions on specific matters to their governments.

The European Parliament has only a limited role to play in the development and scrutiny of the Lisbon Strategy, whose main actors are the Member States, the European Commission and the Council.¹² Notwithstanding its lack of formal power, it nevertheless regularly expresses its priorities and convictions through resolutions that it submits to the Council and/or the Commission, such as its regular annual "European Parliament resolution on the input to the Spring Council in relation to the Lisbon Strategy" which is forwarded to the Spring Council. This resolution encompasses all areas of the Lisbon Strategy and thus provides a point for parliamentary input into the development of the Strategy. Another indirect way in which the European Parliament can exert some influence with regard to the development of the Lisbon Strategy is by

¹² The situation slightly differs for the second pillar of the Integrated Guidelines, the Employment Guidelines: Here Parliament has to be consulted on the proposed guidelines and modifications thereof every year under a consultation procedure with the Committee on Employment and Social Affairs as the Committee responsible.

using its budgetary powers to achieve adequate financial resources for the European Union to implement policies related to the Lisbon Strategy. In this spirit, the EP considers that it gave a clear message for the 2008 budget: cuts applied by Council in the budget for competitiveness for growth and jobs and a reduction of payments for cohesion were not supported by the EP. The EP claims that its strategy is underpinned by the idea of a “budget for results”: the allocation of financial resources must follow political priorities. The EP states that it has already flagged up the question of insufficient funding for competitiveness programs in the context of the Financial Perspective talks, when adequate funding of Lisbon goals was high on the EP’s agenda.

3.3 PARLIAMENTARY INVOLVEMENT IN POLICY IMPLEMENTATION

With regard to the implementation of the Lisbon Strategy, the majority of national parliaments report that the national reform programmes and the national progress reports are subject to parliamentary scrutiny or at least subject to parliamentary debate. The bodies involved are the EU Committee, subject committees, the plenary or a mixture of all three. In some cases government ministers are questioned during these parliamentary activities. In most cases national parliaments forward resolutions or recommendations to their governments. Some parliaments point out that parliamentary influence is also exerted at the point where the implementation of the Strategy requires the transposition of certain measures into national legislation.

A number of national parliaments have introduced or participate in special mechanisms to enhance participation regarding the implementation of the Lisbon Strategy: The Latvian *Saeima* has established a “Lisbon Strategy Scrutiny Committee” which deals with the implementation of the Lisbon guidelines and the use of best practice. The Committee is chaired by the Minister of Economics and comprises representatives of different subject committees of the *Saeima*. The Lithuanian *Seimas* reports that it was engaged in the drafting of the “National Lisbon Strategy Implementation Programme”. Three members of the EU Committee currently participate in the interdepartmental activity of the “Commission for the Monitoring of the Drafting and Implementation of the National Lisbon Strategy Implementation Programme”. Furthermore, several members of the *Seimas* are actively engaged in the activities of the so called Lisbon Strategy task force.

The German *Bundesrat* debates the national reform programmes and the annual progress reports. However, real influence is exerted on *Länder* level. The federal states made a substantial contribution to the statements on the policy areas within their ambit when the National Reform Programme was drawn up, for instance in the area of education, children and young people, research, urban planning, rural development, deregulation, demography, regional economic support and labour market policy. The federal states are also involved in developing the annual implementation and progress reports. The Finnish *Eduskunta* reports that the Grand Committee’s statement on the National Finnish Reform Programme 2005-2008 was binding on the government’s policy.

The European Parliament has formally only a bystander's role to play when it comes to the implementation of the Lisbon Strategy. However, it claims to exert influence when measures require Community legislation, with the European Parliament playing a key part as legislator. Consequently, the EP has been involved in a number of legislative procedures leading to the adoption of key Community legislation for the implementation of the Strategy, concerning, for example, the opening up of several markets, including electricity, gas, postal services and rail freight. Public procurement rules have been updated, the Financial Services Action Plan has been advanced, and the Services Directive was adopted. On top of this, in its legislative role, the EP also needs to approve some of the measures in the framework of the Commission's Community Lisbon Programme (CLP).

3.4 IMPACT OF THE 2005 STRATEGY'S REVIEW ON THE ROLE OF PARLIAMENTS

A considerable number of national parliaments consider that the review of the Lisbon Strategy, introducing *inter alia* the tool of national reform programmes, has increased their awareness of the Strategy: this has sparked parliamentary debate and stronger involvement, particularly in the implementation of the Strategy. The French *Assemblée nationale* states that despite the intensification of debate on the Strategy, the number of members who are actively interested in the Strategy is still limited. The Portuguese *Assembleia da República* refers in particular to the establishment of the office of the National Coordinator as a step of considerable importance for the enhancement of parliamentary involvement in the Strategy. The National Coordinator for the Lisbon Strategy met with the European Affairs Committee and other subject committees on several occasions, for example to present the National Programme for Implementation of the Lisbon Strategy or the National Action Plan for Growth and Employment 2005–2008. As the European Affairs Committee of the *Assembleia da República* is of the opinion that the Lisbon Strategy should be the subject of inter-parliamentary reflection, it put the topic on the agenda of the COSAC Chairpersons' meeting in July 2007.

In fact, since the review of the Lisbon Strategy in 2005 interparliamentary activity on the subject has been stepped up as a means of encouraging debate. The European Parliament has hosted, in cooperation with the Parliament of the member state holding the Council Presidency at the time, three joint parliamentary meetings on the Lisbon Strategy¹³. These meetings were held in March 2005 under the Luxemburg Presidency, in January and February 2006 under the Austrian Presidency and in February 2007 under the German Presidency. In addition, the European Parliament has organised a number of joint committee meetings, e.g. between national budgetary committees and the EP Committee on Budgets, which have *inter alia* also related to Lisbon Strategy matters.

As in most national parliaments, the 2005 relaunch of the Lisbon Strategy also intensified debate on the different aspects of the Strategy in the European Parliament. In December 2004 a so-called "Coordination Group on the Lisbon Strategy" was put in place. This comprises 33 Members from the different political groups representing

¹³ Information on the Joint Parliamentary Meetings on the Lisbon Strategy can be found at <http://www.europarl.europa.eu/webnp/cms/lang/en/pid/470>

the 10 parliamentary committees in the EP most concerned by the Lisbon Strategy. It provides a forum for regular open discussion and since 2005 has contributed to the debate by preparing a *European Parliament resolution on the input to the Spring Council in relation to the Lisbon Strategy*, the third one having been passed in the spring of 2007.

3.5 CONCLUSION

The involvement of national parliaments in the open method of coordination in the framework of the Lisbon Strategy is on the whole rather limited. Although national parliaments do not exert much influence on the formulation of policies and the setting of priorities, they are mostly actively involved when it comes to the implementation of the Lisbon Strategy on national level. Even if a parliament's opinion on a national reform programme is not taken into consideration by its government, it will usually be able to exert influence through its budgetary powers and when the time comes to implement the programme is implemented through national legislation.

Given their responsibility with regard to the implementation of the Strategy, it would seem to be in the interest of national parliaments to try to influence the earlier stages of the process as well. This would enable them to avoid an outcome to which they could not contribute much, but which they then have to implement as a legislator. Since the Strategy's review in 2005, the awareness of the Lisbon Strategy among national parliaments has generally risen. An increasing exchange over the subject at interparliamentary level might further contribute to this development.

4 The Mediterranean Dimension of the European Union

The aim of this chapter is to provide background information on the Mediterranean Dimension of the EU, in order to inform the discussion that will take place at the XXXVIII COSAC. The chapter intends to look into the concept of the Mediterranean Dimension, its development and the challenges it faces.

4.1 GENERAL FRAMEWORK OF THE EU MEDITERRANEAN DIMENSION

In the context of the EU's external and cross border policies, the Mediterranean Dimension reflects the EU's relations with its Mediterranean partners.

The Mediterranean region is of the utmost strategic importance to the EU, not only economically (trade, energy and migration) but also politically (security and stability). The EU policy response to this is composed of two complementary strategies: the Euro-Mediterranean Partnership and its bilateral Agreements, and the European Neighbourhood Policy and its bilateral Action Plans.

The Euro-Mediterranean Partnership (EMP)—colloquially known as the **Barcelona Process**—is the general framework for the relations between the EU, its Member States and the countries situated in the south and east of the Mediterranean Sea. It therefore comprises 37 members, namely the 27 EU Member States and the EU's 10 Partners in the Mediterranean—Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, the Palestinian Authority, Syria, Tunisia and Turkey. Libya has had observer status since 1999.

The Euro-Mediterranean Conference of Ministers of Foreign Affairs, held in Barcelona on 27-28 November 1995, adopted the Barcelona Declaration¹⁴, which establishes the three main objectives of the partnership:

1. *Political and Security Chapter*: defining of a common area of peace and stability through the reinforcement of political and security dialogue;
2. *Economic and Financial Chapter*: aiming to establish an area of shared prosperity through an economic and financial partnership and the gradual establishment of a free trade area;
3. *Social, Cultural and Human Chapter*: aiming to encourage understanding between cultures and exchanges between civil societies, this chapter envisages the rapprochement between peoples through a social, cultural and human partnership.

The Barcelona Process is composed of two complementary dimensions, bilateral and multilateral. Through the Euro-Mediterranean Association Agreements, the EU carries out a number of bilateral activities with each country individually. On the

¹⁴ For the full text of the Barcelona Declaration, see http://ec.europa.eu/external_relations/euromed/bd.htm

multilateral level, one of the most innovative aspects of the partnership is the regional dialogue, covering political, economic and cultural aspects.

After the 2004 enlargement, the EU faced the challenge of trying to avoid the emergence of new dividing lines with its neighbouring countries. In order to overcome this challenge, the EU is developing and implementing a European Neighbourhood Policy (ENP) through which it envisages the strengthening of standards of stability, security and quality of life with its neighbours to the east and on the southern and eastern shores of the Mediterranean. This approach is also in line with the strategic objectives set out in the December 2003 European Security Strategy¹⁵.

The European Neighbourhood Policy applies to the EU's immediate neighbours by land or sea—Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, the Palestinian Authority, Syria, Tunisia and Ukraine.

The ENP and the EMP share the same basis—bilateral Association Agreements with countries in the region. Working through the structures of existing Association Agreements, the ENP builds on the potential of the existing relationships and aims at breaking new ground through its 'tailor-made' Action Plans.

Both policies make use of the institutions established under those Agreements, allowing for a formal dialogue at various levels. With many goals in common, the Euro-Mediterranean Partnership pursues a multilateral track whereas the ENP provides additional focus and impact through a bilateral approach of mutual commitments to implement reforms and modernisation conducive to closer economic integration and political cooperation. While the Ministerial Summits of the EMP framework provide the general impetus to the process, the ENP focuses its approach in the bilateral Action Plans that combine the general strategies with the specificities of each of the partners involved.

The purpose is to develop the ENP as an instrument to promote democratic and economic reforms, supporting the partner countries' own efforts through a transition methodology consisting of a dynamic and tailor-made policy. The level of ambition for relations with individual countries based on progress made by those countries in implementing agreed reforms (as spelled out in the ENP Action Plans).

In March 2007 the Commission presented its Regional Strategy Paper (RPS) 2007–2013 and the Regional Indicative Programme (RIP) 2007–2010 with the purpose of providing a strategic framework for programming the regional Mediterranean allocation of the European Neighbourhood Policy Instrument (ENPI). The RPS is intended to channel the contents of the five-year work programme decided by the Heads of State at Euro-Mediterranean Summit held in Barcelona in November 2005 into three priority goals:

- *a common Euro-Mediterranean area of justice, security and migration cooperation;*

¹⁵ The 2003 European Security Strategy can be consulted here:
http://www.consilium.europa.eu/cms3_fo/showPage.ASP?id=266&lang=EN&mode=g

- *a common sustainable economic area, with a focus on trade liberalisation, regional trade integration infrastructure networks and environmental protection;*
- *a common sphere for socio-cultural exchanges, also envisaging raising awareness of the Partnership through the media.*

The RIP 2007-2013 foresees an amount of €343.3 million for specific action programmes in this context.

It is also relevant to note that other significant initiatives have also taken place as an attempt to develop dialogue and consultation between countries from different sides of the Mediterranean. The 5+5 West Mediterranean Forum, an idea presented by France in 1990 and relaunched by Portugal in 2001, seeks to regroup five southern European countries (France, Portugal, Spain, Italy and Malta) and five Arab Maghreb Union countries (Algeria, Libya, Mauritania, Morocco and Tunisia).

More recently, the newly-elected French President Nicolas Sarkozy announced that one of his foreign policy priorities would be the establishment of a Mediterranean Union, with a *privileged partnership* between the Mediterranean states. Even though this announcement did provide the Euro-Mediterranean relations with a fresh impetus, the specific proposed terms of this Union remain unclear, namely how it would relate to the EU's present policies for the region, and also which countries would be involved.

4.2 THE EURO-MEDITERRANEAN PARLIAMENTARY DIMENSION

4.2.1 The Euro-Mediterranean Parliamentary Assembly

The initiative of launching a Euro-Mediterranean Parliamentary dialogue within the framework of the Barcelona Process was one of the Process's priorities from the very beginning. For that reason, a Euro-Mediterranean Parliamentary Forum (EMPF) was set up in October 1998, laying the foundations of political dialogue between MPs representing the parliaments of the Mediterranean partner countries, the national parliaments of the EU Member States and the European Parliament.

A Working Party on the Conversion of the EMPF into a Euro-Mediterranean Parliamentary Assembly (EMPA) was established at the 4th EMPF sitting in Bari (June 2002). At the Euro-Mediterranean Ministerial Conference held in Naples on 2 and 3 December 2003, the decision to convert the EMPF into a EMPA was taken, following a recommendation made by the EMPF itself. The official inauguration of the EPMA took place in March 2004 in Vouliagmeni, Athens.

The EMPA purports to be the parliamentary institution of the Barcelona Process. It comprises 240 members, 120 from the Mediterranean partner countries and 120 from Europe (75 members of national Parliaments and 45 members of the European Parliament). The Assembly is organised into three parliamentary committees, with the remit of dealing with the three strands of the Euro-Mediterranean Partnership: political, security and human rights; economic and financial issues, social affairs and education; quality of life, human exchanges and culture.

The Assembly has the power to deliver opinions in response to requests from the Ministerial Conference. The Ministerial Conference is required to consult the Assembly on the major aspects of, and the fundamental choices for, each of the three above-mentioned strands.

4.2.2 Other parliamentary frameworks

4.2.2.1. The Inter-Parliamentary Union

A parallel process to EMPA has developed within the framework of the Inter-Parliamentary Union (IPU). In 1991 the IPU set up a process to promote security and cooperation in the Mediterranean region, consisting of a series of conferences and meetings, known as the Conference on Security and Cooperation in the Mediterranean (CSCM). This process envisaged the development of a comprehensive regional policy, laying the foundations for a CSCM process at both intergovernmental and interparliamentary levels. At the fourth and final CSCM held in Nafplion, Greece, in 2005 the participants agreed to create the Parliamentary Assembly of the Mediterranean. The inaugural session of the Assembly took place in Amman, Jordan, on 10 and 11 September 2006.¹⁶ Its Final Declaration states that the Assembly “*is uniquely placed to address common concerns and in which Mediterranean parliaments participate on an equal footing*”.

4.2.2.2 The OSCE

The Organization for Security and Cooperation in Europe (OSCE) currently has six *Mediterranean Partners for Cooperation*: Algeria, Egypt, Israel, Morocco, Jordan and Tunisia. National parliaments of OSCE Partners for Co-operation may be admitted to the OSCE Parliamentary Assembly (OSCE PA) as observers.

The Helsinki Final Act, back in 1975, stated that the security in Europe is closely linked to the stability and security in the Mediterranean as a whole. The Istanbul Charter for the Security in Europe, in 1999, and the OSCE Strategy against Threats and Security in the XXI Century (2003) restated this maxim. The Mediterranean Partners for Co-operation therefore participate in several initiatives of the OSCE. Since 2002 a *Mediterranean Parliamentarians’ Forum* has been held in the framework of the OSCE PA, gathering Parliamentarians and NGOs from the Partner States. At the Parliamentary Assembly’s 2005 Plenary Session a resolution on the *Mediterranean Dimension of OSCE* was passed and was attached to the Assembly’s final Washington Declaration. In order to strengthen this cooperation, the OSCE PA subsequently decided to create the post of *Special Representative on Mediterranean Affairs*, currently occupied by Alcee Hastings (USA), President Emeritus of the OSCE PA.

4.2.2.3 The Forum of Women Parliamentarians

A Euro-Mediterranean Forum of Women Parliamentarians was established by the Declaration on Euro-Mediterranean Parliamentary Cooperation at the Conference of the Presidents of Euro-Mediterranean Parliaments (Palma de Majorca, 7-8 March 1999). The Forum annually groups women parliamentarians from the countries

¹⁶ All the documents concerning this Meeting can be found here: <http://www.ipu.org/Splz-e/cscm06.htm>. The participants were: Cyprus, Portugal, France, Greece, Italy, Malta, Slovenia, Bosnia and Herzegovina, Croatia, Former Yugoslav Republic of Macedonia, Monaco, Egypt, Jordan, Libyan Arab Jamahiriya, Morocco, Palestine, Syrian Arab Republic, Tunisia and Turkey.

participating in the partnership, plus a delegation from the European Parliament. The purpose is to discuss issues of political, economic and social interest figuring among the objectives of the Barcelona Process.

One may argue that in this field of the interparliamentary cooperation, some degree of rationalisation will eventually have to be considered. It is nevertheless important to point out that these forums have provided the momentum for other specific and innovative formulas of exchange to happen. This is obviously the case for formats like *Parliamentarian Friendship Groups*, MP missions and parliamentary visits. These can give a more incisive and complementary bilateral dimension to the multilateral framework of this Euro-Mediterranean parliamentary cooperation, developing what is often referred to as *parliamentary diplomacy* even further.¹⁷

4.3 CONCLUSIONS: GENERAL ASSESSMENT AND FUTURE CHALLENGES

More than a decade after the Euro-Mediterranean Partnership was established, differences still exist over the meaning and significance of what has been achieved so far, over how firmly embedded this Partnership really is and also over who it benefited the most—the northern or southern partners.

If the standard of assessment is that the Barcelona process should have already been transforming the region's economic and political trends, then its success is relatively limited. If, however, the standard is whether or not the Barcelona Process has created a constructive political and institutional infrastructure of comprehensive partnership, with the potential of being built upon and further strengthened, then it can be argued that considerable achievements have already been made.

Twelve years is a relatively short period of time over which to assess the profound transformation processes that are envisaged. This Partnership nevertheless remains in the category of a strategic priority for the EU. It can be argued that its existence and development have been playing an important role in preventing undesirable developments such as the fomenting of conflict, the destabilising of societies or the aggravation tensions between Europe and Arab communities¹⁸. This is a very important observation on the process: the EU may thereby be considered as a partner capable of implementing an approach that creates the conditions for cordial and constructive relations, with an enhanced capacity of delivering results that other actors in this process cannot.

¹⁷ For some academic insight of this concept, see: Stavridis, Stelios (2002), *Parliamentary Diplomacy: some preliminary findings*, Jean Monnet Working Paper in Comparative & International Politics no. 48 (November), Political Studies Department, Università di Catania.

¹⁸ For a detailed assessment of the Barcelona process, see: Emerson, Michael and Noutcheva, Gergana (2005), *From Barcelona Process to Neighbourhood Policy - Assessments and Open Issues*, CEPS Working Documents, No. 220/ March, Centre for European Policy Studies, Brussels. See also Amirah Fernandez, Haizam and Youngs, Richard (2005), *The Barcelona Process: an assessment of a decade of the Euro-Mediterranean Partnership*, Real Instituto Elcano de Estudios Internacionales y Estratégicos, Madrid.

The most recent developments—the ENP and its relationship with the EMP, EU enlargement, evolving EU foreign policy mechanisms, the fight against terrorism, and all the issues relating to migration—have also produced a changing context for the EU’s strategy towards the southern Mediterranean. Within this scope, some strategies have to be thought through thoroughly, bearing in mind that even if the Barcelona Process has been a valuable systemic and institutional advance in Euro-Mediterranean relations and an important confidence-building mechanism, it has nevertheless not been a driving force sufficiently strong to have created a momentum of economic, political and social advance in the partner states. In concrete terms, the relation between EMP and ENP has to be clear and identifiable and the synergies between them visible to all parties involved.

A way ahead might be found in the framework provided in the bilateral Action Plans of the ENP, because they aim at linking the extensive set of policy prescriptions of the Barcelona Association Agreements to the domestic policy programmes of the individual partner states. The EU’s norms and standards appear in this context as an external anchor, in a process of cooperation based in two specific concepts: *conditionality* and *socialisation*. Applying conditionality means that the EU would set out not only the incentives it offers but also the conditions on which these incentives would be delivered. The socialisation concept is essentially a learning process that comes from extensive interactions between actors in the partner states and the EU: these induce partner states to engage in policy reforms that are to a degree modelled on EU norms or derive some inspiration from them.¹⁹ This might reduce some of the complexity of the specific mechanisms that feature this partnership, while giving them at the same time some of the visibility the whole process often lacks.

This approach, designed to direct the Partnership to functioning in a more incisive way, might also bring some added value to address one of the most important issues of Euro-Mediterranean cooperation: a comprehensive and integrated policy in the field of migration that is capable of providing the necessary linkage between the expectations of both sides, namely addressing issues like the need to coordinate efforts to match the demand (of economic migrants in Europe) with the supply (of economic migrants outside Europe), and assessing which type of migration brings benefits to all parties involved.

Parliaments have an important role to play in all the aforementioned issues, not only in assessing which might be the priorities in bilateral and multilateral dimensions, but also through contacts and exchanges that take place in the framework of friendship groups, visits and missions. These can all contribute deeply to the visibility of the Partnership and can also engender a certain feeling of ownership by the all the actors involved in this process.

¹⁹ For a detailed insight of these concepts, see Emerson, Michael (2004), *The Wider Europe Matrix*, CEPS Paperbacks, Centre for European Policy Studies, Brussels.

5 The monitoring of EU financial programmes by national parliaments: setting priorities and allocating funds

In February 2004, the Prodi Commission laid out its political and budgetary project for the EU to tackle the key challenges facing Europe and its citizens from 2007 to 2013.²⁰ Its objective was to launch a forward-looking debate on the European Union's goals and the tools required to make these goals a reality.

The process of adopting new financial perspectives for the 2007–2013 budgetary cycle gave the Council and the EP an opportunity to examine the policy proposals made by the Commission. The European Council reached political agreement on a new multiannual financial framework in December 2005, and the Interinstitutional Agreement formally establishing the 2007–13 framework was signed in April 2006²¹.

The Commission's proposals for EU programmes which it envisages will start under the new 2007-2013 financial framework prioritise policies for growth and economic progress. The revised package sets out details of funds for each programme and legal bases necessary for their implementation.²²

However, the Commission's proposal of legal bases for these spending programmes is only a first step in the EU's decision-making procedure. By adopting these proposals, the Commission submits these texts for the approval of the Council and European Parliament. The legislative package first proposed in 2004—the so-called “Prodi package”—all but completed the work that needed to be done at this stage by the Commission regarding the EU's spending programmes for 2007-2013. More than 40 pieces of legislation then had to be formally approved by the Council or jointly by the Council and the European Parliament.

The programming strategy proposed by the Commission prioritises policies for economic and sustainable progress, solidarity, security and a reinforced role of Europe in the world. These include programmes under the general budgetary heading *Competitiveness for growth and employment*, such as the 7th Framework Programme (research and technology), the Lifelong Learning Programme, Trans-European Networks for Transport and Energy and Galileo, and the worldwide satellite navigation system.

The aim of this chapter is to establish whether and how national parliaments have been involved in this decision-making process. Have they been informed by their respective governments about developments in the inter-institutional decision

²⁰ Communication from the Commission to the Council and the European Parliament - Building our common Future - Policy challenges and Budgetary means of the Enlarged Union 2007-2013 (COM/2004/0101) final: <http://europa.eu/scadplus/leg/en/lvb/134004.htm>

²¹ Interinstitutional Agreement between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (OJ n° C 139 of 14/06/2006): http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/c_139/c_13920060614en00010017.pdf

²² The details of the revised package are available at <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/06/213&format=HTML&aged=1&language=EN&guiLanguage=fr>

procedure? Have they scrutinised the multi-annual financial framework? How are they involved in the scrutiny of the spending programmes? How do they scrutinise the annual budget of the EU? Finally, the chapter refers to the possible future plans of the national parliaments in respect of the 2008-2009 Budget Review..

5.1 THE MULTI-ANNUAL FINANCIAL FRAMEWORK

The multi-annual financial framework—often called the “financial perspective”—is an indicative spending plan translating the Union’s policy priorities into financial terms, setting limits on EU expenditure over a fixed period, and thus imposing budgetary discipline²³.

It groups EU activities into broad categories of expenditure, called “headings”, and lays down maximum amounts for each heading for each year. The EU annual budget has to respect those maximum amounts or ceilings.

The ceilings for commitments in the Financial Framework have been fixed by an agreement between the three EU institutions well below the overall own resources ceiling. The budgets of the last six years (i.e. in the 2000—2006 financial programming period) were also set well below the overall payments ceilings because, with the exception of structural actions, EU budgetary practice is for the actual budget to leave a margin beneath the ceiling.

5.2 THE SPENDING PROGRAMMES

The EU budget is mainly disbursed through programmes which match the Union’s political objectives with its financial means. Each programme is specific in its objectives, duration and resources. These are indicated in a legislative text (giving a legal base to the programme). The Commission comes forward with proposals of legal bases at various intervals in the so-called proposal “packages”. In certain cases, several legal bases relate to one programme. Consequently, there may be fewer programmes than legal bases.

These legal bases are in most cases adopted jointly by the Council and the European Parliament through the co-decision procedure: The 7th Research Framework Programme, Trans-European Networks, Structural Funds, Youth, Media, Public Health and European Neighbourhood and Partnership are among the programmes which will be adopted through the co-decision procedure.

Other legal bases, mainly those related to expenditure in agricultural markets, pre-accession and certain areas of freedom, security and justice, are presently decided by the Council, after consulting the Parliament.

The choice of the decision procedure is determined by the powers and legal bases entrusted by the EU Treaties to each institution in connection with the policy area in

²³ The Financial Framework is not as detailed as an annual EU budget, which can have has about 1150 separate items. The items, amounts, detailed remarks and payments schedules are set each year by the two budgetary authorities, the Council and the European Parliament, on the basis of a proposal from the Commission. The annual budget procedure takes account of actual implementation in previous years, and of new programmes.

question. Each legislative proposal cites the relevant article in the Treaty and the decision procedure to be applied.

5.3 THE ANNUAL BUDGET OF THE EU

The European Commission prepares a Preliminary Draft Budget each spring and submits it to the Council. The budgetary authority, comprised of the Council and the European Parliament, amends and adopts the draft budget²⁴.

In the EU budget a distinction is made between *compulsory* and *non-compulsory* expenditure in the.

For *compulsory expenditure*—basically agricultural expenditure and expenditure arising directly from application of the Treaties—the European Parliament can only propose amendments to the draft budget drawn up by the Council. The Council has the final say on this type of expenditure.

The European Parliament takes decisions on *non-compulsory expenditure* (which covers other areas such as education, social welfare programmes, regional funds, training, etc.) in close cooperation with the Council.

5.4 THE 2008–2009 BUDGET REVIEW

In May 2006 the European Parliament, the Council and the Commission agreed that the Commission should undertake a fundamental review of the EU budget.

According to the Inter-Institutional Agreement on Budgetary Discipline and Sound Financial Management, the Commission was invited to undertake a wide ranging review concerning all aspects of EU spending.

With the adoption of a Consultation Paper in September 2006²⁵ the Commission has sought to stimulate a broad and open debate on the EU's finances and its future expenditure. The Commission indicates that the results of the consultation will form an important basis for its work on the review. The EP is to be associated with the review at all stages of the procedure through appropriate discussions in the framework of political dialogue between the institutions.

5.5 THE ROLE OF THE NATIONAL PARLIAMENTS IN MONITORING EU FINANCIAL PROGRAMMES

National parliaments are able to examine the multi-annual financial framework, specific spending programmes and the EU's annual budget either by scrutinising the national government position in the corresponding formation of the Council of

²⁴ In case of disagreement between the two institutions before the end of the year, or where the European Parliament rejects the draft budget, a system of provisional twelfths applies until an agreement is reached.

²⁵ Communication from the Commission; *Reforming the Budget, Changing Europe a Public Consultation Paper in View of the 2008/2009 Budget Review*:
http://ec.europa.eu/budget/reform/library/issue_paper/consultation_paper_en.pdf

Ministers or inviting representatives from the European Commission, the European Court of Auditors or MEPs to hearings when debating an item.

National parliaments are able to express their views on the 2008-2009 Budget Review before its conclusion by, for instance, active involvement in the large scale conference to be organized after the end of the consultation period in spring 2008.

Monitoring of EU financial programmes seems to be a relatively well-known subject area for most national parliaments. Some chambers do not scrutinise EU financial programmes either because this falls within the scope of competence of the other chamber of the national parliament (e.g. the Belgian Senate, Senate of Czech Republic) or the system of government implies a clear separation between legislative, executive and judicial power (Cypriot *Vouli ton Antiprosópon*).

Aware of its political importance, almost all national parliaments have scrutinised the multi-annual financial framework. The final position on this issue usually adopted during a session of the European affairs committee prior to the meeting of the relevant Council. In the Swedish *Riksdag*, however, the focus of parliamentary scrutiny of the multi-annual financial framework rests on the finance committee, which conducts a dialogue with the government.

In some cases the final decision is adopted during a plenary session of the parliament, sometimes in a form of a substantive resolution (the French *Assemblée nationale*, Italian *Camera dei Deputati*) or a protocol resolution (Lithuanian *Seimas*).

In an overwhelming majority of the parliaments the Committee on European Affairs is provided with the opinion of the subject committees—in most cases by the committee responsible for finance and monetary policy. In 2007 the Finnish *Eduskunta* introduced a new committee solely responsible for budgetary control.

Some parliaments have, according to their internal organisation, included the appropriate sub-committees of the European affairs committee in their deliberations (UK House of Lords), while the Polish *Sejm* has even appointed a permanent subcommittee, which scrutinised the draft position during the negotiations on the multi-annual financial framework.

Although the inter-institutional agreement foresees the involvement of the three EU institutions, namely the Council, the European Commission and the European Parliament, most national parliaments appear to have focused only on the government's national position taken in the Council: representatives from the other two institutions were seldom invited to public hearing or debates in national parliaments.

Exceptions are Germany, Italy and Lithuania. In the German *Bundestag* the European affairs committee held a joint meeting with the relevant European Parliament rapporteur. The Italian *Camera dei Deputati* has also carried out inquiries on the financial perspective with participation of representatives of the European Commission and Members of the European Parliament elected in Italy. The committees of the Lithuanian *Seimas* have heard from representatives of non-

governmental organisations and social partners when holding public hearings on the multi-annual financial framework.

The Estonian *Riigikogu* developed a unique concept: the heads of secretariat of the European affairs committee and the finance committee were both directly involved in the government's financial perspective working group, where the government's position is prepared and later forwarded to the *Riigikogu* for scrutiny.

Ceilings for spending in each category of EU expenditure are determined in the multi-annual financial framework²⁶ and are thus of significant political importance to Member States. This is also evident in the level and intensity of parliamentary scrutiny. The latter is not so high when only the spending programmes are at stake, despite their indisputable importance.

Spending programmes define how and where the money is spent within each of the following general categories of expenditure in the EU budget: cohesion and competitiveness; preservation and management of natural resources, including agriculture; citizenship, freedom, security and justice and role of the EU as a global player.

A little under half of national parliaments have scrutinised specific spending programmes. With the exception of Sweden, where the Committee on Industry and Trade has performed scrutiny, the European affairs committee have generally scrutinised spending programmes. Only in a small number of cases has scrutiny been performed with the benefit of an opinion from sectoral committees. Some parliaments, such as the UK House of Commons, can refer expenditure programmes to so-called "general committees" for debate, and can even recommend that they be debated in plenary.

The most frequently scrutinised programmes for the 2007–2013 programming period were the Seventh Research Framework Programme, GALILEO and the Trans-European Networks for Transport and Energy. The PROGRESS–Programme for Employment and Social Solidarity was also subject to parliamentary scrutiny in several parliaments. The most active parliaments in this respect were the Danish *Folketing*, Finnish *Eduskunta* and both Houses of the UK Parliament, where systematic scrutiny of all major spending programmes took place.

The EU's annual budget is mainly scrutinised by European affairs committees in national parliaments. In some parliaments the main role is devoted to the committee responsible for finance and/or budget. The latter is customary in the Luxembourg *Chambre des Députés* and in the Dutch *Tweede Kamer*. Every budgetary year the budgetary committees of the European Parliament command external independent studies on different areas and organise hearings and workshops.

Approximately one quarter of national parliaments do not scrutinise the annual EU budget at all; for instance, the Belgian House of Representatives considers it to be the competence of the European Parliament and the European Court of Auditors.

²⁶ Details about multi-annual financial programmes can be found at:
http://ec.europa.eu/budget/documents/multiannual_framework_en.htm

In some cases representatives of the European Court of Auditors are involved in the scrutiny process (Polish *Sejm*), in others the EU annual budget is scrutinised indirectly by means of an analysis of the annual report of the European Court of Auditors (Portuguese *Assembleia da República*).

Some national parliaments consider it useful to debate the EU annual budget with the Chairs of Budget Committees of national parliaments and the European Parliament's Committee on Budgets.

The French *Assemblée nationale* has a practice of adopting annual resolutions on the preliminary draft budget of the EU before it goes to the first reading in the Council, thus reserving the possibility of influencing the budget at an early stage.

Owing to its high political sensitivity, the 2008-2009 Budgetary Review will be examined by most national parliaments. The structure of proposed scrutiny varies from chamber to chamber. The French *Assemblée nationale* has already organised a hearing with the Members of the European Parliament on the EU's own resources, and its Delegation for the EU proposes to nominate two rapporteurs on the subject. In other national parliaments customary EU scrutiny procedures, generally involving the European affairs committee and subject committees.

In the UK House of Lords the Agriculture Sub-Committee of the EU Committee is already conducting an inquiry into the CAP 'health check': it also intends to consider spending on the CAP after 2013. Its Financial Affairs Sub-Committee has begun planning scrutiny of the 2008-2009 Budget Review and the Commission's "issues paper" which was issued in September 2007. The Commission plans a major political conference in first half of 2008: this could be a forum for national parliaments to contribute their views before the conclusion of the review at the end of 2008 or early in 2009.

5.6 CONCLUSIONS

The overwhelming majority of national parliaments monitor EU financial programmes. In essence, the scrutiny procedure is very similar to the scrutiny of any other legislative proposal of the European Commission. Nevertheless, decisions on the spending of EU funds envisage three levels of agreement, emerging in three forms of legislation: the multi-annual financial framework, specific spending programmes and the annual budget.

Almost all national parliaments have scrutinised the multi-annual financial framework that fixes the ceilings for spending in each category of EU expenditure; in most cases the European affairs committee was in charge. In the parliaments of Luxembourg and Sweden, the main role was played by the committee responsible for finance and/or budget, which dealt with this EU related matter. Due to its extensive financial implications, several national parliaments opted to examine the multi-annual financial framework in plenary session.

The key spending programmes determine how the money is spent up to the fixed ceiling in each category of EU expenditure. They take the form of legislative texts,

which are adopted either by the Council in consultation with the EP or, in several cases, jointly by the Council and the EP, depending on the procedure envisaged in the relevant legal base in the Treaties. These legislative proposals can be scrutinised by national parliaments.

The essence of parliamentary scrutiny of the EU's annual budget is an assurance of efficient and effective manner of spending of the funds. The main role here is generally taken by European affairs committees, with some exceptions where the subject committee responsible for finance or budget has taken charge of scrutiny.

It seems that besides the Council, information sources from the two other decision-making institutions in the EU's budgetary procedure—the Commission and the EP—are seldom taken advantage of. Nevertheless, some national parliaments invite representatives of the European Commission or the European Court of Auditors or Members of the European Parliament to hearings and debates on EU financial programmes, since they see an added value in doing so.

The experience of the UK House of Lords EU Committee is that the scrutiny of the annual budget is more straightforward and easier to accomplish if scrutiny of the multi-annual financial framework and of the spending programmes has already been accomplished. The three-fold structure of scrutiny gives a broader and deeper insight in the structure of EU financial programmes.

As regards the role of the national parliaments in monitoring the EU financial programmes in the future, the importance of the 2008-2009 Budget Review should be emphasised. National parliaments will be able to express their views before the conclusion of the budgetary review, for example, by active involvement in the large scale conference to be organised after the end of the Commission's consultation period in spring 2008.