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Procedures and Practices
Relevant to Parliamentary Scrutiny

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Background

This is the Nineteenth Bi-annual Report from the COSAC Secretariat.

COSAC Bi-annual Reports

The XXX COSAC decided that the COSAC Secretariat should produce factual Bi-annual Reports, to be published ahead of each ordinary meeting of the 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 and to provide information better to facilitate plenary debates.

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

The four chapters of this Bi-annual Report are based on information provided by the national Parliaments of the European Union Member States and the European Parliament. The deadline for submitting replies to the questionnaire for the 19th Bi-annual Report was 28 March 2013.

The outline of this Report was adopted by the meeting of the Chairpersons of COSAC, held on 28 January 2013 in Dublin.

As a general rule, the Report does not specify all Parliaments or Chambers whose case is relevant for each point. Instead, illustrative examples are used.

Complete replies, received from 39 out of 40 national Parliaments/Chambers of 26 out of 27 Member States and the European Parliament, can be found in the Annex on the COSAC website.

Note on Numbers

Of the 27 Member States of the European Union, 14 have a unicameral Parliament and 13 have a bicameral Parliament. Due to this combination of unicameral and bicameral systems, there are 40 national parliamentary Chambers in the 27 Member States of the European Union.

Although they have bicameral systems, the national Parliaments of Austria, Ireland and Spain each submitted a single set of replies to the questionnaire, therefore a the maximum number of respondents per question is 38. There were 37 responses to this questionnaire.

ABSTRACT

CHAPTER 1: GENUINE ECONOMIC AND MONETARY UNION

The majority of Parliaments/Chambers actively debate key EMU related documents and have found them to be a useful basis for discussion, mostly in committee but occasionally in plenary. There was some concern that policy measures previously announced or already agreed should be advanced or implemented as quickly as possible.

In terms of democratic legitimacy Parliaments/Chambers should aim at making greater use of existing tools and seek to develop new ones such as the right of initiative. There is a belief that the key documents relating to the EMU referred to in this report do not adequately address the issue of democratic legitimacy for Parliaments as they are not clear enough on what is being proposed and there is a concern that democratic legitimacy should be deepened.

Most Parliaments/Chambers see the need for appropriate parliamentary structures and instruments aimed at strengthening the role and involvement of Parliaments in EU level consideration of new economic measures which affect citizens as a way of increasing democratic legitimacy. While the arrangements for the new Article 13 Conference will be important in showing how Parliaments can work together effectively in this regard some national parliaments equally do not necessarily want an overly EU centralised system for the development of economic policy. There were nonetheless high levels of support for the concepts that accountability should rest at the level at which decisions are taken and implemented and equally for further integration to be accompanied by the commensurate involvement of the European Parliament.

Although the response level was low on the specific questions asked, it is safe to say that there were no negative reactions among Parliaments/Chambers to the concept of the establishment of, for example, a single resolution mechanism or the ex-ante coordination of major economic reforms. It may, however, have been too early to seek views on these matters.

Parliaments/Chambers, in general, have a wide range of useful and well used mechanisms to help them prepare national policy positions before and after European Councils including debates with prime Ministers and with other Ministers at Plenary and committee levels.

CHAPTER 2: EUROPEAN SEMESTER 2013

The majority of Parliaments/Chambers reported that they were satisfied or partly satisfied with their degree of engagement in the economic governance of the EU and the European Semester at national level in 2013. Likewise, the majority of Parliaments/Chambers answered that they had scrutinised the Annual Growth Survey 2013. The majority of Parliaments/Chambers also scrutinise or plan to scrutinise the draft Stability and Convergence Programme (SCP), National Reform Programme (NRP) and the Country-Specific Recommendations (CSR) at committee level. Just under half the respondents have changed or plan to change procedures in their Parliament/Chamber in order to respond to the

European Semester and the Report highlights a number of examples of best practice in this area.

Seventeen Parliaments/Chambers responded that they had engaged with the European Commission in some part of the process and some noted the publishing of specific reports or the arrangement of special briefings for Members or the appointment of a rapporteur to coordinate political positions as useful techniques for increasing engagement.

With regards to whether Parliaments/Chambers plan to scrutinise the Draft Stability and Convergence Programme, the National Reform Programme and Country-Specific Recommendations, most Parliaments/Chambers reported that they will, either ex-ante and/or ex-post. Concerning the participation of Parliaments/Chambers in the European Semester since the process began in 2011, the majority answered that this has increased. Likewise, a great majority of Parliaments/Chambers reported that they had participated in the European Parliamentary Week (EPW), while around a third of them responded that the EPW had enhanced their involvement in the European Semester. The organisation of the EPW, however, requires reviewing according to some Parliaments/Chambers as it did not facilitate proper discussion among parliamentarians particularly with the early departure of keynote speakers.

Support for the optimum forum for interparliamentary cooperation at European level on the European Semester varied and was divided between the EPW, the idea of an interparliamentary conference and the use of existing fora or a combination of existing fora.

CHAPTER 3: EUROPEAN UNION ENLARGEMENT

For the ratification of an accession treaty in most cases an Act of Parliament is needed and in two cases a referendum might have to be held.

Monitoring reports (on acceding countries) and annual progress reports (on candidate and potential candidate countries) were scrutinised and debated by around 60% of responding Parliaments/Chambers. Half of the respondents discussed the Commission's Enlargement Strategy 2012-2013. Most Parliaments/Chambers debate enlargement in relation to all candidate and potential candidate countries while just five Parliaments/Chambers did not discuss on any of them at all.

While two thirds of the respondents answered that their Parliament/Chamber engages in dialogue with political, official and civil society representatives in enlargement states, the intensity of this involvement as well as the interlocutors vary widely.

The understanding of Parliaments'/Chambers' own role in enhancing the public discourse in their Member State is very complex. Some do not see a role for themselves in this regard at all, others describe this as a matter to be dealt with principally by their governments, while a few see a need for public communication and for a well-informed public debate.

CHAPTER 4: SUBSIDIARITY

Although formal procedures of subsidiarity scrutiny have remained unchanged in recent years, some Parliaments/Chambers adopted important changes in the practical application of the procedures. Best practices related to putting more focus on improving co-operation with other Parliaments/Chambers and included: the exchange of information between members of staff of different Parliaments; cooperation among National Parliament Representatives of Parliaments/Chambers to the EU; and attendance of interparliamentary conferences and debates with other MPs.

Around two thirds of Parliaments/Chambers answered that the eight-week period was sufficient for scrutiny of subsidiarity under the Lisbon Treaty. However, a longer period would make the process easier and mitigate the impact of periods of holidays and parliamentary recess. Twelve Parliaments/Chambers believed that the eight-week period was not sufficient and emphasised that an extension would not mean a significant slowing down of the European legislative procedure.

There has been significant exchange of information between Parliaments/Chambers on subsidiarity scrutiny using a variety of exchange methods and networks, in particular email, the IPEX database and National Parliament Representatives based in Brussels. This shows the successful intensification of interparliamentary exchange of information since the coming into force of the Lisbon Treaty, in many cases contributing to specific scrutiny outcomes. These overall trends are also reflected in the specific case of "Monti II".

Half of responding Parliaments/Chambers called for European Commission's replies to reasoned opinions to be provided in a swifter manner and a further 20 out of 33 for them to be more focused on the arguments contained in the opinions drafted by the national Parliaments to ensure continuing genuine dialogue between the Commission and national Parliaments. In the specific case of "Monti II" the majority of Parliaments/Chambers believed that the European Commission actions in responding to the "yellow card" were in line with the Lisbon Treaty and that it applied correctly the practical arrangements for the operation of the subsidiarity mechanism. However, 12 Parliaments/Chambers did not believe that the reply from the Commission to the reasoned opinion (dated 12 September 2012) was an adequate response.

CHAPTER 1: GENUINE ECONOMIC AND MONETARY UNION

In November 2012, the European Commission published a Communication of major significance setting out a blueprint for a deep and genuine economic and monetary union (EMU),¹ with a view to launching a debate. In this document the Commission highlighted the measures already taken during the current crisis and set out possible measures to deepen EMU in the short, medium and long term, including possible steps towards a political union.

In December 2012, the European Council adopted conclusions² on a roadmap for the completion of EMU. The conclusions dealt with the most immediate aspects of the roadmap drawing on a report on the issue published earlier that month by President of the European Council Mr Herman Van Rompuy.³ The report identified four main building blocks for the completion of EMU: an integrated financial framework; an integrated budgetary framework; an integrated economic policy framework; and democratic legitimacy and accountability.

This section of the Report will summarise information provided by Parliaments/Chambers on the level of debate within Parliaments/Chambers on the European Commission's blueprint for a genuine EMU, given its intended purpose as a debate-starter, and will summarise the views of Parliaments on some of the possible measures outlined therein, and in the Van Rompuy report, such as the promotion of structural reforms in Member States through arrangements of a contractual nature, and the creation of a euro area fiscal capacity.

Finally, this section of the Report will summarise the views of Parliaments/Chambers on the extent to which these three key EMU documents have sufficiently addressed the issue of democratic legitimacy and accountability, and in particular the role of Parliaments, in a genuine EMU.

1.1 Parliamentary activities and views on key EMU documents

The results show that more than three quarters of responding Parliaments/Chambers have scrutinised the key documents described above. This has taken place either in plenary or committee sessions, and in the case of the European Council conclusions either before and/or after the Council according to the tradition of the respective Parliaments/Chambers. In one case the Hungarian *Országgyűlés* mentioned that the debate with their Prime Minister on the European Council conclusions was done "in camera". In another case, the Dutch *Tweede Kamer* held a public roundtable on the future of EMU during which "about 20 authorities and experts were invited to share their insights".

Nine respondents did not scrutinise the Commission Blueprint, while eight did not scrutinise the Van Rompuy Report and seven did not scrutinise the European Council conclusions.

When asked to comment further some Parliaments/Chambers noted that the documents were a sound basis for the discussion on the future direction of the EMU or created greater

¹COM (2012) 777 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0777:FIN:EN:PDF>

² 14 December 2012 http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/134353.pdf

³Towards a Genuine Economic and Monetary Union, 5 December 2012
http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/134069.pdf

understanding around the process of developing and deepening the EMU and are still continuing to do so (the Italian *Senato della Repubblica*, the Lithuanian *Seimas*, the Hungarian *Országgyűlés* and the Dutch *Tweede Kamer*). For others the documents were background material which fed into their regular policy debates on these matters.

Of the 34 respondents, 29 said that the documents contributed to a debate in their Parliament/Chamber on the future direction of the EMU in committee and 10 of these also said it contributed to a debate in plenary session. A small number (five) had not debated the documents.

Of the 14 Parliaments/Chambers which responded to the question about their overall reaction to the documents, there was a clear and positive reaction to all three documents. All but one of these respondents (Czech *Poslanecká sněmovna*) considered the steps set out in the documents to be necessary and all but two considered them realistic (Czech *Poslanecká sněmovna* and UK *House of Lords*). However, given the low response rate this is merely a very broad indication of sentiment towards these documents.

In the follow-on comments the views of Parliaments/Chambers became more nuanced. It is clear that the documents cover a wide variety of issues and that some Parliaments/Chambers did not have one overall view on them. A number were still reflecting on the documents and had not reported on them and some referred to previous reports expressing support for the deepening of the EMU more generally. However, many welcomed the documents as a step forward in the right direction. In that regard this broad support was tempered by some critical comments: the European Parliament pointed out the absence of any mention of "the mutualisation of debt or of the redemption fund" or of a "European Treasury" or of further explanation of "the fiscal capacity"; some called for the measures that had already been agreed to be implemented effectively as soon as possible [6 pack, 2 pack, etc.] and evaluated (the French *Assemblée nationale*, the Estonian *Riigikogu* and the Swedish *Riksdag*); the UK *House of Commons* expressed deep concern about the possible implications for the UK of what was being proposed; "the need for immediate clarification of the operational framework for the recapitalisation of banks through the ESM, in a direct and retrospective way, for countries in an adjustment programme" was called for by the Greek *Vouli ton Ellinon*; the notion of a contractual relationship between the Union and each state was criticised by the French *Sénat*; and the Austrian *Nationalrat* and *Bundesrat* pointed out the absence of any mention of or a commitment to a convention for the revision of the Treaties.

1.2 Views on certain aspects of a deepening of the EMU

Parliaments/Chambers were asked to give information about their views on a number of proposals for deepening the EMU currently being considered at EU level. This was an attempt to get a first reaction. The results are best shown in tabular form as set out below.

Question	Positive	Negative		Necessary steps	Unnecessary steps		Realistic	Unrealistic	
SRM ⁴	15	1		9	0		9	0	
Ex-ante coordination of major economic reforms in the short term	11	0		6	0		6	1	
Ex-ante creation of a CCI in the short term ⁵	8	1		5	1		4	2	
Possible creation of a fiscal capacity fund for the euro area in the medium term	9	3		6	1		6	1	
Possible creation of a redemption fund for the euro area in the medium term	8	3		5	1		6	1	

Many Parliaments/Chambers have yet to take a formal position on these matters. Some have said they are awaiting Commission proposals before doing so and some have said they will be examining these matters in the next semester. The Spanish *Cortes Generales* noted that it had asked its government to link the fiscal capacity fund to the question of economic growth and jobs while the Dutch *Tweede Kamer* did not agree with the creation of the fund.

1.3 The role of Parliaments in terms of democratic legitimacy and accountability

In response to the question on their role in terms of democratic legitimacy and accountability, a number of Parliaments/Chambers referred to fact that their role is to actively scrutinise their own governments. However, it is also clear that many look to the broader European stage. The Danish *Folketing* defined itself "as an active player scrutinising the national government as well as European decision-making; applying existing tools to

⁴ A single resolution mechanism [SRM] for the recovery and resolution of banks within the Member States participating in the Banking Union in the short term

⁵ Convergence and Competitiveness Instrument (CCI)

European decision-making and to developing new tools - for instance through interparliamentary cooperation". The German *Bundestag* referred to the need to "get informed extensively" and "to be involved in a coordinating role at an early stage". The Latvian *Saeima* believed that existing instruments for economic policy coordination have to be used to the utmost extent and agreed that there should be ex-ante economic policy coordination. The Spanish *Cortes Generales* noted that the role of Parliaments in the EU should be increased, while the Lithuanian *Seimas* cited the need for systematic involvement of national Parliaments both aimed at ensuring the necessary democratic legitimacy and accountability of decision making in the EMU. The Austrian *Nationalrat* and *Bundesrat* argued that it had to make use of new instruments and mechanisms and to become more involved while it also said that Parliaments/Chambers needed to create new mechanisms, on the European level and between national Parliaments and the EU institutions, which have full democratic accountability. The European Parliament mentioned the recommendations contained in its "Thyssen report"⁶ and notably that "the future architecture of the EMU must recognise that the European Parliament is the seat of accountability at Union level". In addition it pointed out that "the Commission and the Council should be present when inter-parliamentary meetings between representatives of national Parliaments and representatives of the European Parliament are organised at key moments of the Semester (i.e. after the release of the Annual Growth Survey, and after the release of the Country-Specific Recommendations), notably allowing national Parliaments to take into account the European perspective when discussing the national budgets". The Irish *Houses of the Oireachtas* stated that "initial steps towards the completion of the EMU have taken place without any significant change to the role of Parliaments in the institutional mix at EU level".

The Swedish *Riksdag* noted, however, that the suggested measures represent "a significant centralisation of economic policy in the EU" which is a "worrying development". It also said that national parliamentary control on budgetary matters should not be weakened and the Slovenian *Državni zbor* agreed on this point too.

The Dutch *Tweede Kamer* acknowledged "the feelings of citizens who do not feel represented in the on-going developments in Europe" and wanted clear arrangements on a strengthened democratic legitimacy and accountability and instruments in the field of the Banking Union, the Fiscal Union and the Economic Union in which national Parliaments play an effective and adequate role".

1.4 Consideration of democratic legitimacy and accountability and the role of national Parliaments and the European Parliament in key EMU documents

There is a clear belief among those Parliaments/Chambers which responded that the key documents do not adequately consider the issues of democratic legitimacy and accountability and, in particular, the role of the national Parliaments and the European Parliament. Fifteen out of 21 (71.4%) of those who responded believe this to be the case with the Van Rompuy Report and the European Council conclusions of December 2012. The Commission Blueprint, at 13 out of 19 (68.4%), fared only marginally better. In further comments Parliaments/Chambers outlined the reasons for this. Some Parliaments/Chambers

⁶ European Parliament resolution of 20 November 2012 with recommendations to the Commission on the report of the Presidents of the European Council, the European Commission, the European Central Bank and the Eurogroup 'Towards a genuine Economic and Monetary Union' (2012/2151(INI))

responded that the proposals were not specific enough (Danish *Folketing*, Irish *Houses of the Oireachtas*, Greek *Vouli ton Ellinon*, Austrian *Nationalrat* and *Bundesrat*, Dutch *Eerste Kamer*, Slovenian *Državni zbor*, Portuguese *Assembleia da República* and French *Sénat*). The Lithuanian *Seimas* said it believed that the debate is wider than economic policy alone. The Latvian *Saeima* noted that none of the documents outline clear options for guaranteeing legitimacy thus leaving it to Parliaments to decide how to become genuinely involved in the debate.

A smaller number of Parliaments/Chambers considered that the documents were a good base for discussion which created a framework for national Parliaments to take the matter further and decide for themselves (UK *House of Lords*, Romanian *Senatul*, Hungarian *Országgyűlés* and Slovak *Národná rada*). The Portuguese *Assembleia da República* supported the need for national Parliaments to define how best to oversee the deepening of the EMU.

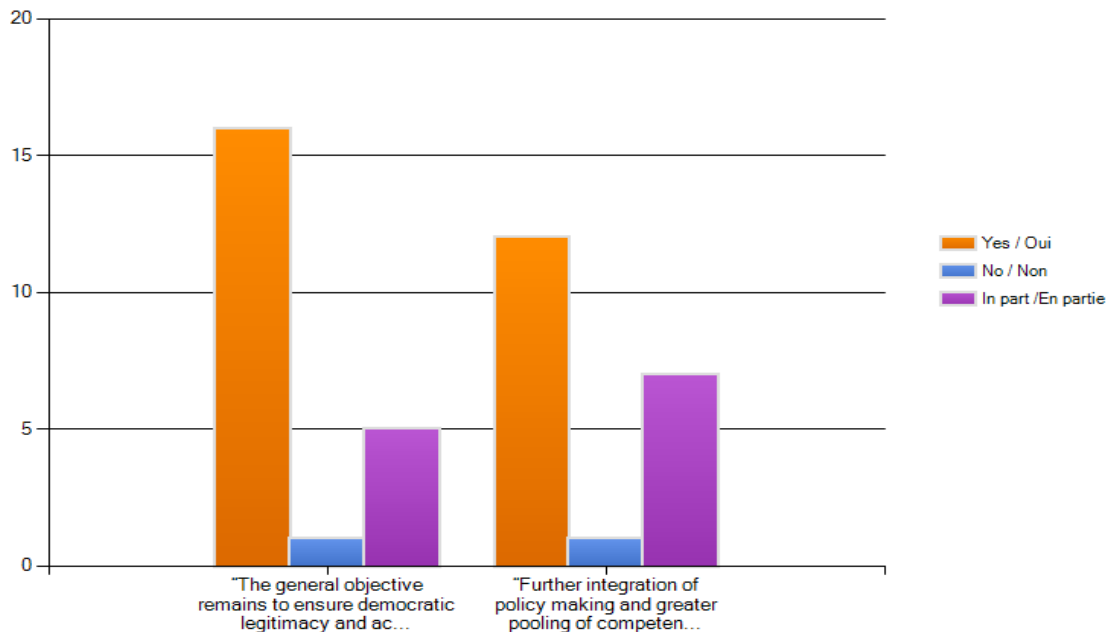
Others offered proposals as to how to improve the situation; the Italian *Senato della Repubblica* proposed that national Parliaments could have a greater role in debating the Country-Specific Recommendations with the Commission and Council, in the accountability of the ECB, in the new contractual arrangements under development and in the fiscal capacity. The Austrian *Nationalrat* and *Bundesrat* suggested that "national Parliaments should be strengthened within the European legislative process by deepening the subsidiarity control mechanism (i.e. subsidiarity and proportionality check), improving parliamentary oversight of the European Semester and giving national Parliaments the possibility to actively initiate European debates". The Swedish *Riksdag* cautioned that "several of the proposals contained in the documents are far reaching and require treaty changes" and the Austrian *Nationalrat* and *Bundesrat* stated that democratic accountability on the European level should also be brought before a European Convention.

1.5 December 2012 European Council Conclusions - democratic legitimacy and accountability

Parliaments/Chambers were asked whether they agreed with the following excerpts from the December 2012 European Council Conclusions:

1. "The general objective remains to ensure democratic legitimacy and accountability at the level at which decisions are taken and implemented"; and
2. "Further integration of policy making and greater pooling of competences must be accompanied by a commensurate involvement of the European Parliament".

1.7 Does your Parliament/Chamber agree with the following excerpts from the December 2012 European Council Conclusions? / Votre parlement/chambre, est-il/elle d' accord avec les passages suivants extraits des conclusions du Conseil européen de décembre 2012 ?



In regard to the first excerpt 21 out of 22 Parliaments/Chambers (95.4%) mentioned that they were in favour or partly in favour as long as competences remained where they currently are; for example, the Dutch *Eerste Kamer* stated that the approval of a national budget is ultimately the prerogative of the national Parliament. The Portuguese *Assembleia da República* said that the level where a decision was made does not always coincide with the level where that decision is implemented and so argued that democratic legitimacy and accountability should go across several levels. The UK *House of Lords* responded that, if there was a move to more decision making at an EU level or on the basis of inter-governmental agreements outside the framework of the Treaties, there may be a case for facilitating greater involvement of national Parliaments than currently exists at an EU level. The French *Sénat* did not agree with the first excerpt and argued that, in reality, European and national levels are now closely interdependent, while the Dutch *Tweede Kamer* and the Danish *Folketing* argued that the role of national Parliaments must be strengthened as they are close to their citizens.

Nineteen out of 20 Parliaments/Chambers (95.0%) were in favour or partly in favour of the second excerpt. Some of these Parliaments/Chambers emphasised the importance of a broad debate among and the key role of national Parliaments in subsequent procedures. The Lithuanian *Seimas* said that there is a need to ensure an effective dialogue between all the national Parliaments and the European Parliament. The Romanian *Camera Deputaţilor* cautioned there should be no competition in terms of legitimacy between national Parliaments and the European Parliament.

The Parliaments/Chambers which partly agreed with the second excerpt (7 or 35.0%) stated that it is not only the European Parliament but national Parliaments too that must be involved, this is especially true for matters within their reserved competence. The German

Bundestag emphasised that legitimacy should follow competences and that, therefore, a clear assignment of competences was necessary. The Romanian *Camera Deputaţilor* argued that more stringent fiscal rules were making the process more invasive in terms of national sovereignty and, therefore, greater legitimacy was being sought.

The UK *House of Commons* did not agree with the second excerpt and with the statement of the Commission that it is only the European Parliament that can provide democratic legitimacy for the EU and, therefore, the euro. It pointed out that any parliamentary oversight of a strengthened EMU should be at the level of 27 national Parliaments and the European Parliament; and any new arrangements must respect the different competences of national Parliaments and the European Parliament and operate consistently with national democratic scrutiny processes.

Many Parliaments/Chambers emphasised that, in practice, the statements could be implemented by creating appropriate parliamentary structures wherein both national Parliaments and the European Parliament are represented. The effective implementation of Article 13 of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union and Protocol No 1 to the Lisbon Treaty could show how to put these statements into practice. The Cyprus *Vouli ton Antiprosopon* said that the statements could be achieved in practice through strengthening democratic legitimacy of the European Semester process as well as through strengthening cooperation between national Parliaments and the European Parliament. It also said that the European Parliamentary Week on the European Semester for Economic Policy Coordination, the COSAC and the Political Dialogue with the Commission contribute towards ensuring democratic accountability and legitimacy. The European Parliament answered when new competences are transferred to or created at Union level or when new Union institutions are established, a corresponding democratic control by, and accountability to, the European Parliament should be ensured⁷ while the Slovak *Národná rada* emphasised that strengthening the role and increasing the competences of the European Parliament must be accompanied by increasing the European Parliament's direct political responsibility for its decisions.

Some Parliaments/Chambers suggested concrete steps for strengthening the role of national Parliaments in European decision-making. For instance, the Romanian *Senatul* suggested that democratic legitimacy and accountability in the case of the national parliaments may be enhanced through a stronger involvement of the Parliament, at the national level, regarding the European Semester, National Reform Programme and Council recommendations, while the Danish *Folketing* suggested establishing a right of initiative for national Parliaments in parallel to a citizens' initiative (a certain number of national Parliaments should be allowed to invite the European Commission to consider tabling a legislative proposal) in order to strengthen national Parliaments in European decision-making. Another idea proposed by the Danish *Folketing* was for political opinions to undergo the subsidiarity check procedure and obtain the same status as reasoned opinions thereby strengthening the Political Dialogue with the Commission.

⁷ A specific part of the Thyssen report is dedicated to this topic (part 4: "Strengthening democratic legitimacy and accountability"): <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2012-0430&language=EN&ring=A7-2012-0339>

1.6 Parliamentary preparation for European Council meetings and scrutiny of European Council conclusions

At least 23 Parliaments/Chambers scrutinise the European Council meetings and/or conclusions in some way.

Procedures differ among Parliaments/Chambers; nevertheless some similarities and trends can be identified. Debates are organised before and after the European Council meetings in many Parliaments/Chambers. Debates usually take place within committees and less often in plenary sessions. The Prime Minister (usually alone or accompanied by a Minister) attends the debates in the majority of Parliaments/Chambers. Policy-setting documents may be approved during meetings held to debate the conclusions of the European Council meeting. Governments give feedback on the conclusions adopted by the European Council irregularly (usually when the issue can fundamentally affect states' interests) at some Parliaments/Chambers.

Where do debates take place?

According to the responses given to the questionnaire, at least 13 out of 32 Parliaments/Chambers answered that prior to and/or after European Council meetings debates take place only within committee(s). In many of these Parliaments/Chambers, Committees on European Affairs play the key role and debate European Council meetings and/or their conclusions. Other committees can also be involved (for instance, Committees on Foreign Affairs, Committees on Finance, etc.). The Hungarian *Országgyűlés* responded that prior to a European Council meeting a special forum called the European Union Consultation Body is convened by the Speaker in order to provide a forum for a dialogue on EU matters between the Government and the Parliament.⁸

At least 11 Parliaments/Chambers said that prior to and/or after European Council meetings debates take place within plenary sessions. Four of these Parliaments/Chambers indicated that before European Council meetings they hold plenary debates to discuss the position that the Government will take during the forthcoming European Council meeting; and seven of these Parliaments/Chambers hold plenary debates afterwards on the results of the European Council meetings.

The responses of two Parliaments/Chambers (Romanian *Camera Deputaţilor* and Cyprus *Vouli ton Antiprosopon*) characterised the degree of influence that can be formally exercised over the actions as limited due to the nature of their presidential democracy systems.

When are debates organised?

More than half (some 17) of Parliaments/Chambers remarked that debates are organised before and after European Council meetings. Three Parliaments/Chambers said that the government reports to the Parliament/Chamber on the outcome of a European Council meeting within a certain period (one week in Ireland and fifteen days in Italy).

⁸ The Speaker, the Deputy Speaker, the leaders of parliamentary factions (political groups), the Chairman and Vice-chairman of the Committee for European Union Affairs, the Chairman of the Committee for Foreign Affairs and the Chairman of the Constitutional Affairs Committee are members of the Body.

Six Parliaments/Chambers (for instance, the Dutch *Tweede Kamer* and German *Bundesrat*) in their answers said that debates on the results of European Council meetings are held occasionally or not on a regular basis.

Four Parliaments/Chambers responded that European Council conclusions are not scrutinised. For instance, the Estonian *Riigikogu* emphasised that it is the Government's duty to monitor whether the conclusions are in compliance with the Estonian positions. The Slovenian *Državni zbor* stated that after European Council meetings the Government only sends it reports on the debates and conclusions of the meetings.

The European Parliament responded that it regularly prepares for European Council meetings in its plenary sessions. The President of the European Parliament is also invited to address European Council meetings and the President of the European Council is obliged to report back to the European Parliament after each European Council meeting.

Who represents the Government in the debates?

The majority of Parliaments/Chambers responded that their Prime Minister attends the debates usually alone or accompanied by a Minister. Some Parliaments/Chambers (for instance, the Portuguese *Assembleia da República*) responded that plenary debates held prior to European Councils are attended by the Prime Minister only, while meetings which are held to debate the conclusions of the European Council are attended by the Secretary of State for EU Affairs. For example, the Slovak, Lithuanian, Belgian Prime Ministers usually present the positions, prepared by the Government, to the Parliament/Chamber. The Greek *Vouli ton Ellinon* held hearings with keynote speakers from the competent ministries.

Debates before the European Council are followed by the approval of positions prepared by the government in some Parliaments/Chambers (for instance, the Italian *Camera dei Deputati*, Lithuanian *Seimas*) and sometimes policy-setting documents such as resolutions and motions may be approved during meetings held to debate the conclusions of the European Council meeting.

CHAPTER 2: EUROPEAN SEMESTER 2013

The European Semester, the annual cycle of EU level surveillance and coordination of Member States' fiscal, economic and structural reform policies is now in its third year. While the process has been bedding down at EU level, it has been largely dominated by the Commission and the Council to date, with the European Parliament and national Parliaments struggling to define their role in the new and rapidly evolving economic governance of the Union.

At national level, Parliaments/Chambers can obviously play a critical role in ensuring appropriate and timely oversight of government inputs at key points during the period of the European Semester process and subsequently, as well as debating relevant EU level growth forecasts, guidance and Country-Specific Recommendations.

At European level, oversight by the European Parliament, together with greater interparliamentary cooperation with national Parliaments will be crucial to underpin the European Semester process. The European Parliament organised a Parliamentary Week on the European Semester in January 2013, involving its relevant committees and representatives from equivalent committees of national Parliaments, to promote interparliamentary cooperation and specifically to stimulate debate and parliamentary involvement in the European Semester in 2013.

This section of the Report will seek to analyse information from Parliaments/Chambers on their involvement in the European Semester in 2013 at national level, particularly in relation to scrutiny of the Annual Growth Survey (AGS) 2013, the relevant draft Stability and Convergence Programmes (SCP), National Reform Programmes (NRP), and Country-Specific Recommendations (CSR), as well as summarising their views on the substance of these documents, the overall economic governance process, and how it might be improved upon.

2.1. Engagement in the economic governance of the EU and the European Semester at national level in 2013.

When all Parliaments/Chambers were asked whether they were satisfied with the degree of engagement in the economic governance of the EU and the European Semester at national level in 2013, out of 28 Parliaments/Chambers that answered this question, 24 said that they were satisfied or partly satisfied, while 4 were not. The majority of national Parliaments/Chambers stated that they had debated the AGS, the NRP and/or the SCP, as well as the CSR and that they would continue to debate these matters in their relevant competent committees and/or with their government. Two Parliaments/Chambers had additionally scrutinised the Alert Mechanism Report (Dutch *Eerste Kamer* and UK *House of Lords*). In subsequent comments Parliaments identified the improvements they thought were warranted i.e. a more timely consideration of the documents (Latvian *Saeima*, Polish *Sejm* and Dutch *Tweede Kamer*), consideration of the documents before they were issued to the Commission (Estonian *Riigikogu*, Austrian *Nationalrat*, Czech *Senát* and Portuguese *Assembleia da República*), the need to be able to amend the documents (French *Assemblée nationale*), the need to develop a separate specific parliamentary procedure to integrate it

into parliamentary life (Dutch *Eerste Kamer*, Belgian *Chambre des représentants* and *Sénat*, the Irish *Houses of the Oireachtas* and Romanian *Camera Deputaţilor*) and the need to review the content and substance of the key documents. The German *Bundesrat* disagreed that education policy should be part of the CSR. The European Parliament noted that in many resolutions it had called for the strong involvement of national Parliaments/Chambers in the Semester Cycle.

2.2. Scrutiny of Annual Growth Survey 2013.

The majority of national Parliaments/Chambers (24 out of 34) had debated/scrutinised the AGS 2013. The European Parliament adopted two own-initiative reports on the AGS 2013 and called for the AGS to be subject to the co-decision procedure. In addition, within the context of the economic dialogue, the European Parliament planned to conduct two dialogues, one within the framework of the European Semester in April and another scheduled in June on CSR.

Some of the procedural steps employed by Parliaments/Chambers to scrutinise the AGS included the following: UK *House of Lords* issued a letter to the relevant minister; the Portuguese *Assembleia da República* issued a report on the AGS; a number Parliaments/Chambers discussed the AGS in the European Affairs Committee (Austrian *Nationalrat* and *Bundesrat*, German *Bundestag*, Lithuanian *Seimas*, Polish *Sejm*, Slovenian *Državni svet* and Spanish *Cortes Generales*) or Finance Committee (Irish *Oireachtas*) or other committee (UK *House of Commons*); some Parliaments/Chambers questioned Ministers and Prime Ministers (including the Danish *Folketing*); a few brought the matter to plenary for a debate or adoption of a resolution (Austrian *Nationalrat* and *Bundesrat*, Dutch *Eerste Kamer* and Czech *Senát*); and the Latvian *Seimas* adopted a decision recommending the Government to align its position on the AGS.

In the Danish *Folketing* there is a well ordered parliamentary procedure, parts of which are evident in many other but not all Parliaments/Chambers and under which the relevant ministers appear before the European Affairs Committee prior to discussions in the Council on different parts of the Annual Growth Survey. The Prime Minister appears before the European Affairs Committee prior to and again after the European Council spring meetings where the Annual Growth Survey is endorsed. Likewise government representatives present Country Specific Recommendations prior to Council meetings and European Council meeting in June. A draft plan for a national semester envisages improving the procedure by having a government representative appear at joint meetings between Finance Committee and European Affairs Committee three times during the semester: 1) in December when the Annual Growth Survey is launched, 2) in March before the government submit the National Reform Programme and the Convergence Report to the Commission, 3) by the end of May when the Commission give country specific recommendations.

2.3. Scrutiny of Documents in 2013

A summary of the responses of national Parliaments/Chambers can be seen below in relation to their plans to scrutinise key documents in 2013. It is clear that there is a high level of scrutiny either ex-ante or ex-post and that less than one fifth of respondents did not scrutinise them.

	Yes (ex-ante)	Yes (ex-post)	No	Total No. of Responses
Draft Stability and Convergence	19 (59.4%) ⁹	8 (25.0%)	5 (15.6%)	32
National Reform Programme	18 (56.3%)	10 (31.3%)	4 (12.5%)	32
Country-Specific Recommendations	15 (48.4%)	11 (35.5%)	5 (16.1%)	31

The Spanish *Cortes Generales* added that the above documents were subject to scrutiny, via hearings held by members of the government prior and post the European Council, both at Plenary and committee level and may result in different initiatives (written questions, non legislative resolutions, interpellations (a form of plenary debate)). It added that the SCP and the NRP were also the subject of an *ad hoc* hearing held in the *Congreso de los Diputados* on the 8th May 2013, in which the Prime Minister appeared before the plenary. The Slovak *Národná rada* further noted that with regards to the CSR, it "considers ex-ante/ex-post debate/scrutiny formulation in relation to the CSRs as unclear" and that the relevant Committee debates the CSR before meetings of the Council of the EU and the European Council in June. The European Parliament also noted that the competent committee organised economic dialogues with other EU institutions, as part of the "comply or explain" principle.

2.4 Role of Committees in preparation of key documents

A majority of 20 of the 34 Parliaments/Chambers responded that their committees were already involved in the preparation of the SCP, NRP and the CSR and three Parliaments/Chambers foresaw future involvement.

Some of the notable mechanisms for committee involvement included:

- The Lithuanian *Seimas* committees discussed the draft documents extensively and have the right to recommend amendments that the Government is obliged to include in the drafts.
- In the Slovenian *Državni zbor* the [European Affairs] Committee and the sectoral committees may choose to adopt opinions on drafts which might be included in the SCP and NRP.
- The Romanian *Senatul's* Committee on EU Affairs coordinated a debate regarding the European Semester, the AGS, the NRP and the SCP, in March 2013.
- The European Union Affairs Committee of the Polish *Sejm* holds a debate on CSRs pursuant to the Act of 8 October 2010 on the cooperation of the Council of Ministers with the *Sejm* and the *Senat* of the Republic of Poland in matters relating to the Republic of Poland's membership in the European Union.
- The French *Sénat* replied that in future the organisation of debates on these subjects is prescribed by law. This obligation has been respected in 2011, but not in 2012 due to the national elections which caused an interruption of parliamentary work.

⁹ Percentages given are calculated as a percentage of the total respondents to each question or part thereof. This does not represent a percentage of Parliaments/Chambers.

- The Swedish Government is obliged to consult *Riksdagen's* Committee on EU Affairs each time the European Semester appears on the Council's agenda for a discussion or a decision and is given a mandate to negotiate the Swedish position on the matter. The Government presents the SCP and the NRP in the Committee on Finance.

At the same time some Parliaments/Chambers replied that their committees did "not participate in such procedures".¹⁰ The European Parliament answered that it organises an exchange of views on CSR annually and it "may invite Member States to a dialogue on national reforms and measures that may have a clear spill-over effect to other Member States [or] on the EU as a whole".

2.5. Engagement of national Parliaments/Chambers with the European Commission in the European Semester process

In response to the degree of engagement of national Parliaments/Chambers with the European Commission in the European Semester process, 17 out of 34 Parliaments/Chambers answered that they had engaged with the European Commission in some part of the process. These Parliaments/Chambers had direct communication with a Commissioner, the Commission Representation in capitals or staff from Brussels who had participated in a debate held in the relevant committee (Polish *Sejm*, Italian *Camera dei Deputati* and *Senato della Repubblica*,¹¹ Swedish *Riksdag* and Belgian *Chambre des représentants*) or envisage a discussion taking place before the publication of CSR (French *Assemblée nationale* and the *European Parliament*). Other ways of engaging included the informal sharing of the relevant ministerial correspondence with the European Commission (UK *House of Lords*) the issuing of a reasoned opinion to the Commission (Portuguese *Assembleia da República*).

2.6. Increased participation of Parliaments/Chambers in the European Semester since the process began in 2011

The majority of national Parliaments/Chambers (23 out of 33) answered that their participation in the European Semester had increased since the process began in 2011. According to the replies to the questionnaire, this increase mainly entailed active participation in interparliamentary meetings on the European Semester and debates at committee level. Ten national Parliaments/Chambers noted that the level of engagement was the same and/or their procedure had not changed. A number of the national Parliaments/Chambers whose engagement had increased, have specifically noted examples such as the following: the publication of a specific report which considered the European Semester process (UK *House of Lords*), briefings by members of the Permanent Representation to the European Union were organised "with a view to explaining the process of the European Semester process to the parliamentarians, while highlighting its impact at national level" (Belgian *Chambre des représentants*), the appointment of a rapporteur for the European Semester to coordinate the Dutch *Tweede Kamer's* position in the interparliamentary week and in the various relevant committees during the preparation of

¹⁰ Greek *Vouli ton Ellinon*, UK *House of Lords*, Austrian *Nationalrat* and *Bundesrat*, Cypriot *Vouli ton Antiprosopon*, Danish *Folketing*, Irish *Houses of the Oireachtas*

¹¹ The Italian *Senato della Repubblica* has noted that the information in this chapter refers to practices and political positions expressed during the previous parliamentary term of 2008 - 2013, meaning that these positions may be subject to change by the new parliament.

various council meetings. The European Parliament noted that the establishment of a working group on the European Semester ensured continuity and follow-up on the European Semester. The Finnish *Eduskunta* noted that while it had not changed the qualitative relationship between it and the government, in quantitative terms the number of descriptive documents available from the government had increased.

The European Parliament further noted that the European Parliamentary Week had enabled representatives of national Parliaments/Chambers and representatives of the European Parliament to discuss the main priorities of the next Semester Cycle.

2.7. European Parliamentary Week

Thirty-two out of 37 Parliaments/Chambers said that they had participated in the European Parliamentary Week (EPW) on the European Semester in January 2013. Of these, 10 found that the EPW had enhanced their involvement in the European Semester, while 19 other Parliaments/Chambers answered that it had not. Of this latter group a small number of them said that, although the EPW did not enhance their involvement they noted its importance as a platform to share views and experiences (Estonian *Riigikogu*), that it provided an additional source of background information for the participants (Hungarian *Országgyűlés* and Finnish *Eduskunta*) and that it contributed to a better awareness and understanding of the European Semester stages (Greek *Vouli ton Ellinon*). The Irish *Houses of the Oireachtas* commented that the EPW was informative and increased the level of awareness of the European-level debate, but that it was, however, perceived as a "stand-alone event and did not translate into greater involvement". Other Parliaments/Chambers answered that they had begun to reflect on the impact of the EPW (Italian *Senato della Repubblica*), that the "involvement at national level cannot be clearly identified" (German *Bundesrat*) and that the impact of the involvement had not yet been decided as "the debate is ongoing" (Cypriot *Vouli ton Antiprosopon*).

Further replies expressed that there was a "lack of opportunities for a dialogue and debate with the Presidents of the European Union Institutions" (Czech *Poslanecká sněmovna*) or that there was a lack of genuine dialogue on the semester-related topics with the "EU representatives showing up only to read their short speeches and then leaving the event without engaging in any dialogue with national Parliaments" (Czech *Senát*).

Sixteen out of 27 national Parliaments/Chambers thought that the EPW facilitated inter-parliamentary dialogue at European level on key questions pertaining to the European Semester in 2013.

Some of these expressed the view that the EPW was an appropriate forum for dialogue at European level. They commented that it offered parliamentarians a forum to exchange best practices and fostered inter-parliamentary debate on the different procedures applied to scrutinise the European Semester in national Parliaments (Spanish *Cortes Generales* and Hungarian *Országgyűlés*) and that it was a "valuable set of meetings which allowed dialogue and networking between parliaments" (UK *House of Lords*). The Slovak *Národná rada* answered that the EPW contributed to the selection of key topics and themes to be presented and debated at national level and the Portuguese *Assembleia da República* stated

that the exchange of experience between Parliaments proved to be "an unquestionable asset in [the] scrutiny of the Annual Growth Survey".

However, a number of Parliaments/Chambers were critical of the EPW and/or said that improvements were needed to be made to it. Specifically, the Czech *Poslanecká sněmovna* said that the organisation was "very chaotic and as a result very unsatisfactory in all aspects", the German *Bundestag* answered that there was "too little opportunity for real discussion among parliamentarians". The Austrian *Nationalrat* and *Bundesrat* noted that, although the EPW facilitated dialogue, the position of the governing parties (SPÖ (S&D) and ÖVP (EPP)) was that earlier timing of the conference with a clear structure and agenda would have been very helpful. It further noted that "the establishment of the conference as foreseen by Article 13 of the TSG could inter alia fulfil this role". The French *Sénat* deplored the fact that the debates were simply a juxtaposition of speeches and regretted that they did not lead to conclusions. The Dutch *Tweede Kamer* mentioned that, although the EPW facilitated dialogue, meetings of this type tended to result in "unrelated monologues". They wanted to make the number of delegates smaller or use parallel part-sessions or working groups and to reduce the role of Members of European Parliament. They expressed disappointment for the lack of dialogue with Presidents of the European Commission and the European Council who "both left the conference after their speech". The French *Assemblée nationale* said that to get beyond the level of polite small talk the themes for the conference should be chosen by the Parliaments together and the outcomes would depend on the quality of the preparatory work done by each Parliament.

The European Parliament expressed the view that both the European Parliament and national Parliaments had complementary roles to play within the framework of the European Semester and that in this respect, the EPW aimed to discuss the various priorities and policies under the European Semester and learn from each other's experiences in improving and implementing them.

2.8 Optimum forum for interparliamentary cooperation at European level on the European Semester

Thirty-six Parliaments/Chambers responded to the question of the optimum forum for interparliamentary cooperation at European level on the European Semester. The responses were varied with some Parliaments/Chambers supporting the European Parliamentary Week and many supporting the idea of an interparliamentary conference while others were proposing the use of existing fora or a combination of existing fora. Six Parliaments/Chambers replied that the issue was still under consideration or that no formal position had been adopted (though two of these made comments with this caveat in place).¹²

The European Parliament replied that it wanted to see reinforced interparliamentary cooperation "based in existing EU procedures". It said that the activities should be timely from both a European and national perspective and should be devised by the European Parliament and national Parliaments together. A number of national Parliaments/Chambers called for the use of existing structures or fora in principle, including the Irish *Houses of the Oireachtas*, replying that, at administrative level, consideration is being given to "idea of a

¹² German *Bundesrat*, Czech *Poslanecká sněmovna*, Lithuanian *Seimas*, Swedish *Riksdag*, UK *House of Commons* Portuguese *Assembleia da República* (the latter two also made comments with this caveat)

consecutive COSAC Chairpersons and Article 13 TSG Conference, held in the same location, with the latter replacing the existing Finance Chairpersons meetings". Five Parliament/Chambers suggested the possible use of various existing fora such as the "[European] Parliamentary Week, COSAC, the meeting of the relevant committee chairpersons or IPEX" (Hungarian *Országgyűlés*). The Finnish *Eduskunta* stated that "any interparliamentary cooperation should preferably be combined with or replace some existing interparliamentary meeting" and the Dutch *Tweede Kamer* said that "no new institutions should be set up".

A number of Parliaments/Chambers identified "an interparliamentary conference" on Article 13 TSCG as the optimum forum. These included (some of) the Parliaments/Chambers which met in Luxembourg on 11 January 2013 and issued a "working paper".¹³ Others supported the concept of an interparliamentary conference included Slovak *Národná rada*, Portuguese *Assembleia da República*, and the Polish *Sejm*.¹⁴

A number of Parliaments/Chambers supported the continuation of the European Parliamentary Week (EPW), organised by the European Parliament, as the optimum forum. This included the Cyprus *Vouli ton Antiprosopon*, the Polish *Senat*, the Romanian *Senatul* (which also said "in the frame of the Article 13 of the Treaty on stability coordination and governance and an option might be the extension of COSAC attributions"). The Czech *Senát*, though it did not exclusively support the EPW, suggested a number of improvements that could be made to it such as the use of smaller workshops, the adoption of a resolution and the presence of representatives from the EU institutions throughout the whole event. The UK *House of Lords* expressed the view that "the forum provided by the Parliamentary Week worked very well but decisions on the optimum forum need to be taken in the right way – by collective agreement between parliaments".

The questionnaire replies predated the meeting of the Conference of Speakers of EU Parliaments, held in Nicosia on 21-23 April 2013, which agreed on the establishment of a Conference, in line with Article 13 of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, building on established structures for interparliamentary cooperation.

2.9 Changes to procedures at national level in response to the European Semester

	Yes	No	Total No. of responses
Changes already made to national procedures	9 (27.3%)	24 (72.7%)	33
Changes to national procedures planned	12 (38.7%)	19 (61.3%)	31

The summary of responses above shows that eight Parliaments/Chambers answered that they had already changed parliamentary procedures and 12 said they foresee a change due

¹³ Working paper of the meeting of the Speakers of Parliament of the Founding Member States of the European Union and the European Parliament in Luxembourg on January 11th, 2013. The Italian *Camera dei Deputati* did not participate in the meeting and does not endorse the working document.

¹⁴ As did the French *Assemblée nationale* who adopted a resolution on the matter on 27 November 2012.

to the European Semester (four of these answered "yes" to both categories). Changes that had already been made included, for example: in the Greek *Vouli ton Ellinon* the creation of the State Budget Office and an enhancement of the Parliament's relations with the Greek Court of Audit and organisation of public hearings; in Italy the amendment of Law no.39 (7 April 2011) included the obligation for the government to forward "the acts, draft acts and documents adopted by the EU institutions in the framework of the European semester" to the two chambers of the Italian Parliament and the "Economy and Finance Minister will report to the appropriate parliamentary committees...also with a view to the development of the Stability Programme and the NRP" and other provisions; in the French *Senát* the change took the form of the organisation of debates, provided for by law; the amendment of the Budgetary Framework Law in 2011 in the Portuguese *Assembleia da República* to consider the Stability and Growth Programme (SGP) at the start of the internal budgetary process and to make mandatory the plenary debate on the SGP and; consultation of the German *Bundestag* prior to the submission of the NRP and SGP.

The changes foreseen by Parliaments/Chambers included:

- A draft plan for a national semester (mentioned earlier) envisaged improving the procedure by having a government representative appear at joint meetings between Finance Committee and European Affairs Committee three times during the semester: 1) in December when the AGS is launched, 2) in March before the government submits the National Reform Programme and the Convergence Report to the Commission, 3) by the end of May when the Commission gives CSR (Danish *Folketing*).
- SCP to be discussed in Parliament before it is sent to the European Commission (Dutch *Tweede Kamer*).
- A proposal to harmonise the schedule under which the Government will submit the drafts of the NRP and the SCP to the Parliament, allowing reasonably sufficient time for parliamentary scrutiny (Lithuania *Seimas*).
- The Draft Law on Cooperation between the Parliament and the Government in European Affairs, in the final stage of adoption in the Senate, contains provisions on the parliamentary action in all phases of the European Semester (Romanian *Camera Deputaţilor*).

CHAPTER 3: EUROPEAN UNION ENLARGEMENT

The European Commission published its most recent annual Communication on Enlargement Strategy in October 2012.¹⁵ Council conclusions from December 2012 highlighted the need for a credible enlargement policy to maintain reforms in the countries concerned and for public support for enlargement in Member States.¹⁶

Following the anticipated accession of Croatia to the EU on 1 July 2013, there is no clear candidate state that is next in line to join the Union. This fact, coupled with so-called "enlargement fatigue", whether real or perceived, holds the prospect that momentum for reform in candidate states and potential candidate states may be lost.

Parliaments play a key role in the enlargement process in the EU in terms of debate and ratification of accession treaties, scrutiny of stabilisation and association agreements, facilitation of dialogue with state and civil society actors in candidate countries and potential candidate countries and for communicating the case for enlargement to citizens.

This section of the Report contains information on the practices and procedures within Parliaments in relation to the enlargement process, views on the most recent Enlargement Strategy, dialogue with political, official and civil society representatives in enlargement states, and the role of Parliament in the national discourse on enlargement.

3.1 Practices and procedures within Parliaments in relation to the enlargement process

The introductory question asked in this chapter was what form the parliamentary approval of Accession Treaties and Stabilisation and Association Agreements (SAAs) takes in Parliaments/Chambers. In most cases an Act of parliament was reported to be needed (30 out of 35 respondents).¹⁷ In some cases, however, an Act of Parliament as such is not sufficient: in France draft laws authorising the ratification of a treaty of accession are in principle subject to a referendum, except if both Chambers adopt a motion by a two thirds majority to submit the question to the *Congrès*. In the United Kingdom, three requirements for approval had to be met: a ministerial statement as to whether the treaty triggers a referendum under the European Union Act 2011; an Act of Parliament approving the treaty and; compliance with either the referendum condition or exemption condition are necessary. This does not apply to SAAs which are scrutinised at committee level but do not require an Act of Parliament. In Sweden, in addition to the decision of the *Riksdag* on the accession treaty, a revision of the Swedish act on accession was required. Only following the consent of the European Parliament to Agreements by means of a legislative resolution can the respective agreements be signed and their ratification procedure by EU Member States and the country concerned launched.

¹⁵ http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/strategy_paper_2012_en.pdf

¹⁶ http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/EN/genaff/134235.pdf

¹⁷ The Polish Sejm replied 'no'. "However, the European Union Affairs Committee discussed, for example, the Communication from the Commission to the European Parliament and the Council on a Feasibility Study for a Stabilisation and Association Agreement between the European Union and Kosovo [COM(2012) 602 final]."

3.2 Monitoring reports, annual progress reports and the enlargement strategy

Twenty-one Parliaments/Chambers reported regularly debating and/or scrutinising *monitoring* reports (on acceding countries) and 20 out of 34 Parliaments/Chambers reported debating and/or scrutinising *annual progress* reports (on candidate and potential candidate countries).¹⁸ While most of the Parliaments/Chambers that responded either debated or scrutinised both kinds of reports (19 out of 21 which replied positively regarding monitoring reports), a number had not debated them (14 out of 15 gave a negative reply). The EU Committee of the Latvian *Saeima* considers these reports if "relevant discussions [or decisions] are expected at the EU Council".

When asked whether they debated the most recent Commission Communication setting out an Enlargement Strategy and the Main Challenges 2012-2013,¹⁹ 18 Parliaments/Chambers said they (already) had, while an equal number replied in the negative. In most of the Parliaments/Chambers which provided additional information the discussion on this Communication was limited to the level of EU Affairs Committees. Two Chambers dealt with the enlargement strategy in plenary: the Romanian *Camera Deputaţilor* and the Czech *Senát* (which adopted a resolution). It should be mentioned that even though they did not answer the question in the positive, three Parliaments/Chambers held discussions in their respective committees on enlargement in general terms (the Irish *Houses of the Oireachtas* and the UK *House of Commons*) or took note of the Commission Communication (the Spanish *Cortes Generales*). The EU Committees of the German *Bundestag* and the French *Sénat* discussed the reports and the Enlargement Strategy with Enlargement Commissioner Füle. On 22 November 2012 the European Parliament adopted a resolution on "Enlargement: policies, criteria and the EU's strategic interests", which put forward a number of recommendations for the future of the Enlargement policy.²⁰ The replies from the Polish *Sejm*, Romanian *Camera Deputaţilor* and the Slovenian *Državni zbor* explicitly mention their Committee's support for the enlargement process and the latter two called for an intensified and better enlargement communication strategy in the EU.

Parliaments/Chambers were also asked to provide details on whether they discussed enlargement in relation to individual candidate and potential candidate countries. An overview is given in the table below:

	Yes	No	Total No. of responses
a) Turkey	28 (82.4%) ²¹	6 (17.6%)	34
b) Iceland	20 (58.8%)	14 (31.2%)	34
c) Montenegro	22 (64.7%)	12 (35.3%)	34

¹⁸ The Greek *Vouli ton Ellinon* and the Dutch *Eerste Kamer* discussed just some of the countries and the Slovak *Národná rada* and the Swedish *Riksdag* replied they did not discuss any of them on a subsequent question.

¹⁹ COM (2012) 600

²⁰ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0453+0+DOC+XML+V0//EN&language=EN>

²¹ Percentages given are calculated as a percentage of the total respondents to each question or part thereof, This does not represent a percentage of Parliaments/Chambers.

	Yes	No	Total No. of responses
d) Former Yugoslav Republic of Macedonia	21 (61.8%)	13 (38.2%)	34
e) Serbia	25 (73.5%)	9 (26.5%)	34
f) Albania	21 (63.6%)	12 (36.4%)	33
g) Bosnia and Herzegovina	21 (63.6%)	12 (36.4%)	33
h) Kosovo	21 (63.6%)	12 (36.4%)	33

The replies show that in all cases a larger number of Parliaments/Chambers discussed enlargement in relation to each of the candidate and potential candidate countries than did not. Ten Parliaments/Chambers held discussions on enlargement selectively, depending on the country in question or whether it was a neighbouring country. However, with the exception of the German *Bundesrat* all of them discussed enlargement to Turkey. Other than this, the replies did not show any obvious patterns. Seventeen Parliaments/Chambers, including the European Parliament, declared that they debated enlargement with regards to all the countries in question while five Parliaments/Chambers responded that they did not discuss enlargement to any countries. In addition, the UK *House of Commons* and the French *Assemblée nationale* stated in replies to previous questions that they discussed both kinds of reports on a regular basis.

Seventeen Parliaments/Chambers held these discussions in their specialised European Affairs and/or Foreign Affairs committees. Three Parliaments/Chambers mentioned the adoption of reports or resolutions, and two Chambers mentioned debates in plenary: the Dutch *Eerste Kamer* explained that "the enlargement of the EU is yearly touched upon during the debate on the policy of the government for Europe (also called State of the Union debate)", while the Italian *Camera dei Deputati* made reference to a plenary resolution that committed the Government to support the accession of Turkey to the European Union at the same conditions as the other candidate countries.²² The Italian *Senato della Repubblica* said that it "believes that a process leading to the enlargement of the Union to all Western Balkan countries should be considered irreversible" and "reaffirms the relevance of Turkey, whose European perspectives are a powerful factor of stability and geopolitical balance in the Mediterranean and the Middle East" while insisting fully on respecting the Copenhagen criteria. Other Parliaments/Chambers highlighted a generally favourable disposition towards enlargement "provided" the candidate countries "meet the Copenhagen criteria". The Slovenian *Državni zbor* stated that it "believe[s] that a positive agenda with Turkey cannot represent an alternative to accession negotiations".

3.3 Dialogue with political, official and civil society representatives in enlargement states

About two thirds of the respondents answered that their Parliament/Chamber had engaged in dialogue with political, official and civil society representatives in enlargement states "on a regular basis" (24 out of 36, with 12 negative replies). The most intense and regular relations

²² Approved on 7 September 2011, i.e. during the previous legislature.

with its parliamentary counterparts from each 'enlargement country'²³ were maintained by the European Parliament, some of them based on legal provisions within the SAA: it replied that "the most advanced type of inter-parliamentary relationship is the Joint Parliamentary Committee (as in the case of Croatia, Turkey, Iceland and the former Yugoslav Republic of Macedonia), followed by the Stabilisation and Association Parliamentary Committees (where the SAA is in force - Albania and Montenegro) and Inter-parliamentary Meetings (IPM - with Bosnia and Herzegovina, Serbia, Kosovo)." The Standing Bureaus of the Romanian *Senatul* and the *Camera Deputaţilor* adopt an annual Foreign Affairs Plan which includes "actions on bilateral or multilateral level, involving adhering, candidate states, or other states with a certain accession perspective". On the other side of the spectrum some Parliaments/Chambers maintained contacts rather "on an informal basis" (e.g. Belgian *Sénat* and Irish *Houses of the Oireachtas*).

Additional information provided by Parliaments/Chambers showed a broad variety of distinctive dialogue partners:

- some Parliaments'/Chambers' contacts were limited to the administrative level (Greek *Vouli ton Ellinon*, Belgian *Chambre des représentants*);
- ten Parliaments/Chambers predominantly engaged in discussions at the level of politicians in enlargement countries;²⁴ and
- eight Parliaments/Chambers engaged in discussions with politicians as well as civil society in enlargement countries.

Twelve Parliaments/Chambers mentioned missions to enlargement countries as well as the reception of visitors from candidate and potential candidate countries. Seven Parliaments/Chambers reported that they received visitors from candidate and potential candidate countries.²⁵ The Lithuanian *Seimas* provided further insight into its contacts, when it mentioned that "usually discussions on EU enlargement with politicians, officials, civil society, researchers and other stakeholders are...not only...open for public, but they are also broadcast on the *Seimas* TV and the *Seimas* website", which is an interesting proposal in relation to the following chapter.

3.4 Enhancing the national discourse on enlargement in the EU Member States

A broad variety of answers were given on the question as to how Parliaments/Chambers believe that the national discourse on enlargement could be enhanced in their Member State.

Parliaments/Chambers generally took one of two views: on the one hand, a status quo approach with answers such as "this is not a political question" (Finnish *Eduskunta*) or statements that the respective Member State "is not against enlargement" (Estonian *Riigikogu*), or that "all relevant political forces" were in favour and therefore there was "no need to enhance the discourse or to change the approach on enlargement" (Romanian

²³ Including acceding, candidate and potential candidate countries.

²⁴ Details of Parliaments /Chambers can be found in the appendix to this Report... The replies from the French *Assemblée nationale* and the German *Bundesrat* were not explicit as concerns the level of their contacts, but it seems they rather maintain contacts at political level only.

²⁵ The Luxembourg *Chambre des Députés* did not specify whether the dialogue in the framework of "parliamentary visits" took place at home or abroad.

Camera Deputaților; similar replies from the Hungarian *Országgyűlés*, the Slovenian *Državni zbor* and the Slovak *Národná rada*).

On the other hand, there was a slightly more proactive communications approach, for example, from the Swedish *Riksdag* which "concluded that enlargement is beneficial both for the EU and the enlargement countries, and that this message needs to be communicated to the public in a clear manner in order to enhance understanding of and support for the enlargement process". Other Parliaments/Chambers believe that "the information of the public...remains insufficient" (French *Sénat*, German *Bundestag*, Austrian *Nationalrat* and *Bundesrat*, Portuguese *Assembleia da República*). The Latvian *Saeima* stated that also NGOs and social partners should explain the benefits of enlargement to the general public.

There were also different views expressed on the role of Parliaments/Chambers in the enlargement process: a certain number of Parliaments/Chambers regarded the communication on EU enlargement as a task for the EU institutions and their own governments rather than an area where they could become more active themselves. The UK *House of Lords* stressed that its "recent report on the EU's enlargement agenda emphasised the importance of national governments and the Commission communicating the benefits of enlargement – and the costs of non-enlargement – to the general public". The European Parliament expressed the view that "it would be important to enhance the contacts between the national Parliaments and the European Parliament on the issue of enlargement" and stated it was ready "to discuss methods for more comprehensive contacts among parliamentarians on Enlargement", e.g. through the participation of the European Parliament's Standing Rapporteurs on each enlargement country, appointed for the whole legislative term, at committee meetings in national Parliaments/Chambers.

The Romanian *Senatul* (which held parliamentary meetings with acceding countries) and the UK *House of Lords* (see above) made proposals as to how to enhance the debate on enlargement on the political level while the Irish *Houses of the Oireachtas*, the Polish *Sejm* and the Lithuanian *Seimas* suggested stronger involvement of well known official and civil society representatives from such states, representatives of the government, scientific circles and non-governmental organisations, universities and research institutions in the debate could attract more attention from the public and make the debate more visible.

CHAPTER 4: SUBSIDIARITY

Under Article 6 of the Protocol on the Application of the Principles of Subsidiarity and Proportionality of the Lisbon Treaty, national Parliaments have the right to submit a reasoned opinion to the European institutions outlining why they consider that a particular proposal does not comply with the principle of subsidiarity. Critically, Article 7 of the above Protocol provides that where reasoned opinions represent at least one third of national Parliaments i.e. 18 votes, the proposal must be reviewed (the so-called “Yellow Card” procedure).

On 21 March 2012 the European Commission published a proposal for a Council Regulation on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services (the so-called “Monti II” proposal).²⁶ By the time the subsidiarity deadline had expired at the end of May 2012, it was clear that the “Yellow Card” threshold had been reached and the Commission would be required to review the proposal. On 12 September 2012, the Commission decided to withdraw its proposal completely.

In the Contribution of the XLVIII meeting in October 2012, in the absence of any formal communication from the Commission, and in the context of strengthening the political dialogue,²⁷ COSAC called upon the European Commission to provide individual responses to the reasoned opinions submitted and the reasoning as to why it considered that the principle of subsidiarity had not been breached.

This chapter of the Report will seek to update information on the process of parliamentary scrutiny, in particular, on this proposal, the mobilisation of interparliamentary cooperation, and the views of Parliaments on the Commission’s response and the degree to which it took the contributions of Parliaments/Chambers into account.

4.1 Updated subsidiarity scrutiny procedures in Parliaments/Chambers and examples of innovation and best practise

A total of 32 out of 36 Parliaments/Chambers responded that subsidiarity scrutiny procedures had not been changed since the publication of the 16th Bi-annual Report in October 2011. Two Parliaments/Chambers indicated that negotiations were currently on-going and some changes may happen:

- The UK *House of Commons* indicated it was in negotiations with the Government on some issues, including: whether the Explanatory Memorandum (supplied by UK Ministries on Commission proposals) should contain a detailed statement on subsidiarity scrutiny; strengthening co-ordination with other national parliaments; clarification of how the red card procedure might operate; early engagement by other institutions; close cooperation between the House and the Government; and evaluation that would “demonstrate whether the proposed instrument is necessary”.

²⁶ COM (2012) 130. <http://www.ipex.eu/IPEXL-WEB/dossier/document/COM20120130.do>

²⁷ See paragraph 6.3 of the Contribution of the XLVIII COSAC here: <http://www.cosac.eu/documents/contributions-and-conclusions-of-cosac/>

- The Romanian *Camera Deputaţilor* responded that it expected changes after the adoption of the Draft Law on Cooperation in European Affairs between the Parliament and the Government.

Although formal procedures of subsidiarity scrutiny have remained unchanged, four Parliaments/Chambers indicated some changes in the practical application of the procedures. The Dutch *Tweede Kamer* said that more focus was put on improving co-operation with other parliaments, for example: on an informal basis, between members of staff of the different Parliaments; through the Permanent Representative of the Dutch Parliament; attendance at interparliamentary conferences and debates with other MPs; and through videoconferencing. The UK *House of Lords* secretariat continued its efforts to identify possible subsidiarity concerns early, including through close scrutiny of the Commission's Annual Work Programmes. In the French *Sénat* a working group composed of two representatives of each political group examines systematically the texts transmitted under protocol 2 and proposes positions to the committee on European Affairs. The Italian *Senato della Repubblica* noted that while the internal procedures remained unchanged at least for the time being, a law had been approved and now fully regulated all aspects of Italy's participation in the EU. As regards the subsidiarity check, the law enabled the Parliament to engage directly in the legislative process of the EU through subsidiarity control and obliged the Government to provide the Parliament with its position on draft legislative proposals. The Swedish *Riksdag* indicated that the Committee on the Constitution had presented two pieces of best practise advice concerning the subsidiarity scrutiny. First, the "two-step approach" emphasised the need to assess subsidiarity on the basis of "necessity" and "EU value-added" tests. Second, the Committee emphasised that the two-step approach could be applied not just to the whole proposal, but also to each and every single part of the proposal. The Maltese *Kamra tad-Deputati* stated that reasoned opinions were now also transmitted to Maltese Members of the European Parliament and all European Speakers.

Four Parliaments/Chambers stated that subsidiarity scrutiny procedures had been recently changed.²⁸ The Lithuanian *Seimas* altered its subsidiarity scrutiny to include all its sectoral committees which may submit conclusions to the Committee on European Affairs which in case of a breach of the principle of subsidiarity may refer the conclusions for debate at the *Seimas* plenary sitting under a special urgency procedure.

The Austrian Parliament answered that in 2012 the Rules of Procedure of both the *Nationalrat* and the *Bundesrat* – implementing the Lisbon Treaty – entered into force and an EU-Information Law was adopted, further enlarging the parliament's right to information.

Hungarian *Országgyűlés* responded that since April 2012 the legal background regulating the subsidiarity procedures was changed through the adoption of the Act on the National Assembly and the modification of the Standing Orders. As a new element, procedural rules were laid down for the *ex-post* subsidiarity check whereby the Committee on European Affairs is entitled to initiate action before the Court of Justice of the European Union on grounds of infringement of the principle of subsidiarity by an adopted EU legislative act. If

²⁸ Since the publication of the 16th Bi-annual Report in October 2011.

the Government considers the action by the Committee to be justified, the action shall be brought by the Government.

In January 2013, the Portuguese *Assembleia da República* adopted a new scrutiny procedure under which scrutiny is based on the European Commission's Work Programme, from which the initiatives to be scrutinised are pre-selected by committees. Following the analysis of the sectoral committees, the European Affairs Committee may adopt a Written Opinion on the compliance with the principle of subsidiarity while a breach of the principle of subsidiarity would have to be determined in a plenary resolution.

4.2 Appropriate time period for internal parliamentary scrutiny of subsidiarity

Twenty out of 32 (62.5%) Parliaments/Chambers answered that the eight-week period was sufficient for internal parliamentary scrutiny of subsidiarity (as provided for in the Lisbon Treaty). Although some Parliaments/Chambers (the UK *House of Lords*, the Polish *Senat*, and the Slovenian *Državni zbor*) answered "yes", they emphasised that a longer period would make the process easier and mitigate the impact of periods of holidays and parliamentary recess.²⁹

Twelve out of 32 Parliaments/Chambers answered that the eight-week period for internal parliamentary scrutiny of subsidiarity was not sufficient. Six Parliaments/Chambers³⁰ said that a 12-week period for internal parliamentary scrutiny of subsidiarity would be better. Two Parliaments/Chambers (Hungarian *Országgyűlés* and Cypriot *Vouli ton Antiprosopon*) stated that a ten-week period would be more appropriate, especially in the case of legislative proposals that bear significant economic or social importance and require more in-depth analysis.

Some Parliaments/Chambers emphasised that a longer period would not mean a significant slowing down of the European legislative procedure (given its usual duration), but it would provide enough time for the national Parliaments to thoroughly scrutinise subsidiarity. This could also lead to an improvement in the quality of the reasoned opinions. The Swedish *Riksdag* supported the view that a review of the current timescales available for subsidiarity checks is needed. According to the latter, a longer time frame would make it easier for more Parliaments/Chambers to examine more proposals and would facilitate interparliamentary cooperation.

4.3 Methods and/or networks used by Parliaments/Chambers to exchange information on subsidiarity and their influence over particular scrutiny outcomes

There has been significant exchange of information between Parliaments/Chambers on subsidiarity scrutiny using a variety of exchange methods and networks.

Thirty-two responding Parliaments/Chambers said that they used email to give and send early notice of reasoned opinions to and from other Parliaments/Chambers. Half of these, 17

²⁹ The month of August is already discounted from the deadlines for reasoned opinions by the Commission.

³⁰ German *Bundestag*, Irish *Houses of the Oireachtas*, UK *House of Commons*, Czech *Senát*, Belgian *Sénat* and Dutch *Tweede Kamer*

Parliaments/Chambers, said it assisted them in drafting a reasoned opinion and 16 in drafting an opinion as a result of scrutiny. About a quarter of responding Parliaments/Chambers indicated that it helped in deciding to not adopt a reasoned opinion (8 Parliaments/Chambers), or in taking no action (6 Parliaments/Chambers) as a result of scrutiny. Information from other Parliaments/Chambers appears to influence decision making in this matter.

There was also extensive use made of the IPEX database; 32 out of 35 (91.4%) Parliaments/Chambers indicated having looked at it for details of reasoned opinions already issued. Almost half (17) of these Parliaments/Chambers said it helped in drafting a reasoned opinion and 17 Parliaments/Chambers said it helped in drafting an opinion. Almost a third of the Parliaments/Chambers said it helped in deciding to not develop a reasoned opinion (10). A high number of 31 out of 34 Parliaments/Chambers also indicated they had sent early notice of a likely reasoned opinion via National Parliament Representatives. Just less than a half of them said that it helped to draft a reasoned opinion (17) and 15 Parliaments/Chambers said it aided them to draft an opinion as a result of scrutiny.

A significant number (24 out of 27 or 88.9%) Parliaments/Chambers said that information had been received from (or passed on to) the Permanent Representation/Government. Over half of the Parliaments/Chambers responded that it helped to draft a reasoned opinion (15 Parliaments/Chambers) and 13 said it helped to draft an opinion as a result of scrutiny. A total of 22 out of 25 Parliaments/Chambers indicated that they had received/sent letter from a Chairman of a parliamentary committee from/to another Parliament/Chamber. Eight of them said it helped to draft a reasoned opinion and 10 said it helped to draft an opinion as a result of scrutiny. A total of 22 out of 26 Parliaments/Chambers reported discussions were held between MPs and/or MEPs on the margins of COSAC. Fifteen out of 19 Parliaments/Chambers responded holding discussions with MPs and MEPs at EP interparliamentary meetings; 10 out of 14 Parliaments/Chambers reported holding discussions between Parliamentary Committees (i.e. video conference) and eight out of 13 Parliaments/Chambers indicated having initiated discussions in a political group meeting at COSAC.

The Swedish *Riksdag* noted that contacts and the information exchange between the national Parliaments/Chambers generally provided added value to the scrutiny process. Its preferred method of information exchange was the network of National Parliament Representatives.

As regards the development of particular scrutiny outcomes, some Parliaments/Chambers answered that it was difficult to say how the different methods of information exchange influence the results of the scrutiny process.

4.4 Improvements to increase the effectiveness of the interparliamentary exchange of information on the scrutiny of subsidiarity

A majority of 15 out of 27 Parliaments/Chambers replied that the existing practices, such as the rapid flow of information among Permanent Representatives of the national Parliaments, as well as the proper functioning of the updates of the IPEX website and its enhanced

features, and the broader network of officials based in the capitals exchanging information by email, ensure the necessary framework for the exchange of information.

Although the exchange of information was generally judged to be satisfactory, some Parliaments/Chambers expressed the opinion that there was still some room for improvement in this regard. For instance, the IPEX website could also cover the reasons for breaching the subsidiarity principle and not only the results of the examination. The IPEX website could also ensure well-timed availability and accuracy of information and provide more detailed English and/or French summaries or translations of important documents. Some Parliaments/Chambers emphasised that an exchange of information earlier in the scrutiny process would be of added value. Some other Parliaments/Chambers say that improvements should include greater use of IPEX and exchange of information between Members of Parliaments in the forum and/or on the margins of COSAC.

4.5 Improvement of European Commission responses to reasoned opinions

A number Parliaments/Chambers responded that the Commission's replies to reasoned opinions should be provided in a swifter manner (16 out of 34) and should be more focused on the arguments contained in the opinions drafted by the national Parliaments (20 out of 34).

The Spanish *Cortes Generales* suggested that the answers sent by the Commission to the national Parliaments that had issued reasoned opinions could be improved by adopting a more individual approach allowing the Commission to offer in-depth answers to every aspect mentioned in each reasoned opinion. This would avoid the short and general answers which have been sent by the Commission on previous occasions. The Czech *Senát* said that the Commission should support its position with qualitative and quantitative arguments (perhaps based on impact assessment) and, if relevant, also a legal analysis, in a more detailed and specific manner than in the explanatory memorandum. The Romanian *Camera Deputaţilor* recommended avoiding diplomatic restraints for the benefit of the clarity of replies. The Italian *Senato della Repubblica* stated that the responses to the reasoned opinions should focus, as they do, on the legal points offered by national Parliaments and the political views that sometimes underpin the "subsidiarity exception".

Most Parliaments/Chambers believed the Commission's replies to reasoned opinions could be swifter and/or better formulated.

"Monti II"

On 21 March 2012 the European Commission published a proposal for a Council Regulation on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services (the so-called "Monti II" proposal).³¹ By the time the subsidiarity deadline had expired on the 22 May 2012, it was clear that the "Yellow Card" threshold had been exceeded as 19 votes from 12 Parliaments/Chambers³² had been submitted to the Commission. This meant that the Commission was required,

³¹ COM (2012) 130

³² Belgian *Chambre des représentants*, Danish *Folketing*, Finnish *Eduskunta*, French *Sénat*, Latvian *Saeima*, Luxembourg *Chambre des Députés*, Maltese *Kamra tad-Deputati*, Polish *Sejm*, Portuguese *Assembleia da República*, Swedish *Riksdag*, Dutch *Tweede Kamer*, UK *House of Commons*.

under Article 7(2) of Protocol 2, to review the proposal. Under the same Article the Commission "may decide to maintain, amend or withdraw the draft. Reasons must be given for this decision".

In the responses to the questionnaire sent to all Parliaments, 25 out of 34 Parliaments/Chambers stated that they had scrutinised the Monti II proposal, 12 stated that they had issued a reasoned opinion and nine stated that they had issued an opinion in the context of the political dialogue.

The European Parliament Committee on Legal Affairs also examined the proposal and the reasoned opinions issued by National Parliaments as it does with all reasoned opinions but as the Commission withdrew the Monti II proposal the Committee did not need to issue a formal opinion on compliance with the principle of subsidiarity and the correctness of the legal basis.

4.6 Exchange of information on the "Monti II" proposal

It can be seen that there was an intensive exchange of information by Parliaments/Chambers on the "Monti II" proposal. When asked if they had exchanged information with other Parliaments/Chambers, 11 answered that they had received information, one replied that it had sent information, 22 had done both and only 3 had not engaged at all.

Parliaments/Chambers were very active in exchanging information on this proposal and answers suggest that much of this took place before or during the 8-week period given for reasoned opinions to be issued. When the information provided is broken down further, it can be seen that the largest number of 28 Parliaments/Chambers used National Parliament Representatives and the Monday Morning Meeting to exchange information, 25 Parliaments/Chambers used the IPEX database, 23 Parliaments/Chambers exchanged information between administrations,³³ 22 Parliaments/Chambers exchanged information with their national government, 16 Parliaments/Chambers did so through the COSAC meeting in Copenhagen from 22-24 April 2012, 11 cited exchange between Parliamentary committees, nine Parliaments/Chambers exchanged information with Permanent Representations of their governments, eight Parliaments/Chambers cited exchange of information between individual MPs and MEPs, whereas eight Parliaments/Chambers cited exchange between individual MPs, and five cited EP interparliamentary meetings and networks of political groups. The nature and level of parliamentary contact was, therefore, complex and intensive.

Of these methods/networks, a number were said to have helped Parliaments/Chambers to develop a scrutiny outcome. It is worth noting the information in the table below which highlights the methods/networks that 7 or more Parliaments/Chambers identified as having influenced particular scrutiny outcomes.

³³ Note that the Irish Houses of the Oireachtas said that the vast majority of information exchanged between parliamentary administrations flowed via National Parliament Representatives in Brussels.

Method/network	Scrutiny outcome influenced ³⁴		
	RO	Opinion	No action
National Parliament Representatives /MMM	9	10	7
IPEX database	9	10	
Exchange between Parliamentary administrations	9	8	
National Governments	9	8	

The Dutch *Tweede Kamer* also commented that "if IPEX is to be the vital platform for exchange of information, it is crucial that information and documents on reasoned opinions are uploaded (by Parliaments/Chambers) with the needed sense of urgency. In several cases IPEX seems to have lagged behind, especially in the final days before the deadline."

4.7 The European Commission response to "Monti II"

On 12 September 2012, the Commission decided to withdraw its proposal completely. This decision was first announced by Commissioner László Andor in the European Parliament Employment and Social Affairs Committee on 11 September 2012 and through a letter sent by the European Commission President José Manuel Barroso to the President of the European Parliament Martin Schulz of 12 September 2012. Letters to national Parliaments that had issued reasoned opinions on the proposal were also sent on 12 September.

In response to the questionnaire to all Parliaments, 22 Parliaments/Chambers replied that they believed that the Commission actions in responding to the "yellow card" were in line with the Lisbon Treaty provisions in the Protocol on the Application of the Principles of Subsidiarity and Proportionality. Many Parliaments/Chambers, however, chose not to answer or expressed no opinion on this question. Seven Parliaments/Chambers did not believe that the Commission action was in line with the Lisbon Treaty and gave the following reasons for their negative response: the Czech *Poslanecká sněmovna* said that the Commission did not react to the issued reasoned opinions at all. It only stated other reasons for withdrawal of the proposal; the UK *House of Commons* commented that "the means by which the Commission has communicated its intention to withdraw the proposal illustrates a broader concern we have with the inadequate response of the Commission to reasoned opinions issued by national Parliaments"; the Polish *Senat* said that according to Article 7 (2) of the Protocol, the Commission should review the draft legislative act. However, the answer given did not prove that the act has been reviewed but instead addressed the "political probability of issuing an act taking into account national Parliaments' opposition and not the reasons why they decided to issue reasoned opinions"; and the Slovenian *Državni zbor* believed that the reaction of the Commission was a result of negative responses from the Council and the European Parliament, and not of the positions taken by the national Parliaments. The Cyprus *Vouli ton Antiprosopon* were critical of the fact that even though, the withdrawal of the proposal from the Commission seems to be in line with the Lisbon Treaty, the justification given by the Commission was not based on the subsidiarity and proportionality criteria. The Latvian *Saeima* observed a lack of justification as to why despite numerous reasoned

³⁴ Methods/networks that influenced 7 or more Parliaments/Chambers to adopt a specific scrutiny outcome are highlighted only. Additional results can be seen in the annex to the Report.

opinions provided by national parliaments, the Commission still believes that in this case the principle of subsidiarity was observed. In its point of view, the "yellow card" mechanism was put into practice, but the outcome cannot be regarded as a trustworthy precedent because it did not facilitate the understanding of the subsidiarity principle.

It is also worth noting the reply from the Czech *Senát* which responded that it thought that the Commission was in line with the Protocol but said the Commission does not address the objections included in the individual reasoned opinions in its reply. Therefore, it is unclear whether the Commission reviewed the proposal or simply restated its initial arguments."

When asked if they believed that the Commission had applied correctly the practical arrangements for the operation of the subsidiarity mechanism as laid out in the letter (and annex) from President Barroso (dated 1 December 2009),³⁵ the majority of respondents (17 Parliaments/Chambers) replied that it had complied, whilst 13 said it had not or had only in part applied them correctly. Again, a number of Parliaments/Chambers replied that they had no formal position on this matter.

Those who responded that the Commission had not correctly applied the practical arrangements were critical of the Commission. Their comments included the following: "the Annex to the Commission President's letter clearly states that in the case of the yellow card procedure the Commission will give reasons for its decision in the form of a Commission Communication. This did not happen." (UK *House of Commons*); the Commission did not respond in detail, it did not publish a Communication as indicated in the annex to the letter. It did not demonstrate transparency envisaged in the letter (French *Sénat*); that the reasons for withdrawal of the draft act should have been given in a Commission Communication, which did not happen (Portuguese *Assembleia da República*) and the Dutch *Tweede Kamer* complained that "the European Parliament was informed before national Parliaments were".

Of the 30 Parliaments/Chambers that replied to the question of whether the reply from the Commission to the reasoned opinion (dated 12 September 2012) was an adequate response, seven said it was and a majority of 12 said it was not (11 said not applicable). Interestingly, the 12 negative replies included seven Parliaments/Chambers that had issued a reasoned opinion,³⁶ including the UK *House of Commons* who commented that "No – it did not address the legitimate concerns about a breach of the subsidiarity principle" and Dutch *Tweede Kamer* who said "there was no reasoning on the subsidiarity issue and the Commission did not go into the arguments put forward by the Dutch Parliament."

In the Contribution of the XLVIII meeting in October 2012 and in the context of strengthening the political dialogue, COSAC called upon the European Commission to provide individual responses to the reasoned opinions submitted and reasoning as to why it considers that the principle of subsidiarity has not been breached. Responses to the questionnaire confirmed that such letters were sent from the Commission to those Parliaments who raised a reasoned opinion on the 14 March 2013. The Portuguese *Assembleia da República* noted, however, that the Commission replied to "the arguments advanced by national Parliaments, but not

³⁵ http://ec.europa.eu/dgs/secretariat_general/relations/relations_other/npo/docs/letter_en.pdf

³⁶ UK *House of Commons*, French *Sénat*, Luxembourg *Chambre des Députés*, Polish *Sejm*, Dutch *Tweede Kamer*, Danish *Folketing*, Maltese *Kamra tad-Deputati*

specifically to the Reasoned Opinion of the *Assembleia da República*...[and] does not recognise any of the arguments presented and repeats that the reason why the draft act was withdrawn was the foreseeable impossibility of its approval and not because of the merit of the arguments advanced by the national Parliaments".

When asked about whether the Commission took sufficient account of the views included in their reasoned opinion, four Parliaments/Chambers answered "yes" (Belgian *Chambre des représentants*, Portuguese *Assembleia da República*, Estonian *Riigikogu* and Danish *Folketing*) and eight answered no. These Parliaments/Chambers included the following criticisms in their responses: that the response had not presented precise arguments (French *Sénat*); that the Commission did not put forward strong and convicting arguments on the basis of national Parliaments' assessments that the principles of subsidiarity have not been infringed (Polish *Sejm*); that the Commission did not refer to any findings included in Eduskunta's reasoned opinion but the findings and conclusion to withdraw its proposal were based solely on the fact that the proposal was unlikely to get an unanimous approval of 27 Member States (Finnish *Eduskunta*); and that although the Commission withdrew the proposal, it did not provide the Dutch Parliament with a reply as to substance or with an argument against or for, so in that respect they did not take into account the (substantial) views (Dutch *Tweede Kamer*).