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**Twenty-fourth Bi-annual Report:
Developments in European Union
Procedures and Practices
Relevant to Parliamentary Scrutiny**

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Background

This is the Twenty-fourth 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.

All the Bi-annual Reports are available on the COSAC website at:

<http://www.cosac.eu/documents/bi-annual-reports-of-cosac/>

The three 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 24th Bi-annual Report was 14 September 2015.

The outline of this Report was adopted by the meeting of the Chairpersons of COSAC, held on 13 July 2015 in Luxembourg.

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

Complete replies, received from 39 out of 41 national Parliaments/Chambers of 28 Member States and the European Parliament, can be found in the Annex on the COSAC website. The Greek *Vouli ton Ellinon*, due to recent elections, and the Slovenian *Državni zbor* did not answer the questionnaire.

Note on Numbers

Of the 28 Member States of the European Union, 15 have a unicameral Parliament and 13 have a bicameral Parliament. Due to this combination of unicameral and bicameral systems, there are 41 national parliamentary Chambers in the 28 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.

ABSTRACT

CHAPTER 1: THE FUTURE OF PARLIAMENTARY SCRUTINY OF EU AFFAIRS

The first chapter of the 24th Bi-annual Report of COSAC, building on previous Reports, explores how to strengthen the role of national Parliaments in the EU decision-making process by improving the "yellow card" procedure and by introducing a "green card" (enhanced political dialogue). In this context, the Report, firstly, gives an overview of the positions regarding the scope and procedural framework of the "green card", while ensuring its compliance with the existing Treaty provisions and with the inter-institutional balance of powers. Secondly, building on the Contribution of the LIII COSAC which noted that a majority of Parliaments/Chambers were in favour of issuing a voluntary, non-binding set of best practices and guidelines, it collects Parliaments'/Chambers' views on the areas that these informal guidelines should cover and presents best practices.

Since the publication of the 23rd Bi-annual Report of COSAC, some Parliaments/Chambers indicated that they had adopted an official position or intended to do so in the near future. On the scope of the "green card", the 24th Bi-annual Report shows that the views expressed on favoured two options; there was unanimous support among those responding to include "suggestions for new legislation" and support by an overwhelming majority of those responding to include "suggestions to amend existing legislation".

A vast majority of the responding Parliaments/Chambers declared that it was not necessary to amend existing legislation or rules of procedure to participate in a "green card" (enhanced political dialogue), while some Parliaments/Chambers specified that they wanted to wait until the "green card" had become more precise.

Regarding the scope and procedural framework of a proposed "green card", the majority of the respondents supported the introduction of a minimum threshold and the suggestion that that threshold should always be the same, but only few indicated whether this threshold should be established at one third or at one quarter. Furthermore, in case a minimum threshold was fixed but not reached, a majority suggested that the text could still be sent to the European Commission by the participating the Parliaments/Chambers as a joint text without considering it as a "green card".

A vast majority of the responding Parliaments/Chambers supported the introduction of a deadline to participate in a "green card", but only about half mentioned that the deadline should be the same for every green card or that the deadline should be fixed by the initiating Parliament/Chamber when launching an initiative.

A majority of those responding indicated that a specific timeframe should be introduced for concluding the process of a "green card", and half of them specified that this timeframe should be the same for every "green card" between 16 weeks and six months. Almost all the respondents were of the opinion that it should be possible to suggest amendments to the initial text prepared by the initiating Parliament/Chamber and that these amendments should be introduced within a deadline decided by the initiating Parliament/Chamber. Half of the Parliaments also expressed the view that the initiating Parliament/Chamber alone should decide whether to accept the amendments and circulate an amended text afterwards.

The vast majority of the respondents stated that it should be allowed to withdraw from a "green card" at any stage. A small majority of the respondents indicated that they were in favour of drafting a "green card" according to a set form. A majority of respondents stated that consultations among interested Parliaments/Chambers should take place according to the initiating Parliament's/Chamber's choice, while some respondents supported consultation via e-mail or among the representatives of national Parliaments in Brussels or in cluster meetings at political level in the initiating Parliament's/Chamber's premises or via videoconferencing.

Regarding the "yellow card" procedure, a vast majority of the responding Parliaments/Chambers considered that it needed improvement without Treaty change. The respondents' proposals covered several aspects. The most mentioned element concerned the improvement of the European Commission's reply to Reasoned Opinions, followed by an adjustment of the current 8-week deadline to issue such a Reasoned Opinion. Other possible improvements referred to the justification of the proposal by the European Commission with regard to subsidiarity, as well as to the communication, exchange of information and coordination of national Parliaments' on issuing a "yellow card".

Just less than one fourth of the responding Parliaments/Chambers indicated that they had established criteria for deciding whether the principle of subsidiarity had been breached and even less had defined criteria for separating the principle of subsidiarity from the principle of proportionality.

More than half of the respondents drafted Reasoned Opinions according to an internal set form, but, according to the findings, in most cases an internal set form and a fixed format/template for a Reasoned Opinion could not be distinguished from each other. When Parliaments/Chambers used some kind of form/format, there was room for flexibility on how it was used.

On best practices highlighted by Parliaments/Chambers, it is noted that none of the practices were mentioned by a majority of the respondents. Those highlighted included, among others, the practice to clearly indicate the text was a Reasoned Opinion, to include a clear motivation of the violation, to include scrutiny also of the principle of proportionality, as well as to use other actors' input.

Nonetheless, the responding Parliaments/Chambers expressed almost unanimously that the legislative proposal to which the Reasoned Opinion refers to, as well as a clear indication that a text is a reasoned opinion should be included in a Reasoned Opinion. A translation in English of the Reasoned Opinion or a summary in English, a summary of the argumentation, the legal basis, as well as the motivation were also supported by a majority of the responding Parliaments/Chambers.

A vast majority of the respondents expressed the view that the mid-December to New Year break should be excluded from the 8-week deadline provided by the treaties for a subsidiarity check, while a majority stated that the recess periods in the EU institutions should be excluded as well. According to a majority of Parliaments/Chambers, it was the European Commission that should define/announce annually the exact dates of periods excluded from the 8-week period.

CHAPTER 2: A EUROPEAN AGENDA ON MIGRATION

The second Chapter of the 24th Bi-annual Report of COSAC on European Agenda on Migration focuses on Parliaments'/Chambers' discussions on the European Commission's Communication "A European Agenda on Migration" and also presents an overview on the preventive measures that should be taken and put in place to avoid further humanitarian tragedies in the Mediterranean. The Chapter highlights Parliaments'/Chambers' views on the immediate actions proposed by the European Commission, i.e. the temporary European relocation scheme for asylum seekers who are in clear need of international protection and the resettlement scheme of migrants from third countries to EU Member States.

It also focuses on the new policy on legal migration in relation to the demographic challenges most EU countries are facing resulting in shortages of specific skills, which aims at attracting new talents and also casts light on Parliaments'/Chambers' views on the European common asylum system, and on the best practices of Parliaments'/Chambers in the application of the asylum rules.

According to the findings of the Report, the vast majority of the responding Parliaments'/Chambers had discussed the Communication "A European Agenda on Migration" in a committee meeting and in plenary, while a few were planning to hold a discussion in the near future.

On the preventive measures, according to the findings of this Report, the majority of the Parliaments'/Chambers had a discussion on the matter in a committee meeting and/or in plenary, while a few intended to hold a discussion.

Several Parliaments'/Chambers stressed the need to enforce the fight against illegal migration, human smuggling and trafficking, to solve the problems in the countries of origin, as well as to have better cooperation both with the countries of origin and the transit countries. Some others highlighted the need for better protection and management of the EU external border and for strengthening the work of the EU agencies, such as FRONTEX, EUROPOL, and EUROJUST.

According to the findings of the Report, the vast majority of the Parliaments /Chambers had discussed the actions proposed by the European Commission concerning a relocation system to distribute those in clear need of international protection within the EU either in a plenary session or in a committee meeting, some Parliaments'/Chambers had issued opinions on the actions, while some had not yet discussed the proposed actions. A different approach is seen in the discussion on the target of 20.000 resettlement places for the EU per year by the 2020, which had been discussed by less than half of the respondents in committee meetings, while only by some in the plenary; only one Parliament/Chamber communicated that it had issued an opinion on the issue.

The Report indicates that Parliaments'/Chambers' views vary on the voluntary versus compulsory participation of the Member States both in the relocation of the asylum seekers and migrants, as well as on the future targets of the resettlement.

The actions proposed by the European Commission on legal migration had been discussed by almost half of the responding Parliaments'/Chambers in a committee meeting, and only in

three cases in a plenary session. No Parliament/Chamber had issued an opinion. All the different actions proposed by the European Commission had been discussed by the Parliaments/Chambers.

The discussions concentrated on some of the mentioned actions more than on others. The action on "An EU-wide scheme for highly qualified third-country nationals", and the action "A modernisation of European visa policy" had been discussed by almost half of the responding Parliaments/Chambers. Only the European Parliament had discussed all of the mentioned actions.

The Parliaments/Chambers which expressed their views on the question of legal migration tended to highlight the importance of effectively managing it. Some of the Parliaments/Chambers stressed the need for further legal avenues for migration and safe entry options for those seeking asylum.

More than half of the responding Parliaments/Chambers had discussed the Common Asylum System either in plenary or in a committee meeting. In this context, the two actions which had been debated by the largest number of Parliaments/Chambers were the "Application of the Dublin system" and the "Implementation of the Common European Asylum system" both debated by the majority of the responding Parliaments/Chambers.

Some of the Parliaments/Chambers submitted concrete proposals in the framework of their debates like the creation of a standard, shared database for better managing the asylum applications and resettlement operations, the establishment of a sorting system to allow moving the migrants to their country of choice for the assessment of their asylum application.

Certain replies reflect different evaluations of the Dublin Regulation by Parliaments/Chambers; among others, one respondent called for an ambitious reform of the entire Regulation and another overtly called for the Regulation's repeal as far as the principle of the first port of entry was concerned.

CHAPTER 3: ENLARGEMENT POLICY

The third Chapter of the 24th Bi-annual Report of COSAC on enlargement policy focuses on the Political Guidelines for the next European Commission, especially President Juncker's announcement that ongoing negotiations would continue, and notably that the Western Balkans would need to keep a European perspective, but that no further enlargement would take place over the next five years.

Almost half of the responding Parliaments/Chambers had not analysed the European Commission's Political Guidelines, particularly the idea that no further enlargement should take place over the next five years, while less than half had discussed the topic in a committee meeting.

A number of Parliaments/Chambers presented their views on enlargement in general, as well as on the Commission's announcement, while some had not reached a common position. Nevertheless, a number of those stating that no common position had been reached outlined their views. The Report shows that Parliaments'/Chambers' views vary and focus on different aspects of the enlargement policy; in general terms though, the enlargement process was

largely supported among the respondents as promoting peace, democracy, security and prosperity in Europe, while the importance of economic, administrative and legal reforms in the candidate countries and aspirant countries was notably highlighted in some cases. Conditionality and a merit-based approach were expressly underlined in a few cases.

The Report also shows that the European Commission's approach had overall neither changed Parliaments' view on the enlargement policy nor had an impact on the procedures put in place by Parliaments in relation to Monitoring Reports/Annual progress reports or the overall scrutiny on enlargement policy. A few Parliaments/Chambers made reference to their intention to follow their usual procedures on the monitoring of the progress reports.

In addition, according to the Report's findings, in most cases there had not been notable developments or modifications in Parliaments' practice of oversight of the accession negotiations since the 19th Bi-annual Report drafted under the Irish Presidency.

CHAPTER 1: THE FUTURE OF PARLIAMENTARY SCRUTINY OF EU AFFAIRS

The first Chapter of the 24th Bi-annual Report of COSAC builds upon the 21st, 22nd, 23rd Bi-annual Reports and the Contribution of the LIII COSAC adopted in Riga. It focuses on how to strengthen the role of national Parliaments in the European decision-making process by introducing a "green card" (enhanced political dialogue) and by improving the "yellow card" procedure.

Section 1 continues the discussion of the 23rd Bi-annual Report on the "green card" (enhanced political dialogue) aiming at complementing the information given by Parliaments/Chambers about their positions and views regarding the scope and procedural framework of the "green card", while ensuring its compliance with the existing Treaty provisions and with the inter-institutional balance of powers.

Section 2 explores whether the "yellow card" procedure should be improved. Taking into account the finding that a majority of Parliaments/Chambers are in favour of issuing a voluntary, non-binding set of best practices and guidelines regarding the subsidiarity check documented in the Contribution of the LIII COSAC, it presents Parliaments'/Chambers' views on the elaboration of such informal guidelines and the best practices that could form the basis of such work.

Section 1: Scope and procedural framework of the "green card" (enhanced political dialogue)

i. Official position on the "green card" (enhanced political dialogue)

Since the publication of the 23rd Bi-annual Report of COSAC, in which six Parliaments/Chambers¹, indicated that they had adopted an official position², another seven Parliaments/Chambers communicated they had adopted an official position concerning their participation in the "green card"³. These⁴ indicated that they either adopted an official position or implicitly approved the "green card" when they decided to co-sign the letter of the UK *House of Lords'* European Union Committee initiative on food waste, which had collected 16 signatures and was sent to the President of the European Commission on 22 July 2015.

The Maltese *Kamra tad-Deputati* added that it viewed the enhancement of political dialogue by way of the "green card" initiative as a major step forward for a more positive and stronger role of national Parliaments in the EU. On this occasion, the Chair of the European Affairs Committee of the French *Assemblée nationale* underlined that the capacity to take initiatives was in line with the general aim of the committee, consisting in making positive proposals

¹ Lithuanian *Seimas*, Cyprus *Vouli ton Antiprosopon*, Czech *Senát*, Dutch *Tweede Kamer*, Danish *Folketing* and Italian *Camera dei deputati*.

² The Parliamentary Group of AKEL- Left - New Forces represented in the Cyprus *Vouli ton Antiprosopon* reiterated its position that an amendment to the TFEU constituted a prerequisite in order to establish the right of Parliaments to the legislative initiative.

³ Throughout the text, for a better readability, ' "green card" (enhanced political dialogue) ' will be abbreviated as "green card".

⁴ The Maltese *Kamra tad-Deputati*, the French *Assemblée nationale*, the Croatian *Hrvatski sabor*, the Belgian *Chambre des représentants*, the Italian *Senato della Repubblica*, the Dutch *Tweede Kamer* and the Luxembourg *Chamber of Deputies*.

instead of giving priority to a blocking capacity. It was pointed out that the "green card" should not be excessively formalised, concerning the timeframes for example. The Conference of Presidents of the Belgian *Chambre des représentants* decided to adhere to the principle, but to let its participation depend on each specific initiative. The Luxembourg *Chambre des Députés* decided to support the idea of the introduction of a "green card" in July 2015 in a meeting of the Committee on Foreign and European Affairs, Defence, Cooperation and Immigration. The Italian *Senato della Repubblica* stated that the "green card", in the general framework of the political dialogue, constituted a useful tool for a constructive involvement of national Parliaments in the EU integration process, in full respect of the institutional balance. The Belgian *Sé debates* specified that the procedure could have as objective the introduction on the agenda of the European Commission of a proposal for a legislative act suggesting the introduction of new legislation or for modifying an existing one when one third of national Parliaments asked for it. It also mentioned the importance of foreseeing such a possibility for the European Parliament.

The Dutch *Tweede Kamer* recalled a report it adopted in 2014 in favour of the idea of a "green card", allowing Parliaments to propose new European policies to the European Commission jointly. As to this point, however, it noted that nothing stood in the way of Parliaments making such a proposal now. Together with the Belgian *Chambre des représentants* it indicated that it would like to wait for the results of the Working Group before taking positions on the details of the "green card".

Four out of 13 responding Parliaments/Chambers⁵ indicated their intention to adopt an official position in the near future. The French *Sé debates* added that it would come back to this question in the framework of the discussions on the "Better lawmaking" proposals. After its decision in June 2015 not to support the initiative on food waste in June 2015, the German *Bundesrat* decided not to support the initiative on food waste because, as it had not yet adopted an opinion on this, it decided that the idea of introducing a "green card" should be addressed by the Conference of Ministers of European Affairs of the Federal States.

The Irish *Houses of the Oireachtas* responded that, even if it had not adopted a formal position, it was supportive of the concept of a "green card". It could provide for structured co-operation within a given timeframe by a number of Parliaments on specific policy areas and it did not purport to be a 'right of initiative'.

The "green card" was seen by the German *Bundestag*, which had no formal position on whether or not to introduce a new and formal procedure, as a possible contribution to an informal dialogue.

Although the UK *House of Lords'* European Union Select Committee had formally endorsed the introduction of a "green card" and agreed to propose a pilot project on food waste, it underlined that the procedure for proposing and co-signing such a proposed card had remained informal, and decisions had been taken by the EU Select Committee, exercising the powers conferred upon it by the *House of Lords*. The House itself would only be invited formally to adopt a position on the "green card" once the procedure was more clearly defined.

⁵ French *Sé debates*, Czech *Poslanecká sn movna*, the German *Bundesrat* and Romanian *Camera Deputa ilor*.

The UK *House of Commons* referred to a report debated in March 2015 stating that it looked forward to the European Commission responding to the call of national Parliaments and the European Council to strengthen national parliaments' role in improving EU legislation.

Though the Slovak *Národná rada* and the Portuguese *Assembleia da República* had not adopted any official position, they participated in the food waste initiative. The latter added that it agreed with encouraging greater participation of national Parliaments in the European construction within the scope of enhanced political dialogue, without calling into question the co-legislator's competences or the European Commission's power of initiative.

Whereas the Polish *Sejm* and the Croatian *Hrvatski sabor* indicated that they would return to the question of introducing a "green card" after the upcoming elections, the Irish *Houses of the Oireachtas* indicated that it planned to consider a technical motion on the introduction of a "green card" before the end of the current parliamentary session.

The European Parliament recalled its resolution of 16 April 2014 , in which it stressed that proper legitimacy and accountability must be ensured at national and EU level by the national Parliaments and the European Parliament respectively, and recalled the principle, set out in the conclusions of the December 2012 European Council meeting, that "throughout the process, the general objective remains to ensure democratic legitimacy and accountability at the level at which decisions are taken and implemented".

The Swedish *Riksdag* reminded that according to Sweden's constitutional setting, the Government had the primary responsibility for the task of representing Sweden internationally and that it was only within the framework of the subsidiarity check mechanism that the *Riksdag* could, in accordance with the treaties, communicate directly with the European Commission.

Some other Parliaments/Chambers stated that they were going to follow the discussion on the introduction of a "green card" closely and that they would take a formal decision as to their participation at a later stage.

The Finnish *Eduskunta* and the Italian *Camera dei deputati* expressed their doubts concerning the introduction of a "green card". While the first questioned whether the proposal could be lawfully adopted without Treaty change, and was not prepared to take a formal position on this "highly unofficial proposal", the latter stated that the political dialogue should continue to take place following the now well established practice of bilateral exchanges between the European Commission and individual Parliaments, without entering into any kind of collective dialogue between the European Commission and groups of national Parliaments. The Romanian *Senat* underlined the importance of improving cooperation and communication between national Parliaments and the European institutions in the frame of the current treaties, and of fully using the current mechanism before proposing new instruments. The proposals for introducing a "green card" could lead to a debate on the change of the current treaties.

The Dutch *Eerste Kamer* did not support the letter on food waste for various reasons, which included the appropriateness as such of the matter for a "green card" as well as the "green card" as an instrument of political dialogue. It added that the discussions concerning the participation in the "green card" were going on at committee level and would eventually show whether there was political support for a "green card" on another policy subject and as an instrument.

ii. Scope

The respondents unanimously⁶ indicated that under the "green card" Parliaments/Chambers should be allowed to make "Suggestions for new legislation". An overwhelming majority (22 out of 24) of the Parliaments/Chambers were in favour of including "Suggestions to amend existing legislation" to the scope of the "green card", with the exception of the Portuguese *Assembleia da República* and the Bulgarian *Narodno sabranie*.

Regarding the scope, the proposal to extend it to "Suggestions to repeal existing legislation" was supported by a majority (19 out of 24).

A small majority of Parliaments/Chambers (11 out of 21) supported that national Parliaments should be allowed to make "Suggestions to amend or repeal delegated or implementing acts".

The Portuguese *Assembleia da República* would like to extend the scope of the "green card" to include "*Suggestions for measures relating to legislative initiatives included in the European Commission Work Programme.*" The Dutch *Tweede Kamer* underlined that "*suggestions for new legislation*" should not amount to the right of initiative to propose EU legislation. The Irish *Houses of the Oireachtas*, the Czech *Senát* and the Latvian *Saeima* proposed that the "green card" could also be used to suggest non-legislative initiatives to the European Commission.

iii. Existing legislation and rules of procedure

Whereas a vast majority of Parliaments/Chambers (22 out of 25) indicated that it was not necessary to amend existing legislation or rules of procedure to participate in a "green card", the Polish *Senat*, the Polish *Sejm* and the UK *House of Commons* replied that a modification of the rules of procedure would be required. The Polish *Senat* added that the participation in a "green card" would even require a change to the Polish Constitution or to the Treaties in order to grant the necessary powers to the *Senat*. Five Parliaments/Chambers (e.g. Luxembourg *Chambre des Députés*, Hungarian *Országgyűlés*) indicated that they did not intend to amend existing legislation or rules of procedure.

Commenting on the possible modification of existing legislation or rules of procedure, two Parliaments/Chambers indicated that they wanted to wait until the "green card" had become more precise. Certain others pointed out that they saw the "green card" as enhanced political dialogue to which the same procedures applied as to the actual political dialogue.

The Dutch *Eerste Kamer* replied that political opinions were adopted by the standing committees, while reasoned opinions had to be adopted in plenary. As the adoption of a

⁶ Only the Green party of the Austrian *Nationalrat* and *Bundesrat* responded to the question on the scope.

"green card" would therefore be limited to the standing committees, it suggested not including in the text of a possible "green card" any formulation stating that it reflected the point of view of the Parliaments/Chambers as a whole. In the case of the Committee for European Affairs of the Czech *Poslanecká sn movna* however, the resolutions were deemed to be the statements of the whole Chamber of Deputies and therefore a modification of the rules of procedure was not necessary.

iv. Threshold

A majority (17 out of 21) of the responding Parliaments/Chambers were in favour of setting a minimum threshold of Parliament/Chambers for introducing a "green card"; however, only some responded whether this threshold should be established at one fourth (six Parliaments/Chambers) or at one third (5 Parliaments/Chambers). Some proposed another number, e.g. the Hungarian *Országgy lés* who proposed one fifth or the Romanian *Camera Deputa ilor* who indicated that 80% of the Parliaments would be necessary to launch a "green card". Some Parliaments/Chambers responded that it was not necessary to formalise a fixed number. The Dutch *Tweede Kamer* added that a "green card" gained power when more Parliaments, possibly also the European Parliament, supported it. The amount of support was an important element, but the *Tweede Kamer* had no common position at the moment on how this should operate. According to the Irish *Houses of Oireachtas*, a threshold should demonstrate that there was support/preference for action to be taken and that there was a body of support for the initiative among national Parliaments.

A vast majority of respondents (15 out of 20) underlined that the threshold for launching a "green card" should always be the same. Only a few Parliaments/Chambers⁷ were of the opinion that fixing a threshold should be left to the discretion of the initiating Parliament/Chamber. The French *Sénat* considered that the "green card" should be flexible and of informal nature, so defining a minimum threshold would not be necessary.

In case a minimum threshold was introduced but not reached, a majority of respondents (16 out of 24) suggested that the text could be sent to the European Commission by the participating the Parliaments/Chambers as a joint text without considering it as a "green card". About one third of the respondents considered that the text could be sent to the European Commission by each participating Parliament/Chamber as a political opinion and about one fifth of the respondents expressed the opinion that the initiating Parliament/Chamber should announce the consequences if the threshold was not reached in its initial communication to Parliaments/Chambers. None of the Parliaments/Chambers was of the opinion that the text should not be sent to the European Commission at all.

v. Deadline and timeframe

A vast majority of Parliaments/Chambers supported the introduction of a deadline to participate in a "green card" (20 out of 22), with two Parliament/Chambers⁸ being against it. However, the respondents were almost evenly divided over the question whether the deadline should be the same for every "green card" (10 respondents) or left to the discretion of the

⁷ Polish *Senat*, Portuguese *Assembleia da República*, Italian *Senato della Repubblica*, German *Bundestag*

⁸ Italian *Senato della Repubblica* and German *Bundestag*

initiating Parliament/Chamber to inform Parliaments/Chambers on its choice (nine respondents).

A majority of Parliaments/Chambers indicated that a specific timeframe should be introduced for concluding the process of a "green card" (17 out of 21), with four Parliaments/Chambers⁹ being against. Almost half of the responding Parliaments/Chambers indicated that this timeframe should be the same for every "green card" and should be between 16 weeks and six months (12 out of 25).

The Romanian *Camera Deputa ilor* suggested that the timeframe should be the same for every "green card" and should be between two and three months. The Czech *Senát* added that the timeframe for decisions on the participation in a "green card" should be six months unless the initiating Chamber had important reasons to set a shorter deadline and argued that sufficient time for due consideration of proposals by the national Parliaments was one of the most important features of the process. It also proposed that national Parliaments unable to join a "green card" within the given deadline should, after consulting the initiating Parliament/Chamber, still be able to join it by sending a letter to the European Commission. The Hungarian *Országgyűlés* pointed out that the timeframe should be reasonable.

vi. Amendments

With the exception of one Parliament/Chamber (Slovak *Národná rada*), all the respondents (21 out of 22) were of the opinion that it should be possible to suggest amendments to the initial text prepared by the initiating Parliament/Chamber and that these amendments should be introduced within a deadline decided by the initiating Parliament/Chamber. This deadline should be announced prior to circulating the "green card" in order to inform other Parliaments/Chambers.

The Italian *Senato della Repubblica* and the Irish *Houses of the Oireachtas*, indicated that it should be possible to send amendments at any stage.

Half of the responding Parliaments/Chambers (nine out of 18) stated that the initiating Parliament/Chamber alone should decide whether to accept the amendments and circulate an amended text afterwards. The French *Assemblée nationale* underlined that, for reasons of efficiency and flexibility, the initiating Parliament/Chamber needed to fix a deadline. The UK *House of Lords* pointed to the difficulty the issue raised and argued that, on the one hand, inviting Parliaments/Chambers to amend the text could slow down the process; on the other hand, it would be unfortunate to exclude the possibility of amendments that might improve the substance of the text. For this reason, it suggested a limited timeframe for introducing amendments, with the initiating Parliament deciding whether to accept them; this Parliament/Chamber would then circulate the amended text to all signatories, inviting them to agree/disagree with the amended text, without the possibility of further amendments.

vii. Withdrawal

⁹ Italian *Senato della Repubblica*, French *Assemblée nationale*, Portuguese *Assembleia da República* and German *Bundestag*

A vast majority of the Parliaments/Chambers (20 out of 22) stated that it should be allowed to withdraw from a "green card" at any stage. The Hungarian *Országgyűlés* added that a clear timeframe should be set for the withdrawal. The Irish *Houses of the Oireachtas* underlined that flexibility was required in order to allow the Parliaments/Chambers first to consider the amended text and then to decide whether they still wanted to join the "green card". The Lithuanian *Seimas* proposed ensuring that a participating Parliament/Chamber could only revoke its decision if it disagreed with the proposed amendments. The Latvian *Saeima* suggested that withdrawal from a "green card" should not be possible after its transmission to the European Commission.

viii. Specific form

A small majority of Parliaments/Chambers (12 out of 21) indicated that they were in favour of drafting a "green card" according to a set form. According to a large majority of respondents (12 out of 17), this set form should contain a "summary of the reasons behind the proposed action" as well as "the anticipated benefits". A majority of Parliaments/Chambers (10 out of 17) have stated that a "green card" should include a reference to a legal base and to the preferred type of legislation. Only a few Parliaments/Chambers (four respondents) had given their support to including a deadline for the European Commission's reply to the "green card".

For the Latvian *Saeima*, it was essential that a "green card" contained some substantive elements, while its exact form was of less importance. The Italian *Senato della Repubblica*, the UK *House of Lords* and the Hungarian *Országgyűlés* underlined that there was no need to adopt a set form. The UK *House of Lords* added that there should be guidance, ideally agreed at COSAC level, possibly including the elements listed in the questionnaire. The Dutch *Tweede Kamer* supported a flexible approach and stated that it was up to the initiating Parliament/Chamber to see which parts should be included. It also pointed out that the minimum elements to include could be discussed by the COSAC Working Group¹⁰.

ix. Consultations

A majority of respondents (14 out of 25) stated that consultations among interested Parliaments/Chambers should take place according to the initiating Parliament's/Chamber's choice. Just above one third (nine out of 25) of the Parliaments/Chambers responded that the consultations should take place via e-mail or among the representatives of national Parliaments in Brussels (eight out of 25). Less than a third of the respondents (seven out of 25) would like to see cluster meetings at political level in the initiating Parliament's/Chamber's premises. Only a few Parliaments/Chambers (six out of 25) wanted to organise consultations via videoconference.

The Polish *Senat* and the Maltese *Kamra tad-Deputati* suggested organising consultations among national Parliaments in connection with the COSAC meetings. The UK *House of Lords* underlined that all the options mentioned could be used, whereas the Hungarian

¹⁰ In response to the invitation by the LIII COSAC addressed to the Luxembourg Presidency "to set up a working group on Strengthening the political dialogue by introducing a "green card" and improving the reasoned opinion procedure ("yellow card")" (paragraph 2.13 of the Contribution of the LIII COSAC, the Luxembourg *Chambre des Députés*, established a working group which held its first meeting on 30 October 2015.

Országgyűlés specified that consultations should take place primarily between those MPs and Secretariat staff working on the dossier. The French *Assemblée nationale* added that, if physical meetings were to take place, these should be organised at political level and not among representatives in Brussels and that interpretation should be provided at least into the EU working languages.

Regarding this point and the procedural aspects above (points iv-ix), the Belgian *Sénat* communicated that, before deciding, it wanted to wait for the results of the COSAC Working Group¹¹.

Section 2: "Yellow card" procedure

i. Improvement of the "yellow card" procedure

A majority of the responding Parliaments/Chambers (26 out of 32) considered that the "yellow card" procedure needed improvement without Treaty change.

The improvements proposed could be grouped as follows.

Firstly, the most mentioned (12 Parliaments/Chambers) was that the European Commission should improve its answers to Reasoned Opinion¹² (RO) issued by national Parliaments. The quality as well as the timeliness of the answers by the European Commission should be improved. Secondly, the adjustment of the current 8-week deadline to issue a RO was suggested by nine Parliaments/Chambers. The French *Assemblée nationale*, the Swedish *Riksdag*, the Dutch *Tweede Kamer* and the Czech *Senát* specifically mentioned the possibility to take into account certain recess periods when calculating the deadlines. The Cyprus *Vouli ton Antiprosopon*, suggested that, in cases of proposals of increased complexity, the 8-week period should be extended by at least two weeks.

A less mentioned improvement within the "yellow card" procedure was better coordination (Maltese *Kamra tad-Deputati*, Czech *Poslanecká sněmovna*), cooperation among national Parliaments (Dutch *Tweede Kamer*), inter-institutional cooperation (Bulgarian *Narodno sabranie*), as well as communication (Czech *Poslanecká sněmovna*, Bulgarian *Narodno sabranie*), more information provided by the Commission on a biannual basis to national Parliaments regarding the upcoming legislative proposals falling under the scope of Protocol 2 (Hungarian *Országgyűlés*) and exchange of information among national Parliaments through a consultation forum on IPEX (Romanian *Camera Deputaţilor*). The possibility to establish guidelines/criteria was specifically pointed out by the European Parliament, the Latvian *Saeima*, the Romanian *Camera Deputaţilor* and the Luxembourg *Chambre des Députés*.

The French *Sénat*, the Hungarian *Országgyűlés*, the Swedish *Riksdag* and the Lithuanian *Seimas* underlined the importance of a better justification of the proposal by the European Commission with regard to subsidiarity; this justification should not be limited to one or a few arguments concerning the need to take action at the EU level. The Lithuanian *Seimas* added that impact assessments were not translated into all EU official languages, and thus

¹¹ *ibid*

¹² Reasoned opinion will be abbreviated as "RO" throughout the following text.

they did not permit all stakeholders to appraise compliance with the principle of subsidiarity and in some cases may render the exercise of national Parliaments' right to monitor the subsidiarity principle more difficult.

The Finnish *Eduskunta* indicated that it did not consider the "yellow card" procedure vital for parliamentary influence, stating that it even failed to improve national Parliaments' influence, but demonstrated the need for national Parliaments' input to be included in the European legislative procedure. In its view, parliamentary influence could be made real only through parliamentary control of national Governments' activities in the Council.

The Belgian *Chambre des représentants* and *Sénat* added that the "yellow card" mechanism needed to be revised because the non-federal legislative assemblies of the Belgian parliamentary system were participating in the "yellow card" process.

The European Parliament noted that the current timeframe for national Parliaments to carry out subsidiarity and proportionality checks had often been considered insufficient and, in its resolution of 4 February 2014¹³, considered several initiatives to improve the evaluation of European issues by national Parliaments. It suggested that each legislative act published in the Official Journal should contain a note detailing those national Parliaments which had responded and those which had raised subsidiarity concerns; proposed forwarding national Parliaments' ROs to the co-legislators without delay; suggested that guidelines could be prepared outlining criteria for ROs on subsidiarity issues and proposed mobilising national Parliaments to undertake comparative evaluations of *ex ante* assessments which they had conducted and *ex post* assessments drawn up by the European Commission.

ii. Criteria for deciding a breach of the subsidiarity principle

Only nine out of 37 respondents replied that they had established criteria for deciding whether the principle of subsidiarity had been breached. When specifying these criteria, the UK *House of Lords*, the Finnish *Eduskunta*, the Lithuanian *Seimas*, as well as the Austrian *Nationalrat* and *Bundesrat* referred to the relevant definitions and criteria in Article 5 TEU and/or Protocol 2.

The Committee on Foreign and European Affairs of the Cyprus *Vouli ton Antiprosopon*, although not having established such criteria, used the guidelines on the application of the principles of subsidiarity and proportionality as provided in the Treaty of Lisbon and in the Treaty of Amsterdam.

The Dutch *Eerste Kamer* mentioned that principles of subsidiarity and proportionality and the legal basis would be considered in a RO.

The Italian *Senato della Repubblica* explained that it used the "necessity test" and the "EU added value test", and pointed out that these elements were also described by the European Commission in its 19th Report on subsidiarity and proportionality. In similar terms the French *Sénat*, Swedish *Riksdag*, Dutch *Tweede Kamer* and Latvian *Saeima* explained how and which criteria were being used. The Latvian *Saeima* added that its analysis was also

¹³ Resolution of 4 February 2014 on EU Regulatory Fitness and Subsidiarity and Proportionality - 19th report on Better Law-making covering the year 2011 ((2013/2077(INI)) P7_TA(2014)0061

based the appropriateness of the choice of the legal basis of the proposal and on the reasoning provided by the Commission in its proposal as regards the observance of the principle of subsidiarity.

The French *Sénat* had not established a list of such criteria, but had nevertheless developed certain principles; among others, it added that a lack of impact assessment was also a ground to issue a RO, as insufficient analysis did not ensure that the European Commission had correctly defined the appropriate level of action in accordance with the principles of subsidiarity and proportionality.

The Swedish *Riksdag* indicated that it used a method of establishing the level at which action should be taken, the so called two-step method. The main question was at which level a proposed action should be carried out, not whether the proposed action should be carried out or not. If it was possible to achieve the objectives of the proposed action by dealing with it at the national, regional or local level, no action should be taken at EU level. If yes, then the question had to be asked if the objectives of the measure could be better achieved at EU level.

The European Parliament mentioned that, in its resolution¹⁴, it was noted that Protocol No 2 provided national Parliaments with the formal opportunity to advise the EU legislator as to whether a proposed law fell short of the subsidiarity test since its objectives could not, by reason of their scale or effects, be better achieved at EU rather than at Member State level. It further suggested assessing whether appropriate criteria should be laid down at EU level for the evaluation of compliance with the principles of subsidiarity and proportionality.

iii. Drafting a Reasoned Opinion

Twenty out of 35 Parliaments/Chambers replied they drafted ROs according to an internal set form. Parliaments/Chambers were also asked if they had a fixed format/template for a RO, and which aspects were used in it.

The answers provided showed that in most cases an internal set form and a fixed format/template for a RO could not be distinguished from each other. In case there was a set or fixed form/format, it was common practice for several Parliaments/Chambers to work along the same lines for every RO and to use the same elements every time. When Parliaments/Chambers used some kind of form/format, there was room for flexibility on how it was used.

Some Parliaments/Chambers specifically explained that they used a set form. The UK *House of Lords* mentioned that the ROs were adopted in a set form, which was agreed by the House in 2010. The Portuguese *Assembleia da República* explained that it used a set form for the purposes of scrutinising the European initiatives it received, regardless of whether or not they fell in the scope of scrutiny of the principle of subsidiarity. If a breach of subsidiarity was found, a RO was issued and approved in plenary in the form of a Resolution. The Polish *Senat* also mentioned that a fix format for a RO was used.

¹⁴ Resolution of 4 February 2014 on EU Regulatory Fitness and Subsidiarity and Proportionality - 19th report on Better Law-making covering the year 2011 ((2013/2077(INI)) P7_TA(2014)0061

The ways in which some sort of form/format was used varied. Some Parliaments/Chambers used the form of a resolution, e.g. the Czech *Senát* stated that they used the general form of resolutions with bullet points. The reasoning of the opinion was clearly distinguished from other comments on the legislative proposal relevant only to the Government or in the framework of political dialogue.

A more flexible approach was used by the Luxembourg *Chambre des Députés* and the Cyprus *Vouli ton Antiprosopon*. In the first case, there was no fixed format and in the second case it was not obligatory to follow a set form. The Czech *Poslanecká sn movna* stressed that they did not use any fixed template; it was up to the rapporteur who drafted a RO. The Italian *Senato della Repubblica* did not have a format/template either; the previous ROs adopted were followed as examples. The Romanian *Senat* indicated that although it did not use a standard form, ROs included legal and technical elements indicating the breach of subsidiarity.

The Lithuanian *Seimas* explained in more detail the specific elements that could be found in a RO, as a strict form had not been set. The practice existed that the RO consisted of two documents; a resolution by the plenary to approve the conclusion of the Committees on European Affairs or on Foreign Affairs on possible breach of the principle of subsidiarity and an extract of these committees conclusion, where the motivation was referred to.

The Swedish *Riksdag* used certain guidelines to formulate a statement to the Plenary, which the committee had to propose in order to submit a RO. ROs were formulated in a uniform way, with certain set headings. The RO, appended to the statement, should state which proposal had been examined, that the committee considered that the proposal was in conflict with the principle of subsidiarity and the reasons it found a breach.

iv. Criteria to separate the principles of subsidiarity and proportionality

Only six Parliaments/Chambers out of 34 stated that they had defined criteria for separating the principle of subsidiarity from the principle of proportionality. Explaining their answers, the Irish *Houses of the Oireachtas*, the Swedish *Riksdag* and the Austrian *Nationalrat* and *Bundesrat* referred to the relevant definitions and criteria in Article 5 of TEU and/or Protocol 2. The Finnish *Eduskunta*, though it had not established any criteria, explained that it also used Article 5 TEU.

The Swedish *Riksdag* stressed that the examination of subsidiarity also included a proportionality criterion. It stated that there was a certain amount of support in literature and in EU Court of Justice case-law to justify that a certain degree of proportionality assessment could be regarded as being included within the framework of subsidiarity checks. The wording in the Treaty "the Union shall act only if and in so far as " meant that the examination of subsidiarity also included a proportionality criterion, and that the proposed measures may consequently not go beyond what was necessary to achieve the desired objectives of the measures.

The Polish *Senat*, Bulgarian *Narodno sabranie* and the Latvian *Saeima* also mentioned the separation of proportionality and subsidiarity. The Polish *Senat* and Bulgarian *Narodno sabranie* explained that the principle of proportionality followed that of subsidiarity. The Polish *Senat* explained that, when attempting to separate proportionality and subsidiarity, it

considered that, if a given goal was to be better achieved on a community level, but the measures proposed by the Commission seemed to be excessive, the proposal was considered to be in breach of proportionality.

v. Guidelines for Reasoned Opinions and best practices

On establishing guidelines for ROs, many Parliaments/Chambers highlighted several best practices. A few (six out of 23)¹⁵ mentioned the use of a clear indication in the text when a national Parliament was issuing a RO. The use of a clear motivation in the RO on why a breach of subsidiarity had been concluded was also mentioned. The Romanian *Camera Deputa ilor* added that an extensive explanation of the motivation for issuing a RO was needed, as this was not to be used as a mean to counteract core principles in the EU Treaties or slow down the integration process in the EU.

On the motivation and the elements in a RO, a few Parliaments/Chamber mentioned the principles of subsidiarity as well as proportionality in relation to the RO. For example, the Cyprus *Vouli ton Antiprosopon* highlighted that it considered that the principles of subsidiarity and proportionality were inextricably interwoven, and thus when conducting a subsidiarity check, it always considered proportionality aspects as well. Therefore, when establishing guidelines for ROs, it would support the inclusion of proportionality concerns in ROs, provided that these guidelines did not separate the two principles or preclude their examination *in tandem*, or impede national Parliaments from issuing a RO of non-compliance to the principle of subsidiarity that raised proportionality issues as well.

The Czech *Senát* pointed out that the distinction between the principle of subsidiarity and proportionality was mostly a matter of formulation of the argumentation in the RO, and that the two principles overlapped. It was clear that a RO could not be adopted on the grounds of a breach of the principle of proportionality, but certain arguments were relevant to both principles; those should not be dismissed by the European Commission as relevant only to proportionality.

The German *Bundesrat* mentioned it was following a non-binding recommendation, which described the preconditions for submitting a RO on non-compliance with the principle of subsidiarity. This also applied to scrutiny of proportionality, which, in the German *Bundesrat's* view, could also be examined within the framework of the subsidiarity check. The recommendation also contained scrutiny-related questions that could be utilised when scrutinising the subsidiarity principle in the stricter sense of the term. Finally, the guide included overviews of how procedures were structured in the *Bundesrat*, as well as indications of further scope for the *Bundesrat* to take action.

A number of Parliaments/Chambers highlighted the process of issuing a RO, for instance referring to how to get input from other actors. For example, the Bulgarian *Narodno sabranie* mentioned that the opinion of the Council for Public Consultation to the relevant committee was also part of the ROs, and that it reflected the viewpoint of various business organisations, NGOs and academia. The Austrian *Nationalrat* and *Bundesrat* pointed out that consultations with different stakeholders could improve the quality of ROs, as they worked closely together

¹⁵ French *Assemblée nationale*, Dutch *Eerste Kamer*, Italian *Senato della Repubblica*, Dutch *Tweede Kamer*, Czech *Senát*, Latvian *Saeima*

with the Provincial Parliaments by giving them the opportunity to make comments on all draft legislative acts and by taking those comments into consideration when voting on a RO. The Lithuanian *Seimas* also highlighted other actors' input; it may request the Legal Department of the Office of the *Seimas* as well as the European Law Department under the Ministry of Justice of the Republic of Lithuania to submit their opinion on the proposal's compliance with the principle of subsidiarity. Furthermore, it stated that a Government representative always participated in the consideration of a legislative proposal during the committee meetings, thus ensuring a wide political debate and cooperation between the parliament and the Government.

Other best practices mentioned included, among others:

- Appointing a member of Parliament in standing committees to follow-up EU matters regarding their respective committees (Belgian *Chambre des représentants*)
- Introducing a specific procedure in case a RO needed to be issued when the Plenary was not in session (Luxembourg *Chambre des Députés*)
- Mandatory translation into English of a full text of every RO issued and publication of the translated RO on IPEX as soon as possible (Polish *Senat*)
- In case of no impact assessment or lack of motivation of the proposal by the European Commission, this should be mentioned in the RO (French *Sénat*)
- Explanation setting out the breach in subsidiarity - 'subsidiarity test' (Irish *Houses of the Oireachtas*)

Regarding aspects that should be included in an RO, 32 respondents out of 33 suggested mentioning the legislative proposal the RO referred, 31 opted for clearly indicating that the text was a RO, 23 opted for providing a translation of the RO in English or a summary in English, 22 suggested including a summary of argumentation, 21 suggested including the legal basis and a motivation, while only nine suggested including information on the internal procedure applied.

Regarding other proposed aspects, a few Parliaments/Chambers made a remark about the language to be used for a RO. The French *Sénat* mentioned that a translation of the RO was desirable, at least into one of the EU working languages. The full translation or summary did not have to be included in the RO, but could be the subject of a parallel communication. The French *Assemblée nationale* expressed the view that a translation or a summary in English and in French should be provided. The European Parliament pointed out that, whereas the provision of a translation or summary in English could be helpful, the Committee on Legal Affairs (JURI) considered that requiring the inclusion of a translation into English of ROs or of a summary in English would be contentious in light of the principle of multilingualism.

The Latvian *Saeima* also suggested adding constructive suggestions to the European Commission on how to improve the legislative proposal in order for it to comply with the principle of subsidiarity (e.g. suggestion to choose a different type of legal instrument).

vi. The 8-week period for issuing a Reasoned Opinion

Regarding the 8-week period for issuing a RO, a vast majority of responding Parliaments/Chambers (24 out of 33) considered that the mid-December to New Year break should be excluded from this period. A majority (18 out of 33) expressed the view that recess periods in the EU institutions should be excluded as well. Other suggested periods to be

excluded were the period from mid-July to mid-September, as most Parliaments were in recess then (Belgian *Chambre des représentants* and *Sénat*), the recess periods of the national Parliaments (the Romanian *Camera Deputa ilor*), as well as January and July-August as those were the periods of parliamentary holidays (Romanian *Senat*). The Dutch *Tweede Kamer* mentioned that excluding recesses was a minimum option. They preferred extending the deadline to 12 weeks as many Parliaments had different recess periods; in order to be able to improve cooperation between national Parliaments, which could improve the quality of ROs, it was essential to allow enough time.

The Latvian *Saeima* expressed that no further exceptions, in addition to the month of August, should be added because this could be confusing and potentially lead to legal uncertainty; the current situation was clear and left no room for confusion as far as the deadlines for submitting ROs were concerned.

Nineteen out of 28 Parliaments/Chambers stated that the exact dates of periods excluded from the 8-week-period should be communicated by the European Commission.

CHAPTER 2: A EUROPEAN AGENDA ON MIGRATION

At the time when both the 30th anniversary of the signing of the first Schengen agreement and the 20th anniversary of the entry into force of the second Schengen agreement are celebrated, the adoption of a new policy on migration has become one of the urgent objectives of the European Commission. In this light, the second Chapter of the 24th Bi-annual Report casts light on Parliaments'/Chambers' discussions on the European Commission's Communication "A European Agenda on Migration"¹⁶ adopted on 13 May 2015 aiming both at putting forward concrete actions to respond to the immediate crisis and save lives at sea, and at proposing structural responses for the medium and long term. The principle of the Agenda is a coordinated EU response on the refugees and migration.

According to the findings of the Report, the vast majority of the responding Parliaments/Chambers had discussed the abovementioned Communication; 21 out of 37 in a committee meeting and six in plenary. Four were planning to hold a discussion in the near future.

Section 1 of the Report, acknowledging the need to provide an urgent solution to the situation in the Mediterranean, presents an overview of the Parliaments'/Chambers' views on the preventive measures that should be taken and put in place to avoid further humanitarian tragedies in the Mediterranean. Section 2 presents Parliaments'/Chambers' views on the immediate actions proposed by the European Commission, i.e. the temporary European relocation scheme for asylum seekers who are in clear need of international protection and the resettlement scheme of migrants from third countries to EU Member States. Section 3 focuses on a new policy on legal migration in relation to the demographic challenges most EU countries are facing resulting in shortages of specific skills, which aims at attracting new talents. Section 4 casts light on Parliaments'/Chambers' views on the European common

¹⁶ Communication of the European Commission to the European Parliament, the Council, the European Economic and Social Affairs Committee, the Committee of the Regions, A European Agenda on Migration COM(2015) 240.

asylum system, and the exchange of best practices of Parliaments/Chambers in the application of the asylum rules.

Section 1: Preventive measures

Only few Parliaments/Chambers had not at all discussed the preventive measures proposed by the European Commission, while the majority of the Parliaments/Chambers had a discussion on the matter in a committee meeting and/or in plenary (19 out of 37 in a committee meeting and nine in plenary). Four communicated they intended to hold a discussion.

Eight Parliaments/Chambers, among others the French *Assemblée nationale*, the Polish *Sejm*, the Estonian *Riigikogu*, the Czech *Poslanecká sn movna*, the German *Bundesrat*, the Romanian *Senat* and the European Parliament, stressed the need to enforce the fight against illegal migration, human smuggling and trafficking, as well as to solve the problems in the countries of origin and to have better cooperation both with countries of origin and transit countries.

The Polish *Sejm*, the Lithuanian *Seimas* and the Czech *Senát* stressed the need for better border protection and management of the external borders of the EU, as well as better EU return policy and development of European asylum policy.

The Italian *Senato della Repubblica*, the French *Assemblée nationale* and the Lithuanian *Seimas* further highlighted the need to strengthen the work of FRONTEX, as well as of Europol and Eurojust by ensuring maximum coordination of their actions and by making full use of their capabilities. The Italian *Senato della Repubblica* further proposed possible measures to be introduced, i.e. the establishment of highly specialised international police missions, a European intervention to tackle illegal migrations, strengthening of the Triton operation, the introduction of burden-sharing mechanisms, a diplomatic and political action towards third countries, overcoming of the Dublin III regulation framework, the possibility to apply for asylum at the embassy level, an action towards countries of origin and transit and an intervention of the United Nations Security Council.

While the Slovak *Národná rada* and the Czech *Poslanecká sn movna* pointed out the need for maintaining voluntary nature for solidarity activities within the EU, the Italian *Senato della Repubblica* asked to ensure fair and balanced participation of all Member States in the area of relocation of the asylum seekers and migrants.

The European Parliament in several resolutions specifically highlighted the establishment of safe and legal avenues for asylum seekers for entering the EU and stressed the need for Member States to effectively fulfil their search and rescue obligations. It also recalled the need to examine the overall strategy on cooperation with third countries and to address the root causes of migration.

The Dutch *Tweede Kamer* requested the Government to focus on EU discussions regarding intensifying cooperation between all countries in the Mediterranean area, among others regarding better information and counselling, regional protection and supporting African aid services.

When asked to indicate concrete preventive measures that had been discussed, the vast majority of responding Parliaments/Chambers (24 out of 29) indicated that they discussed the issue of working in partnership with third countries to tackle the migration upstream; at the same time, only half of those responding had discussed deployment of assets (ships and aircrafts). The vast majority of those responding (22 out of 29) had discussed FRONTEX joint-operations Triton and Poseidon. More than half of responding Parliaments/Chambers looked at capture and destruction of vessels used by smugglers, while less than half of those responding specifically discussed capture and destruction of vessels used by smugglers outside the EU territory. Two thirds of responding Parliaments/Chambers discussed support to a possible Common Security and Defence Policy (CSDP) mission on smuggling migrants. Almost the same number of the respondents has discussed regional development and protection programmes (North Africa, Horn of Africa, Middle East).

Several Parliaments/Chambers specified other measures which had been discussed and which covered many aspects of the humanitarian tragedies in the Mediterranean. Among them, the need for the EU to support more structured intervention for the stabilisation of Libya (Maltese *Kamra tad-Deputati*), the transfer of the FRONTEX Headquarters closer to the centre of the Mediterranean (Italian *Camera dei deputati*) and reinforcing the protection of external borders (Czech *Senát*) were highlighted.

The Portuguese *Assembleia da República* discussed the possibility of establishing information centres in the countries of origin, transit and destination to provide clarification and guidance for migrants on their rights and obligations. The possibility of compensating private operators, such as the merchant navy, to provide incentives for their cooperation and solidarity in sea rescue missions, was also mentioned. It expressed its doubts as to the effectiveness of preventive measures that were not accompanied by political and diplomatic responses.

The Slovak *Národná rada* discussed the creation of safe zones in the countries of origin and creation of hotspots at the most affected entry points, securing legal pathways for qualified migrants. The hotspots were discussed also in the French *Sénat*.

The possibilities for migrants to apply for asylum outside the EU borders were also discussed in several Parliaments/Chambers (e.g. Slovak *Národná rada*, Italian *Senato della Repubblica*). The Belgian *Chambre des représentants* discussed a new and more flexible model for asylum seekers in Belgium.

The Lithuanian *Seimas* focused on the importance of having a communication strategy to prevent the dissemination of negative, populist or false information and to preclude the shaping of a negative public opinion in the EU.

Only few Parliaments/Chambers presented their opinion on preventive measures that may be put in place. These included short-term activities, such as the ones listed in the Communication document: better border management, effective return policy and incentives to curb illegal migration (Polish *Sejm*); long-term activities to strengthen EU international role and credibility (Italian *Senato della Repubblica*); better information and counselling, better regional protection and support for African aid services to prevent migrants from undertaking a hazardous trip to the EU (Dutch *Tweede Kamer*). The Swedish *Riksdag* emphasised the importance of both emergency measures to save lives and long-term

measures to create legal ways of entering the EU, while the Romanian *Senat* encouraged the Member States to secure the EU borders.

The Polish *Sejm* raised concerns about destroying smugglers' boats, noting that such activities would probably require the involvement of military resources, which would require the consent of the UN Security Council or of the Libyan authorities.

The Hungarian *Országgyűlés* stated that parliamentary discussions, both at plenary and committee levels, focused on the challenges posed by the Western Balkan migration transit route.

When asked to provide additional information on the preventive measures, among others, the UK *House of Lords*, the Romanian *Camera Deputaţilor*, as well as the European Parliament and the Italian *Senato della Repubblica* referred to inquiries having taken place and reports under preparation. The Swedish *Riksdag* made reference to the labour migration highlighting also the positive aspect of migration. It welcomed the EU actions towards increasing the EU's attractiveness for prospective employees, reminding however that it was also important to prevent the exploitation of people coming to the EU.

Section 2: Actions proposed by the European Commission (relocation and resettlement)

i. Parliaments' discussions on actions proposed concerning a relocation system to distribute those in clear need of international protection within the EU

A first implementation package on the European Agenda on Migration adopted on 27 May 2015 included: a proposal to trigger for the first time Article 78(3) of the TFEU in order to urgently relocate 40,000 asylum seekers for the benefit of Italy and Greece; a Recommendation for a resettlement scheme for 20,000 persons from outside the EU; an Action Plan on Smuggling; and the necessary amendments to the EU Budget to reinforce the Triton and Poseidon operations at sea so that more lives could be saved.

Twenty-nine out of 37 responding Parliaments/Chambers discussed the actions proposed by the Commission concerning a relocation system to distribute those in clear need of international protection within the EU either in a plenary session (eight Parliaments/Chambers) or in a committee meeting (21 Parliaments/Chambers). Two Chambers (Lithuanian *Seimas* and Slovak *Národná rada*) issued an opinion on the actions, while three other Parliaments/Chambers announced the intention to discuss these (Spanish *Cortes Generales*, Bulgarian *Narodno sabranie* and Romanian *Camera Deputaţilor*). Some Parliaments/Chambers did not discuss the proposed actions (e.g. Slovenian *Državni svet*, Croatian *Hrvatski sabor*, Cyprus *Vouli ton Antiprosopon*).

The opinions expressed by the Parliaments/Chambers varied mainly on the issue of voluntary or compulsory distribution of refugees and on the issue of quotas per country. Six Parliaments/Chambers did not issue a common opinion. Several Parliaments/Chambers¹⁷ expressed their support to the voluntary basis of the distribution, as well as to the need for an allotment scheme that was reasonable and based on actual capabilities of Member States and

¹⁷ Polish *Senat* and *Sejm*, Hungarian *Országgyűlés*, Estonian *Riigikogu*, Czech *Poslanecká sněmovna* and *Senát*, Lithuanian *Seimas*, Latvian *Saeima* and Slovak *Národná rada*)

their opposition to country quotas defined by the European Commission. Some Parliaments/Chambers supported however the European Commission's distribution proposal and quotas¹⁸.

The EU Affairs Committee of the Polish *Sejm* pointed out that the European Commission exceeded its mandate on the relocation and resettlement programme, established by the European Council at the extraordinary summit in April. It stressed that the European Council's document expressly refers to voluntariness and not to compulsoriness, and noted that the principle of voluntariness did not imply lack of solidarity or responsibility.

The Czech *Poslanecká sn movna* referred to a resolution adopted by its Committee on European Affairs, which rejected the proposal for a Council Decision establishing provisional measures in the area of international protection for the benefit of Italy and Greece¹⁹ and which supported the position of the Government on the proposed mechanism; it called on the Government to do everything possible to block adoption of the draft.

The EU Affairs Committee of the Estonian *Riigikogu* expressed the opinion that Member States should decide unanimously on the distribution key concerning a relocation system, reflecting the proportionate size of their population and economy in the EU.

The EU Affairs Committee of the Lithuanian *Seimas* adopted an opinion which stated, among others, that the principle of solidarity should be based on transparent criteria that were clear and acceptable to all Member States and on the indisputable principle of voluntary participation.

The Czech *Senát* referred to its resolution²⁰ where it stressed that it did not agree with the mandatory relocation of migrants between Member States; Member States should bear the primary responsibility for their asylum and migration policy, including the consequences of non-compliance with the rules agreed at EU level. It also agreed with the Czech Government that the proposal for a decision was also legally unclear in many respects, in particular with regard to the specific procedures, the rules of the Dublin regulation or health aspects.

The Latvian *Saeima* debated the issue in the EU Affairs Committee and, while generally recognising the need to offer solidarity to Member States facing an unprecedented flow of refugees, the common opinion was that the relocation system should operate on a voluntary basis.

The Slovak *Národná rada* referred to its Declaration on Solving Migration Challenges Currently Faced by the European Union where it highlighted, among others, the need for solidarity in addressing the current migratory pressure, as well as responsibility for taking measures to protect the common external borders of the EU. It further expressed the readiness of the Slovak Republic to assist in resolving the humanitarian crisis, insisting however on the voluntary nature of individual contributions by the Member States for resettlement and relocation programs, and rejecting the introduction of mandatory quotas, as well as any

¹⁸ Portuguese *Assembleia da República*, Italian *Camera dei Deputati* and *Senato della Repubblica*, European Parliament, Austrian *Nationalrat*

¹⁹ (COM (2015) 286 final)

²⁰ No.161 of 18 June 2015

questioning of the fundamental pillar of the Schengen system, i.e. the principle of free movement of persons.

The Romanian *Senat* expressed its disagreement with using a standard mechanism that would not take into consideration the particularities of each Member State and the contribution to the activities to European Agencies such as FRONTEX. Furthermore, it stressed that the solutions must be found in adequate policies for migration, border security and not by introducing controls or affecting the application of the Schengen *acquis*.

The Portuguese *Assembleia da República* made reference to the need that all Member States accept to be part of the response and to be willing, within their capabilities, to assume their share of responsibility. This assumption should, however, be accompanied by the Union assigning resources to the Member States that have the greatest financial difficulties and/or those that needed greater investment in their refugee and/or migrant support services, so they could respond efficiently.

The Italian *Senato della Repubblica* referred to its resolution adopted on 24 June 2015 and, acknowledging the Communication as constituting an innovative approach, stressed the importance of the relocation and redistribution of asylum seekers already present in Europe. It called on the Union to undertake unequivocal commitments while ensuring the relocation plan for asylum seekers already present in Italy and Greece to ease the burden on the European first ports of call. It instructed its Government to adopt all initiatives to help secure an agreement on the redistribution of asylum seekers which was ambitious in terms of the numbers involved, equitable in terms of distribution, binding on the Member States and operational before the summer season²¹.

The German *Bundesrat* supported the European Commission's proposal to establish a mandatory programme for resettlement and/or re-distribution.

The European Parliament discussed the proposal of the European Commission both in a Plenary session and in Committees' meeting (LIBE and AFET). It was discussing a new report²² at that time related to the permanent crisis relocation mechanism under the Dublin system and adopted a resolution²³ on the Council Decision establishing provisional measures in the area of international protection for the benefit of Italy, Greece and Hungary²⁴.

The Dutch *Tweede Kamer* discussed the proposal in a committee meeting; it agreed with the Government that relocation and resettlement should take place in the short term, and that it was necessary to try to improve regional reception of refugees in the long term, as well as to invest in the improvement of reception in the region and to look for more structural solutions.

²¹ In the same resolution, the Italian *Senato della Repubblica* called on the Union to override the Dublin Regulation principle according to which asylum seekers must be taken in by the first port of entry in order to introduce the principle of mutual recognition of decisions to grant asylum.

²² 2015/0208(COD)

²³ Provisional measures in the area of international protection for the benefit of Italy and Greece, of 9 September 2015, P8_TA-PROV(2015)0306

²⁴ COM(2015)0451 - C8-0271/2015 - 2015/0209(NLE).

The Austrian *Nationalrat* and *Bundesrat* repeatedly discussed at Committee meetings ways to solve the current situation at European level such as a distribution of asylum seekers among the EU Member States.

The UK *House of Lords* referred to a report it published²⁵ calling on the British Government to participate in the relocation scheme provided this could be done on a voluntary basis. The European Scrutiny Committee of the UK *House of Commons* had recommended a separate debate in September that would focus specifically on the UK's Title V opt-in.

The EU Affairs Committee of the Irish *Houses of the Oireachtas* agreed to keep the European Agenda on Migration under further scrutiny and to return to this question should the Government opt into the relevant measures.

ii. Parliaments' discussions on actions the target of 20.000 resettlement places for the EU per year by the year 2020

A second implementation package on the European Agenda on Migration was adopted by the European Commission on 9 September 2015, proposing concrete measures to respond to the current refugee crisis and to prepare for future challenges. The proposal included: an emergency relocation proposal for 120,000 persons in clear need of international protection from Greece, Hungary and Italy; a crisis relocation mechanism to be inserted into the Dublin Regulation; a common European list of Safe Countries of Origin; making return policy more effective through a common Return Handbook and an EU Action Plan on Return; a Communication on Public Procurement rules for Refugee Support Measures; a Communication on addressing the external dimension of the refugee crisis; an Emergency Trust Fund for Africa.

Less than half of the responding Parliaments/Chambers (16 out of 35) had discussed the target of 20.000 resettlement places for the EU per year by the year 2020 in committee meetings, eight had debated the target in a plenary session, two had discussed the objective both in a plenary session and in a committee meeting, one had issued an opinion on the issue, five had not discussed it at all, while five intended to discuss it.

The position of the responding Parliaments/Chambers reflected the division between supporters of the European Commission proposal for a compulsory repartition mechanism based on fixed country quotas and supporters of voluntariness.

The Polish *Sejm* stressed that, in its Communication document, the European Commission had not taken account of the situation in Ukraine. In case of a potential influx of refugees from Ukraine to Poland, Poland would certainly become the destination country. It was also noted that the European Commission had devoted far too little attention to combatting the so-called secondary movements within the EU and to required measures aimed to prevent situations in which persons relocated or resettled to all EU countries would move to a selected group of the richest EU members, contrary to the relocation principle.

²⁵ "The UK opt-in to the proposed Council Decision on the relocation of migrants within the EU", EU Home Affairs Sub-Committee, UK House of Lords, 15 July 2015

The European Parliament informed that the issue was discussed both at plenary and committee level (namely in the LIBE and AFET Committees). It also mentioned the Tavares Reports²⁶ underlining its long time support to the creation of a resettlement programme.

The Dutch *Tweede Kamer* informed that, following a debate in a Committee meeting, it supported the view of the Government, which supported resettlement of 20.000 places and ensuring that every Member States took its fair share. After the new proposals of the Commission on 9 September, views were divided. However, the majority in the Chamber supported the view that resettlement should be used as instrument to support reception in the region in the short term.

The Czech *Senát* adopted a Resolution²⁷ in which it stated that it was fundamentally opposed to the establishment of common mandatory schemes for relocation and resettlement, putting emphasis on the exclusively voluntary nature of the proposed mechanisms, as these measures did not address the underlying reasons for massive waves of migration and may, on the contrary, further stimulate migration.

Section 3: New policy on legal migration

i. Parliaments' discussions on the actions proposed by the European Commission on legal migration

Almost half of the Parliaments/ Chambers responding (17 out of 37) discussed the actions proposed by the European Commission on legal migration in a committee meeting, nine had not discussed it at any level, while six intended to discuss it in future. Only three had discussed the European Commission proposed actions in a plenary session. The Romanian *Senat* issued an opinion on the matter.

The responding Parliaments/Chambers had discussed all the different actions. More specifically, out of 23 respondents, 11 discussed "An EU-wide scheme for highly qualified third-country nationals", while "A modernisation of European visa policy" and "The future of the Blue Card directive" were discussed by nine. "A new mobility and job-seeking opportunities for students", "A new mobility and job-seeking opportunities for researchers" and "Stronger action to link migration and development policy" were discussed by eight Parliaments/Chambers. Five Parliaments/Chambers discussed the action on "Re-prioritising funding for integration policies". The action on "Identification of economic sectors that face or will face recruitment difficulties or skill gaps" and the action on "A promotion of permanent dialogue and peer evaluation at European level on labour market gaps, regularisation and integration" were each discussed by four. Only three Parliaments/Chambers discussed the "Cheaper, faster and safer remittance transfers" action, while the action on "A platform of dialogue to include input from business, trade unions and other social partners" was discussed by only two.

A few Parliaments/Chambers reported having discussed other actions.

²⁶2009/0127(COD)- COM(2009)0456, C7-0072/2012) and 2009/2240(INI)

²⁷ No. 160 of 18 June 2015

The European Parliament had discussed all the above mentioned actions; the Committee on Civil Liberties, Justice and Home Affairs (LIBE) reported also ongoing trilogues on the Directive on the conditions of entry and residence of third-country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing which was to be adopted in codecision²⁸.

The EU Affairs Committee of the Portuguese *Assembleia da República* stressed that in the context of the presidency of the Parliamentary Assembly of the Union for the Mediterranean, the *Assembleia da República* discussed the possibility of portability of social security benefits for migrant workers with a view to facilitating a sustained return (circular migration), in other words, ensuring that migrants were not inhibited from returning to their places of origin for fear of losing their guarantees.

The Czech *Senát* discussed the actions concerning a modernisation of European visa policy and adopted a Resolution²⁹ on the Proposal for a Regulation of the European Parliament and of the Council on the Union Code on Visas (Visa Code) (recast)³⁰ and on the Proposal for a Regulation of the European Parliament and of the Council establishing a touring visa and amending the Convention implementing the Schengen Agreement and Regulations³¹.

The Danish *Folketinget* reported that, although the relevant Minister had informed the Committee on EU Affairs on these proposals at Committee meetings, due to the Danish opt-out on Justice and Home Affairs, there had been no in depth discussions or common positions.

ii. Parliaments'/Chambers' views on legal migration

Only some Parliaments/Chambers replied to the question whether they had adopted a common opinion on legal migration.

The EU affairs Committee of the Irish *Houses of the Oireachtas* affirmed that generally, the issue of illegal immigration was of concern to the Committee and that it had addressed the issue of undocumented migrants. The Committee reported having engaged with the Migrant Rights Council of Ireland and the Immigration Control Platform, representing either side of the debate.

The European Parliament's LIBE Committee replied underlining that the Parliament, which had discussed the question both in plenary session and in a committee meeting, had stressed the need to explore further avenues of legal migration. It supported the Commission's proposals granting enhanced intra-EU mobility to legal migrants (e.g. students, researchers, trainees) and creating a new job-seeking permit. In the past, the European Parliament had been asking for a horizontal legal migration instrument.

The Czech *Senát* stated its general support to legal migration and its effective management and emphasised the importance of the fight against illegal immigration and the implementation of an effective return policy.

²⁸ 2013/0081 (COD)

²⁹ No. 615 of 22 October 2014 (9th legislative term)

³⁰ COM (2014) 164

³¹ (EC) No 562/2006 and (EC) No 767/2008 (COM(2014) 163)

The Romanian *Senat* emphasised that legal migration could, under certain conditions, bring benefits to the EU, namely on the labour market. It also stressed that the revision of the Blue Card Directive should provide better conditions for the highly qualified. Furthermore, it underlined the fact that Romania would need the support of the EU both for its education programmes and for its health system.

Finally, the German *Bundesrat* welcomed the Commission's plans to advocate a new European policy for legal migration and called for further legal and safe entry options to be created for migrants seeking asylum in the Member States. In the *Bundesrat's* view, intensifying efforts to integrate people who were recognised as being entitled to protection was a shared challenge for the Member States. It requested the Commission to ensure greater involvement of national Parliaments and other relevant stakeholders from civil society in further discussions to design and implement the European Migration Agenda and associated follow-up measures.

A few Parliaments/Chambers gave some notable additional information. Among those, the UK *House of Lords* mentioned that its Committee on EU Affairs, before the publication of the EU's Agenda on Migration, had urged the Government to opt into the Draft Directive on the conditions of entry and residence of third country nationals for the purpose of Study and Research. However, the Government declined to do so.

The Swedish *Riksdag* stressed that in general the visa policy was the subject of continuous discussion in its Committee on Social Insurance. The *Riksdag* considered that legal migration was a positive force that contributed to more open and richer societies and that there should be more legal ways for migration to take place.

Section 4: The European common asylum system

i. Parliaments' discussions on the European common asylum system

Nine out of thirty-five Parliaments/Chambers had discussed the European common asylum system in a plenary session, 11 in a committee meeting, while eight had not discussed it at all. Three (the French *Assemblée Nationale*, the Slovak *Národná rada* and the Swedish *Riksdag*) had issued an opinion and four declared their intention to discuss it. The French *Sénat*, the Hungarian *Országgyűlés* and the European Parliament discussed the question both in plenary and in committee meetings.

The "Application of the Dublin system" and the "Implementation of the Common European Asylum system" were the questions most debated with respectively 19 and 18 out of 28 Parliaments/Chambers having discussed them. Ten had discussed the action on "A more effective approach to abuses", the action on "Strengthening Safe Country of Origin provisions of the Asylum Procedure Directive", the action on "Measures to promote systematic identification and fingerprinting". Eight Parliaments/Chambers debated the action on "Establishing a single asylum decision process" and the action on "Encouraging more uniform decisions". Seven discussed the action on "A systematic monitoring process, while the action on "A common asylum code". The action on "Developing the network of reception authorities" and the action on "Training of reception authorities" were discussed by five and three Parliaments/Chambers respectively.

A number of Parliaments/Chambers had discussed other related questions. Notably, the EU Affairs Committee of the Portuguese *Assembleia da República* also discussed the creation of a shared, standardised database to better organise the management of asylum applications and resettlement operations between the EU, Mediterranean countries of immigration, transit countries, United Nations High Commissioner for Refugees (UNHCR), International Organisation of Migration (IOM) and other relevant international organisations.

The Italian *Senato della Repubblica* informed that, during the discussion in plenary, it was proposed to establish a prompt sorting system, through which migrants could be moved to their country of choice for the assessment of their application for international protection.

The EU Affairs Committee of the Irish *Houses of the Oireachtas* stressed that it had approached this issue from the perspective of undocumented migrants as well as asylum. The Committee engaged with both sides of the debate and discussed the possibility of a regularisation scheme for the undocumented.

The Polish *Sejm* reported that, at its meeting in August 2014, the European Union Affairs Committee discussed the role of the FRONTEX Agency in limiting illegal migration, particularly with reference to the Mediterranean Sea area.

The German *Bundesrat* expressed its support for the Commission's view that greater solidarity and fairer responsibility-sharing were crucial in EU refugee policy.

The European Parliament stressed that it was involved in the revamping of the Common European Asylum System as co-legislator. Shortcomings in the Dublin system had been highlighted for many years, but no agreement could be found with the Council in 2013 for a more ambitious reform. It reminded that negotiations between the institutions were ongoing for the Dublin amendment on the application of Dublin to unaccompanied minors and recalled two pending proposals³².

The EU Policies Committee of the Italian *Camera dei Deputati* informed that in the debate it endorsed the possibility to reform the Dublin regulation.

ii. Notable best practices

Very few Parliaments/Chambers chose to highlight their Member States' best practices on the application of asylum rules.

Among those, the French *Assemblée nationale* mentioned the recently adopted reform of the asylum law of 29 July 2015, which reinforced the guarantees of asylum seekers in all stages of the procedure, introduced a new accelerated procedure and a new contentious procedure. Under the new law, allowances took into account the families' composition, and gender and sexual orientation were explicitly recognised as possible reasons of persecution.

³² Amending Regulation (EU) No 604/2013 as regards determining the Member State responsible for examining the application for international protection of unaccompanied minors with no family member, sibling or relative legally present in a Member State (2014/0202(COD)) and the Proposal for a Regulation of the European Parliament and of the Council establishing an EU common list of safe countries of origin.

Both the Czech *Poslanecká sn movna* and the Slovak *Národná rada* mentioned a strict observance of the Dublin system rules.

CHAPTER 3: ENLARGEMENT POLICY

In the Political Guidelines for the next European Commission³³, the Commission acknowledges the historic success of enlargement policy, which has brought peace and stability to the European continent. In this light, President Juncker underlined that ongoing negotiations would continue, and notably the Western Balkans would need to keep a European perspective, but that no further enlargement would take place over the next five years.

In this context, the first section of the third Chapter of the 24th Bi-annual Report presents information on Parliaments'/Chambers' views on these Political Guidelines and particularly on the Commission's announcement and on its impact on the national discourse in the Member States. It addresses the question whether this announcement has had an impact on the procedures introduced in relation to the Monitoring Reports/Annual progress reports or the overall scrutiny on enlargement policy. The second section focuses on notable developments or modifications, if any, in the practices and procedures of parliamentary oversight of the accession negotiations since 2013 when the 19th Bi-annual report was drafted under the Irish Presidency of COSAC.

Section 1: Progress in enlargement policy

i. Examination/scrutiny of the European Commission's Political Guidelines, particularly the idea that no further enlargement should take place over the next five years and Parliaments'/Chambers' views

Sixteen out of 37 respondents stated they had not analysed the European Commission's Political Guidelines, particularly the idea that no further enlargement should take place over the next five years, while thirteen stated that the issue had been discussed at a committee meeting. Five replied that the issue had been discussed at a plenary meeting, while two intended to hold a discussion. The European Parliament replied that the issue had been discussed both in a committee meeting and in plenary. According to the European Parliament's Committee on Foreign Affairs (AFET), no formal resolution with a common position of the European Parliament had been adopted on the issue under discussion. The Romanian *Senat* was the only Chamber which had issued an opinion on the issue.

Although the Committee on Foreign Affairs of the Swedish *Riksdag* had not analysed the Commission's political guidelines, it had analysed the Commission's view of the enlargement process in connection with the consideration of the Commission Work Programme (CWP) 2015 and noted that the enlargement process had been given limited scope in the CWP. It stressed how important it was that enlargement was highlighted more clearly in the work of the Commission, as it contributed to stability in Europe and to security and prosperity in Europe. It further emphasised that the EU's commitment would benefit both the EU and the countries that desired EU membership and advocated that the EU should stand by its

³³ http://ec.europa.eu/priorities/docs/pg_en.pdf

commitments and established principles. The Committee also welcomed the fact that the Commission in its enlargement reports clearly stressed the need for fundamental economic, legal and administrative reforms in the six countries in the Western Balkans and in Turkey.

The Luxembourg *Chambre des Députés* specified that enlargement was regularly discussed during its public annual debate on foreign policy.

A number of Parliaments/Chambers stated their views on the enlargement policy in general and on the Commission's announcement on enlargement policy.

The Lithuanian *Seimas* referred to the adoption of conclusions on EU enlargement issues after a discussion held on 26 November 2014 by the Foreign Affairs Committee³⁴ in which it stressed the importance of EU enlargement policy in reaching certain EU strategic aims of improving stability, security and welfare of people, strengthening EU as a global actor, and spreading democratic and European values. Lithuania's support to the European perspective, including the possibility of applying to become a member of the EU, to Georgia, Moldova and Ukraine was stressed. The Committee also underlined the importance of support of civic society to further EU enlargement and expressed its intention to further strengthen interparliamentary cooperation with the Parliaments of the countries seeking EU membership.

The German *Bundesrat*, noting "the Commission's modest forecast", emphasised, among others, that the Western Balkans countries needed the EU prospect more than ever, as this constituted a crucial factor for further stabilisation and for securing peace right across Europe; this offered scope to make progress on economic reforms, as well as on reform of administrative and legal systems, and thus to make headway on economic and political development.

The European Affairs Committee of the Latvian *Saeima* underlined that the enlargement policy should take a tailor-made and merit based approach and that the EU needed to send a clear message to the candidate countries as to their accession prospects.

The UK *House of Lords* stated that the Committee had asked the UK Government for its assessment of the implications of the Commission's announcement, and what steps were being taken to ensure that the existing momentum towards accession was maintained. Mentioning a report by the European Union Committee³⁵ published before the Commission's announcement on enlargement policy, it noted that the Committee welcomed the increased focus on implementing real, lasting changes in aspirant countries ahead of their accession, and the prominence of the rule of law in ongoing dialogues and also supported the strict use of conditionality. It further noted the enlargement process should not be exploited by Member States in order to gain leverage in bilateral disputes with aspirant countries. The report noted that enlargement fatigue in the EU and accession fatigue in aspirant countries could seriously threaten the future of the enlargement agenda, but found that the EU's capacity to absorb new members currently sufficed. The Committee did not think that any credible alternatives to membership existed.

³⁴ On the Communication titled "Enlargement Strategy and Main Challenges 2014-2015" COM (2014) 700 final

³⁵ "The future of EU enlargement", House of Lords, European Union Committee, 6 March 2013.

The Committee for European Affairs of the Romanian *Senat* believed that now, more than ever, a united EU was needed. The EU, it added, had always reconfirmed its fundamental values; double standards should be avoided. According to its view, the countries making progress towards implementing reforms must receive substantial support with the final goal of joining the EU.

At least seven Parliaments/Chambers expressly stated that no common position had been reached on the Commission's announcement on enlargement.

Nevertheless, a number of Parliaments/Chambers stating that no common position had been reached outlined their views. The French *Assemblée nationale* stated that, according to recent discussions held, there was consensus among all political groups in relation to postponing or delaying enlargement for the next five years. The Joint Committee on EU Affairs of the Irish *Houses of the Oireachtas* considered that Ireland must continue to act as a champion for EU enlargement and neighbourhood policy; it was critical, it added, that the prospect of EU membership was maintained for the Western Balkans and Turkey and that the full potential of Europe's neighbourhood policy was realised. According to the Slovak *Národná rada*, the Slovak Republic supported the enlargement process, in particular with regard to Western Balkan countries. The Hungarian *Országgyűlés* informed that, following the publication of the forthcoming Progress Report in mid-October 2015, the subject would be on the agenda of the Committee on European Affairs.

The majority of the respondents (19 Parliaments/Chambers) including the European Parliament, as well as the governing majority SPÖ (S&D) and ÖVP (EPP) of the Austrian *Nationalrat* and *Bundesrat* expressly gave a negative reply to the question whether the European Commission's approach changed their Parliament's/Chamber's view on the enlargement policy.

Among those providing a negative reply, the French *Assemblée nationale* stated that the European Commission's approach was more or less aligned with the position of the majority of its members after the crisis in 2008 according to which it was indispensable to better prepare future accessions so as to ensure integration of the *acquis communautaire* concerning economic, social and environmental issues, as well as concerning the rule of law and fundamental freedoms. It added that it envisaged a mission in several countries of the Western Balkans in the first half of 2016 in order to evaluate their progress referring also to its permanent parliamentary monitoring through its relations with the Western Balkans. The Croatian *Hrvatski sabor* said that the Commission's announcement was seen as a reflection of the current status of accession negotiations and progress made by candidate countries, not as a sign of the EU's unwillingness to enlarge. While acknowledging that enlargement and eligibility for EU membership were defined in the treaties, the Grand Committee of the Finnish *Eduskunta* noted the hostility towards enlargement in certain Member States and saw sense in not pursuing enlargement policies, when there was no expectation of a favourable outcome. The Czech *Senát* emphasised that it had been a staunch supporter of enlargement, recognising at the same time the long and complex nature of the next enlargement and stressing the principle of conditionality. According to the European Parliament's AFET Committee, the European Parliament³⁶ remained committed to the EU enlargement policy as

³⁶ Resolution of 10 June 2015 on the 2014 Commission Progress Report on Turkey (2014/2953(RSP) (P8_TA-PROV(2015)0228) and Resolution of 11 March 2015 on the 2014 Progress Report on Serbia (P8_TA(2015)0065).

a key policy to promote peace, democracy, security and prosperity in Europe and supported accession of well-prepared countries; it further argued that each country should be judged on its own merits in terms of fulfilling, implementing and complying with the same set of criteria, and that the speed and quality of necessary reforms determined the timetable for accession.

The Portuguese *Assembleia da República*, referring to its existing monitoring of the enlargement process, understood that the lessons of previous enlargements should not be forgotten and that the candidate countries should meet the Copenhagen criteria. Therefore, the intentions expressed by the European Commission in its Political Guidelines, specifically that no enlargement would take place for the next five years so that the EU could fully digest the addition of the last thirteen Member States, were welcomed. However, the negotiations with and necessary reforms in candidate countries should continue. In this context, the importance of enlargement to the Western Balkans was highlighted, and emphasis was placed on the fact that the political situation in relation to designations and borders should be resolved before accession. It would also be important to have effective progress as regards Turkey's membership.

The UK *House of Lords* cited the European Union Committee's report³⁷ and argued, among others, that Member States should take advantage of the pause in enlargement to engage in a fundamental reassessment of their strategic interests in the eastern neighbourhood. It noted an unresolved tension between the offer of membership on the table to Eastern Partnership countries and the political will of Member States to follow through, which was not uniform and which complicated Russia's relationship both with these countries and with the EU.

ii. Impact on the procedures put in place by Parliaments/Chambers in relation to Monitoring Reports / Annual progress reports or the overall scrutiny on enlargement policy

Twenty-seven Parliaments/Chambers expressly replied negatively to the question whether the Commission's announcement had had an impact on the procedures put in place by their Parliament/Chamber in relation to Monitoring Reports/Annual progress reports or the overall scrutiny on enlargement policy. A few made reference to their intention to follow their usual procedures on the monitoring of the progress reports (e.g. Dutch *Tweede Kamer*) and one stated that the issue was to be discussed (Bulgarian *Narodno sabranie*). The French *Assemblée nationale* underlined that the reports in question were published only in English and not in all EU working languages, which made regular parliamentary scrutiny impossible.

Section 2: Parliamentary oversight of the accession negotiations

All but two respondents (35 out of 37) replied that there had not been notable developments or modifications in the practice of their Parliament's/Chamber's oversight of the accession negotiations since the 19th Bi-annual Report drafted under the Irish Presidency.

The European Parliament's AFET Committee noted that, although no substantial modifications had taken place in the monitoring of accession negotiations, the membership of

³⁷ "The EU and Russia: before and beyond the crisis in Ukraine", House of Lords, European Union Committee, 20 February 2015.

the re-established Working Group on the Western Balkans of the Committee on Foreign Affairs responsible for providing oversight on the opening, monitoring and concluding of negotiations concerning the accession of European States had been extended to include also Chairs of relevant interparliamentary delegations in order to provide better synergies for a comprehensive monitoring of the accession process including the negotiations.

The Czech *Poslanecká sn movna*, which gave a positive reply, explained that here had been closer attention paid to Ukraine and Georgia as a consequence of recent developments in that region. The Belgian *Sénat* explained that, since the last State reform, it did not have any competences in the field of accession treaty ratification; the Senators followed the debate on enlargement through the federal opinion Committee and through their own parliament.