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Procedures and Practices

Relevant to Parliamentary Scrutiny

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Introduction

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

The XXIX COSAC, meeting in Rome in October 2003, decided that the purpose of the bi-annual reports prepared by the Secretariat should be to give an overview of the developments in procedures and practices in the European Union that are relevant to parliamentary scrutiny. The first report was presented to the XXX COSAC, which met in Dublin in May 2004; the second to the XXXI COSAC, in The Hague in November 2004.

The third biannual report is based on information provided by national parliaments of the EU-25 in responses to a questionnaire which was distributed in March 2005. Parliaments were requested to send in their responses by 4 April 2005, and this report takes account of developments up to that date. The main focus of this report will be on the procedures set up in national parliaments to examine European decision making. Any comparative analysis of the scrutiny procedures of national parliaments must acknowledge that national parliaments have adopted a great variety of scrutiny systems. The wide variations in organisation and procedure reflect different constitutional arrangements and practices in each Member State. There is indeed no common shared definition of the concept of scrutiny. In this report “*scrutiny*” will be broadly defined as the mechanisms established by national parliaments “to discuss, influence, control or hold to account their governments for their legislative activities in the Council of Ministers”.¹

The first chapter provides a brief presentation of the development of European affairs committees in the 25 Member States since the beginning in 1957.

The second and third chapter provide an up-to-date overview of the scrutiny systems currently in place to monitor European affairs in the national parliaments of the EU-25. One common factor in all national parliaments is the presence of a European affairs committee. This is at the heart of the scrutiny process in the national parliaments of all Member States. Sectoral committees are beginning to move into the field of substantive scrutiny of European matters. The principal focus of the chapter is therefore the respective *functions and roles* of *European affairs committees* and *sectoral committees* in the scrutiny process. Special attention is also given to a description of *scrutiny reserve systems* in the national parliaments, and the opportunities which there are for individuals and organisations outside parliamentary structures to follow the progress of scrutiny in the meetings of the European Affairs committees.

The fourth chapter will look at how national parliaments presently *monitor the subsidiarity principle*, where they are in place as well describing the planned procedures for monitoring the EU institutions’ compliance with the subsidiarity principle under the “subsidiarity early warning mechanism” proposed in the Constitutional Treaty.

In its fifth chapter the report will take a closer look at the latest developments in the Constitutional Treaty in the area of freedom, security and justice with a particular focus on the involvement of national parliaments in this area.

¹ This definition is taken (and slightly modified) from the recent report of the Select Committee on Modernisation of the House of Commons, *The Scrutiny of European Business* (2nd Report, Session 2004–05, HC (2004–05) 465).

The sixth and concluding chapter will provide a description of the opportunities for members of the European Parliament to participate in the proceedings of the national parliaments in committees and plenary sessions.

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1 The establishment of European Affairs Committees in EU-25

The first European affairs committee to be established in a national parliament was the “*Committee on the Common Market and the Free Trade Area*” in the German Bundesrat, created in 1957. Its purpose was to ensure that the *Länder* governments had a greater say in the federal government’s conduct of EU policy.² The Belgian Chamber of Deputies and the Italian Senate followed this example and created their own European affairs committees in 1962 and 1968 respectively. But otherwise no other national parliaments were involved in the business of European affairs in these early days of the European Communities.

However, after the five rounds of enlargement of what is now the European Union - enlargements which added 19 new Member States between 1973 and 2004 - and after several reforms of the EU’s constitutional framework aimed at addressing its democratic deficit, this picture has changed significantly. The national parliaments of the first wave of countries to join the then EC—the UK, Denmark and Ireland—all established European affairs committees (more or less) from the date of accession. The first direct elections to the European Parliament in 1979 encouraged the French Parliament to establish a special delegation in each of its two chambers. In 1986 the signing of the European Single Act and the introduction of the plan to establish a single market in the EC gave national parliaments in a number of Member States the impetus to strengthen their role *vis-a-vis* their governments: committees were established in the Netherlands’s House of Representatives, and in the parliaments of the two new Member States - Spain and Portugal.

Last but not least, the most recent accession of ten new Member States has further increased the number of national parliaments with European affairs committees. Many of the newcomers had already established special “European integration committees” before acceding to the EU with the purpose of monitoring the negotiation process and preparing for membership. This was the case for instance in Poland, Hungary and Lithuania (they established committees in 1991, 1992 and 1997 respectively).

Altogether there are today 34 “European Affairs Committees” in the national parliaments of the 25 Member States. Twelve Member States have bi-cameral systems, which in most cases implies that there is a European affairs committee in each chamber, although the national parliaments of Belgium, Ireland and Spain, have created joint committees bringing together members from both chambers.

Size and composition of committees

The size and composition of the European affairs committees varies over time and from parliament to parliament in accordance with the development of the different constitutional arrangements and traditions.

Today, most of the European affairs committees are composed in a manner that reflects the proportional strength of the political parties in the national parliament. The European affairs committees vary in size between 10 in the Slovenian National Council and 43 in the Italian Chamber of Deputies.

Some parliamentary committees invite MEPs to participate in their meetings. This is the case in the Belgian Federal Advisory Committee on European Affairs which

² In 1965 the committee of the Bundesrat became a Standing Committee on Questions pertaining to the European Communities.

comprises 10 Belgian MEPs with full voting rights. Also the committee of the German Bundestag comprises 15 MEPs, appointed by the President of the Bundestag upon nomination of the political groups, but without voting rights. For more information on the involvement of MEPs in the European affairs committees of the national parliaments, see the last chapter of this report.ⁱ

Table 1: European Affairs Committees of the parliaments of EU-25 and date of first establishment

Member State	European Affairs Committee	Date of creation of Committee	Composition
Austria - Nationalrat	Main Committee (<i>Hauptausschuss</i>)	1995/2000	32 members
Austria - Bundesrat	EU-Committee (<i>EU-Ausschuss</i>)	1996	15 members
Belgium - Chamber and Senate	Federal Advisory Committee on European Affairs (<i>Comité d'avis fédéral chargé de Questions européennes</i>) (<i>Federaal Adviescomité voor Europese Aangelegenheden</i>)	1985/1990	30 members composed of 10 senators, 10 members of the Chamber of Deputies and 10 Belgian MEPs
Cyprus	Committee on European Affairs (<i>ΕΠΕΑ</i>)	25 February 1999	15 members
Czech Republic - Chamber of Deputies	Committee for European Affairs (<i>Výbor pro evropské záležitosti</i>)	2004	21 members reflecting the proportional strength of all political parties in the Chamber of Deputies
Czech Republic - Senate	Committee on European Affairs (<i>Výbor pro evropské záležitosti</i>)	1998	11 members representing the political caucuses in accordance with their proportional strength in the Senate
Denmark	European Affairs Committee (<i>Europaudvalget</i>)	October 1972	17 members
Estonia	European Union Affairs Committee of the Riigikogu (<i>Riigikogu Euroopa Liidu asjade komisjon</i>)	January 1997	At least 15 members
Finland	Grand Committee (<i>Suuri valiokunta, Stora utskottet</i>)	1906, but assuming its current functions in 1994.	25 titular members and 13 substitutes, who attend and may speak
France - Senate	Delegation of the Senate for the European Union (<i>Délégation du Sénat pour l'Union européenne</i>)	6 July 1979	36 members reflecting the proportional strength of the political groups in the Senate
France - National Assembly	Delegation for the European Union (<i>La Délégation pour l'Union européenne</i>)	6 July 1979	36 members reflecting the proportional strength of the political parties of the Assembly
Germany - Bundestag	Committee on the Affairs of the European Union (<i>Ausschuss für die Angelegenheiten der Europäischen Union</i>)	September 1991/1994	33 members of the Bundestag and 15 German MEPs without voting rights
Germany - Bundesrat	Committee on questions of the European Union (<i>Ausschuss für Fragen der Europäischen Union</i>)	1957/1965	17 members composed of one member of each federal state - some members are Minister-presidents of their federal states, while others are State Ministers for European Affairs
Greece	Special Standing Committee for European Affairs (<i>ΕΠΕΑ</i>)	June 1990 ⁱⁱ	31 members
Hungary	Committee on European Affairs (<i>Európai ügyek bizottsága</i>)	1992	21 members reflecting the proportional strength of the political parties in the Parliament
Ireland	Joint Committee on European Affairs	1995/ 17 October 2002	17 members: 11 members of the Dáil and 6 members of the Seanad
Italy - Chamber of Deputies	Committee on EU policies (<i>Commissione Politiche dell'Unione europea</i>)	1990/1996	Composed as other standing committees of the Chamber of Deputies. Currently 43 members.
Italy - Senate	14th Standing Committee on EU-policies (<i>14ª Commissione permanente Politiche dell'Unione europea</i>)	1968/2003	Currently 27 members
Latvia	European Affairs Committee (<i>Eiropas lietu komisija</i>)	1995/2004	Currently 17 members proportionally reflecting the parliamentary groups represented

			in the Seima
Lithuania	European Affairs Committee (<i>Europos reikalų komitetas</i>)	18 September 1997	Not less than 15 and not more than 25 members in accordance with the principle of proportional representation of the Parliament's political parties
Luxembourg	Committee for Foreign and European Affairs, for Defence, for Cooperation and for Immigration (<i>Commission des Affaires étrangères et européennes, de la Défense, de la Coopération et de l'Immigration</i>)	1989	11 members representing political groups of Parliament proportionally.
Malta	Standing Committee on Foreign and European Affairs (<i>Kumitat Permanenti dwar l-Affarijiet Barranin u Ewropej</i>)	1995/2003	9 members
Netherlands - House of Representative	Committee on European Affairs (<i>Commissie voor Europese Zaken</i>)	1986	27 members representing all political parties of the House of Representatives
Netherlands - Senate	Standing Committee for European Co-operation Organisation (<i>Vaaste Commissie voor Europese Samenwerkings organisaties</i>)	9 June 1970	13 members and 11 alternates
Poland - Sejm	European Union Affairs Committee (<i>Komisja do Spraw Unii Europejskiej</i>)	On May 14, 2004, But before accession Sejm had a European Committee (from October 2001 to 31 July 2004)	The Committee should be composed of no more than 46 MPs (10% of the Sejm). The composition should reflect the composition of the chamber
Poland - Senate	European Union Affairs Committee (<i>Komisja do Spraw Unii Europejskiej</i>)	26 November 1991/ 22 April 2004	There are no formal limitations regarding the number of members of the committee, but currently it consists of 15 members
Portugal	Committee on European Affairs (<i>Comissão de Assuntos Europeus</i>)		There are 33 members of the Committee proportionally representing the political parties in Parliament.
Slovakia	Committee of the National Council of the Slovak Republic on European Affairs (<i>Výbor Národnej rady Slovenskej republiky pre európske záležitosti</i>)	29 April 2004.	11 members (6 members of government parties, 5 members of the opposition parties)
Slovenia - National Assembly	Committee for EU Affairs (<i>Odbor za zadeve EU</i>)	April 2004	14 members. Political parties are represented proportionally
Slovenia - National Council	International Relations and European Affairs Commission (<i>Sestava komisije za mednarodne odnose in evropske zadeve</i>)	1993	10 members. Composed of representatives of interest groups of Slovenian society
Spain - Congress and Senate	Joint Committee on European Affairs (<i>Comisión Mixta para la Unión Europea</i>)	1986/1994 19 May ³ .	42 members in accordance with a decision made by the Bureau of both Houses sitting jointly
Sweden	Committee on European Union Affairs (<i>Nämnden för Europeiska unionen</i>)	21 December 1994	17 members and 33 alternates. All sectoral committees are represented in the European affairs committee.
United Kingdom - House of Commons	European Scrutiny Committee	1974	16 members. Their party composition reflects that in the House
United Kingdom - House of Lords	European Union Committee	6 May 1974	Around 18 members, with a further 52 on the EUC's seven sub-committees meaning that 70 members are involved in total.

³ The "Joint Committee for the EU" was established by Act 8/1994 of 19 May replacing the "Joint Commission for the European Communities" established in 1986, when Spain joined the European Communities.

2 Scrutiny of EU-matters by European affairs committees and sectoral committees

Each national parliament of the EU-25 has put in place scrutiny procedures to reinforce democratic control over EU matters and to ensure democratic accountability in EU decision making. However, there are, of course, considerable differences between the types of scrutiny system that the national parliaments have established. This chapter offers an overview of the different processes by which national parliaments scrutinise EU affairs.

In most national parliaments, a European affairs committee is at the heart of the scrutiny procedure, though in a number of parliaments *sectoral committees* also participate in the scrutiny process, typically by providing specialist advice to European affairs committees in the early stages of EU decision making. The arrangements adopted for detailed committee scrutiny in the 37 parliamentary chambers of the 25 national parliaments are to a great extent dependent on the type of scrutiny system chosen by each parliamentary chamber.

Some chambers have chosen a “*document based*” system which puts a focus on the scrutiny of EU documents, while others have developed procedures which empower their European affairs committees to give a direct *mandate* to their governments before ministers can endorse legislation in Council meetings. A small group of parliaments have chosen more informal channels of influence. In practice, many systems can be seen as hybrids, containing elements from both a “document based” and a mandating model.⁴

A short presentation of the different types of scrutiny systems is set out below, together with an indication of the participation by sectoral committees in this process.

2.1 DOCUMENT BASED SCRUTINY SYSTEMS

One widespread type of scrutiny system is the *document-based* model. This system - applied by the national parliaments of a number of Member States - focuses on examining legislative proposals and other documents emanating from the EU institutions. The system does not in general focus on proceedings at individual Council meetings, nor does it seek to mandate Ministers formally or informally.

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

The classical representative of the “document based” model is the scrutiny system adopted by both chambers of the UK Parliament in 1974. The Irish Oireachtas, the two chambers of the French Parliament, the two chambers of the Czech Parliament, the

⁴ This includes, for instance, the scrutiny systems of the Hungarian Parliament and the Czech Chamber of Deputies: these systems are essentially document-based, but at the same time they allow the possibility of adopting positions which Ministers must “take into account” when agreeing to measures in Council.

Netherlands Senate,⁵ the Maltese Parliament and the Chamber of Deputies and Senate of the Italian Parliament have established similar document-based scrutiny systems. Finally, the hybrid models in the national parliaments of Finland, Hungary and Lithuania combine a document-based system with the power to mandate the government.

In the UK Parliament the scrutiny reserve is not statutory, though in general the reserves established by both chambers are respected by the government. In the period July-December 2004, the Government overrode the scrutiny reserve of the House of Commons on 22 occasions (which was equivalent to 7.5% of the EU documents to which the reserve applied). Since 2001 the European Scrutiny Committee in the House of Commons has adopted a policy of calling Ministers to appear before the committee if they override the reserve without good reason; this has helped to discourage the practice of unjustified overrides of the reserve. The parliamentary scrutiny reserve in France is comparable with that which exists in the UK.

In Italy a revised system in the Chamber of Deputies and the Senate⁶ which came into force on 2 March 2005 provides that the Italian government cannot agree to EU draft legislation in the Council if scrutiny has not been completed in the Italian Parliament. The Italian scrutiny reserve is time limited: if after 20 days the parliament does not express its views, the government may proceed in the Council. Similarly, the scrutiny reserve of the Czech Senate is limited to a maximum of 35 days.

2.1.1 Sectoral committees

Generally speaking, sectoral committees are regularly involved in document-based scrutiny systems, since documents which require further examination are frequently referred to them. This is the case in the French Parliament, where the European Delegations of the National Assembly and the Senate may refer proposals for resolutions on EU draft legislative acts to the six standing sectoral committees of the Houses. The standing committees then have a month to decide on the resolutions. The standing committee will normally appoint a deputy to report on the issue and eventually approve, amend or reject the resolution. Within eight days following the distribution of the report from the competent committee the resolution may be put on the agenda of the chamber for adoption. If no such request is made, the resolution is considered to be approved as adopted by the sectoral committee.⁷

Sectoral committees are central to the scrutiny of EU affairs in the Italian Parliament. In the Chamber of Deputies, EU draft legislative acts are submitted to both the European Affairs Committee and the competent sectoral committees for consideration. The sectoral committees may examine the proposals and express their opinion on the “appropriateness of these initiatives” within 30 days of submission.⁸

However, not all national parliaments with a document-based scrutiny system use sectoral committees. The UK House of Lords does not have sectoral committees, but instead the EU Committee itself has seven sub-committees which cover different sectoral policy areas and conduct the detailed scrutiny of EU documents.

⁵ There is no general scrutiny reserve in the scrutiny system of the Senate of the Netherlands. The European Affairs Committee considers all EU-proposals that are sent to the Senate by the Netherlands’s government. The European Affairs Committee may decide to refer a proposal to further examination in a sectoral committee, who can ask questions to the government or adopt an opinion on the proposals.

⁶ The law of 4 February 2005, n. 11 lays down the general rules on the participation of the Italian Parliament in the EU decision-making process.

⁷ Resolutions of the French Parliament have a political scope. They are not legally binding, but must be taken into account by the government at Community negotiations

⁸ Rule 127 of the Rules of Procedure of the Italian Chamber of Deputies.

2.2 MANDATING SYSTEMS

Another scrutiny model which is widely applied in the national parliaments is what we will refer to as the “mandating system”. The first mandating system, which was pioneered by the so-called “Market Committee” of the Danish Parliament in 1973, put the European Affairs Committee at the heart of the process by allowing it to act on behalf of the Danish Parliament as a whole and adopt negotiating positions which are politically binding on the Danish Government.

A large number of Member States have today established systems based on such “mandating arrangements”. The systems are different in terms of *scope*, *timing* and their “*binding character*”, but they all give specialised European affairs committees a significant say in relation to their governments’ positions in the Council. Such systems are in place in countries such as Finland, Sweden, Austria, Poland,⁹ Estonia, Latvia, Lithuania, Hungary, Slovakia, Slovenia¹⁰ and Denmark.

Scope

One way in which mandating models differ is that some national parliaments mandate their governments systematically, while others use their mandating power less frequently.

The Danish, Estonian, Finnish, Latvian, Lithuanian, Polish (Sejm), Slovakian, Slovenian and Swedish national parliaments belong to the first group, where the European affairs Committee systematically mandates the government.¹¹ The governments in these countries are all in principle obliged to present a negotiation position – in writing or orally - to the committees on all pieces of draft legislation to be adopted by the Council. However, the parliaments have different ways of filtering the proposals, so as to avoid spending time on proposals which are considered less important. Whereas the Danish European affairs committee mandates ministers on all proposals of “greater importance” to be adopted by the Council, the Lithuanian Parliament has asked its sectoral committees to divide the different EU-proposals into three categories: “very relevant”, “relevant” and “moderately relevant”. These are normally referred to as “red”, “yellow” and “green” issues. On “red” and “yellow” issues the government is obliged to submit its negotiation “position” on all EU-proposals to the Seimas within 15 days from the receipt of the proposals.¹² “Green” issues are those classified by the committees as being of minor or no interest to the Parliament.

On the other hand, in parliaments such as those in Austria and Hungary the mandating power is used less frequently. Here, legislative proposals are only put on the agenda of the European affairs committee if requested by the government or by members of the committee. In Austria the committee does not systematically receive information on the position of the government on EU documents. Nevertheless, the European affairs committees in these parliaments have the capacity on behalf of their parliaments to adopt positions which are binding for their governments.

9 Article 9 in the “Act on Co-operation of the Council of Ministers with the Sejm and the Senate in Matters related to the Republic of Poland’s Membership in the European Union”, 11 March 2004. Article 9, generally obliges the Polish Government to seek an opinion from the European Affairs Committee of the Sejm, but Art. 9, p. 3 allows the government to take a position in the Council without seeking an opinion in the Committee, with the exception of matters in which the Council acts with unanimity and matters which entail excessive burdens on the Polish state budget.

10 The Slovenian Government must take the position of the Slovenian European Affairs Committee or National Assembly into account, but may under special circumstances decide otherwise if enforcement of the parliament’s position is not possible or not in the national interest of Slovenia.

11 However there are differences in the scope of EU draft legislative acts which

12 If deemed necessary by the Parliament, a mandate will also have to be issued for yellow issues

Timing

The mandating process normally takes place just prior to meetings of the Council. The European affairs committees typically meet for the purposes of mandating ministers on Fridays in the week before each Council meeting or meetings. Here the European affairs committee provides government ministers with a national position for the negotiations. In some systems the government cannot act in the Council before it has obtained a mandate from its parliament, while other systems have established a deadline for the parliament and the committee to act. This latter model can be found, for instance, in the Slovakian Parliament, which must either provide its own position or approve the government's position within two weeks of receiving the proposal. If it fails to do so, the government may act on the basis of its original position.

However, some national parliaments begin the mandating process earlier in the decision-making procedure. This is for instance the case in Finland, where a "mandate" is granted when a Council working group begins to examine a proposal. The scrutiny process also starts very early in the Lithuanian Parliament, where sectoral committees assesses the relevance of further scrutiny of EU proposals and wherever necessary adopts recommendations which it sends to the European Affairs Committee.

Binding nature

In most national parliaments where there is a mandating system, the mandates given to governments are politically binding and are reported to be in general strictly observed by governments. In parliaments such as the Finnish, Hungarian and the Polish¹³ the governments may deviate from the mandate under certain circumstances, but in such cases the governments have to explain their actions to the European affairs committees of the parliaments.¹⁴ In Denmark the government would need to reconsult the committee to obtain a new mandate.

In the Austrian system a minister is legally bound by the position of the National Council as laid down in article 23e of the Austrian Constitution. However, the government may deviate from the opinion of the parliament but only for compelling reasons and only after having approached the National Council again. If the government still decides to deviate from the opinion of the National Council, it must inform the parliament of its reasons for doing so.

2.2.1 Sectoral committees

Another important difference between the national parliaments that apply mandating systems is the level of involvement of sectoral committees.

Finland, Lithuania, Estonia and Sweden have developed scrutiny systems which provide sectoral committees with a voice in relation to EU matters. In Finland, Lithuania and Estonia the competent sectoral committees regularly prepare opinions to guide the European Affairs Committee when mandating the government. In Finland, sectoral committees carry out the detailed scrutiny of EU proposals. The opinions they draw up for submission to the Grand Committee are in fact default positions, with which the Grand Committee usually, but not necessarily, concurs. The European Affairs Committee in the Estonian Parliament draws up its negotiating position on the basis of opinions formulated by the competent sectoral committees. In Lithuania the sectoral committees may submit opinions regarding the national Lithuanian position to

¹³ Article 10 p. 2 of the Act of 11 March 2004.

¹⁴ Art. 9, p. 3 of the Act of 11 March 2004 allows the Polish Government to take a position in the Council without seeking an opinion in the European affairs Committees of the Sejm and the Senate, with the exception of matters in which the Council acts with unanimity and matters which entail excessive burdens on the Polish state budget.

the European Affairs Committee, and where necessary may also submit them directly to the Seimas.¹⁵

In Sweden the sectoral committees are each responsible for monitoring activities of the EU within their field of responsibility.¹⁶ Many sectoral committees organise regular meetings with government representatives and have the possibility to express their views either directly to the government or the European Affairs Committee.

In December 2004 the Danish Folketinget amended its scrutiny procedures to reinforce the role of its sectoral committees, by encouraging them to be involved in a more systematic manner and at an earlier stage of the decision-making process. The Latvian Parliament is likewise presently in the process of considering how to ensure a stronger participation of its sectoral committees. It is expecting to formally adopt a revised system around mid-2005.

Finally, a different mandating system can be found in the Netherlands Parliament for monitoring legislative proposals within the area of freedom, security and justice should be mentioned. Despite the fact that there is no general mandating system in the Netherlands Parliament, a special procedure has been established there for scrutinising EU legislative acts within the area of freedom, security and justice. This system empowers the committees on justice and home affairs in the House of Representatives and the Senate to give their assent to EU proposals within this field before the Netherlands Government can vote in the Council. However, the committees cannot act on behalf of their parliaments, which means that their assent must be subsequently confirmed by the two Houses.

2.3 OTHER SCRUTINY SYSTEMS

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

Table2: Overview of the use of scrutiny reserves and involvement of sectoral committees in the scrutiny process.

Member State	Functions of European Affairs Committee	Scrutiny reserve	Involvement of sectoral committees in scrutiny
Austria - Nationalrat	Deciding on mandates for government on behalf of the plenary.	Yes, as part of the mandating process.	May organise debates on annual and multi-annual programmes of the Council and the Commission.
Austria - Bundesrat	Deciding on mandates on behalf of the plenary, but can decide to report to the plenary that then decides.	Yes, as part of the mandating process.	
Belgium - Chamber and Senate	To coordinate and promote parliamentary scrutiny of the European decision-making procedures.	No	Yes. Organise hearings on subject matters including European affairs and ask government to provide information on such issues within their competences.
Cyprus	To scrutinise actions of the executive falling within the ambit of European affairs. Invite ministers to answer	No	

¹⁵ Article 49 of the Statute of the Seimas of the Republic of Lithuania.

¹⁶ Riksdagen's Act Chapter 10, article 3.

	questions.		
Czech Republic - Chamber of Deputies	To scrutinise EU draft acts. May submit opinions to the governments, which are not binding, must be taken account. May relay proposals to sectoral committees.	Yes	May submit opinions to government after referral from European Affairs Committee.
Czech Republic - Senate	Responsible for the Senate's supervision of government's voting on EU proposals in the Council and the examination of EU proposals and other important EU documents.	Yes – but limited to 35 days	Sectoral committees can be asked to deliver opinions.
Denmark	General scrutiny of EU matters and mandating government before Council votes on directives and important regulations.	Yes, as part of the mandating process.	May deliver opinions on EU proposals or call ministers to appear before the committees.
Estonia	To mandate the government	Yes, as part of the mandating process.	May give their opinions on EU draft legislation
Finland	To mandate the government on the basis of proposals of sectoral committees.	Yes, as part of the mandating process.	Carry out detailed scrutiny of EU proposals and draw up proposals for a national position
France - Senate	To systematically examine draft EU proposals. May adopt a proposal for a resolution, which may be adopted either by the competent sectoral committee or the plenary of the Senate.	Yes	May examine proposals and draft resolutions referred to them by the European delegation.
France - National Assembly	To exercise political scrutiny of EU draft legislation and government European activities. Keep deputies of Assembly informed on EU matters. May vote on draft resolutions on European texts which are submitted to a sectoral committee.	Yes	May examine proposals for resolutions of the European delegation, which they may adopt, amend or reject.
Germany - Bundestag		No	Sectoral committees are responsible for dealing with EU items relating to specific, technical aspects of EU legislation.
Germany - Bundesrat	To examine and discuss all EU documents from the Council and the Commission that are important for the federal states.		May draw up recommendations concerning EU proposals to be submitted to the European affairs committee.
Greece	May submit advisory opinions to government on any issue within the field of its competence.	No	Discuss EU proposals and adopt advisory opinions on issues within the field of their competence.
Hungary	To examine draft EU legislation and influence the government's position on these. Can decide on behalf of the plenary	No	May express opinions on EU draft proposals
Ireland	The Sub-Committee on European Scrutiny, which is a Sub-Committee of the Joint Committee on European Affairs, ¹⁷ receives and scrutinises information on legislative proposals and other documents as they arise.	No formal scrutiny reserve	Examine EU proposals referred to by the Sub-Committee on European Scrutiny.
Italy - Chamber of Deputies	May examine EU draft legislative acts and refer them to sectoral committees for consideration accompanied with an opinion of the European affairs committee.	Yes, but limited to 20 days if the Chamber does not express its view	May consider EU draft legislative proposals and express their opinion on them upon referral by the European affairs committee.
Italy - Senate	To examine EC draft measures and national measure compliance with EU draft legislation.	Yes, but limited to 20 days if the Chamber does not express its view	May issue opinions on EU draft measures if requested by the European affairs committee.
Latvia	To approve negotiation positions of government	No	Plans to involve sectoral committees (mid 2005)
Lithuania	To express Seimas' opinions to the government on EU proposals	Yes, as part of the mandating process.	To participate in the process of the preparation and evaluation of EU proposals and submit conclusions to the European affairs committee, FAC or the Chamber
Luxembourg	In charge of dossiers within the limits of its competence (European affairs, foreign affairs, defence, development and immigration)	No	Yes within the limits of their competence
Malta	To analyse and oversee that the explanatory memoranda from government reflect the political, economic and social effects	Yes, less binding	No
Netherlands	Control of government with respect to	No, but there are	Controlling government with regards

¹⁷ The Joint Committee is comprised of members of both Upper and Lower Houses.

- House of Representative	broader, more general and horizontal developments in EU + institutional affairs. May advise sectoral committees.	special rules in the area of Justice and Home Affairs	to developments in Brussels within their own policy field and Council.
Netherlands - Senate	To examine all commission proposals. May refer a proposal to a sectoral committee for further consideration	No, but special rules in the area of Justice and Home Affairs	May express opinion to government or ask written questions or organise plenary debate with participation of government.
Poland - Sejm	May express opinion on legislative proposals of the EU on which the government must base its position in the Council.	Yes, as part of the mandating process.	No
Poland - Senate	To take positions and express opinions on legislative proposals and other important EU documents. Ask sectoral Committees for advice	Yes, as part of the mandating process.	Give advice on an EU matter to European affairs committee upon referral.
Portugal	Evaluate all the subjects of interest to Portugal within the framework of the European institutions or of the cooperation between member States of the European Union, in particular the activities of the Government with reference to those affairs	No	The sectoral committees may issue formal opinions on EU proposals or orientation documents if so requested by the Committee on European Affairs.
Slovakia	To adopt binding positions for government	Yes, as part of the mandating process.	May be asked to give their opinion to government position.
Slovenia - National Assembly	To discuss and formulate position of National Assembly	No	Yes
Slovenia - National Council		No	No
Spain - Congress and Senate	To be informed on EU legislative proposals and organise debates on these. Table report on any EU matter	No	
Sweden	To formulate a mandate for the government	Yes, as part of the mandating process.	Monitor EU business in their respective subject area.
United Kingdom - House of Commons	To report to the House on the legal and political importance of each EU document, to decide which should be debated in a standing committee or in the house	Yes	Examine EU matters on their own initiative
United Kingdom - House of Lords	To consider European Union documents and other matter related to the EU together with its seven sub-committees	Yes	No

2.4 OPENESS IN THE SCRUTINY PROCESS

The final aspect of the scrutiny procedures of the national parliaments which we briefly touch upon in this chapter is the openness and transparency of the process. What are the opportunities for people and organisations outside the national parliaments to follow the progress of scrutiny in meetings of the European affairs committees and sectoral committees?

Generally speaking, citizens and organisations appear to have a variety of opportunities to follow the scrutiny process. As the table below demonstrates, almost all European affairs committees give citizens and organisations access to documents such as EU legislative proposals, explanatory memoranda from governments, minutes of meetings and so on. Some parliaments have very comprehensive websites providing public access to these documents. In certain parliaments more sensitive documents are not made publicly available. This may include, for instance, minutes of meetings where government mandates are adopted.

When it comes to public access to the meetings, there are more restrictions. Around half of the committees convene in public, while the rest generally meet in private.

Table4: Public access to meetings and documents in the national parliaments

Member State	Public access to meetings	Public access to documents
Austria - Nationalrat	Yes, in general	Yes, in general
Austria - Bundesrat	Yes, in general	Yes, in general
Belgium - Chamber and Senate	Yes, in general	Yes, in general
Cyprus	Yes, in general	
Czech Republic - Chamber of Deputies	Yes in general	
Czech Republic - Senate	Yes in general, but may be held in camera if requested by committee member or government	Yes
Denmark	No. Closed meetings is the main rule, but has decided to open up parts of sessions to the public	Yes, most documents and short protocols. Short hand minutes are internal.
Estonia	No	Yes, minutes are public
Finland	No	Yes minutes and most other documents are public.
France - Senate	No	Yes, minutes and most other documents are public
France - National Assembly	No, generally closed meetings, but certain meetings are open to the public.	Yes
Germany - Bundestag	No in general meetings are held in private, but around a quarter of the meetings take place in public.	
Germany - Bundesrat	No	Committee agendas are public and recommendations adopted by the committee, but not minutes
Greece	Yes, sittings are public	Agendas are available on the Parliament website, but not minutes of the meetings (although these will be sent to people upon request)
Hungary	No, not when the positions of government are agreed, but otherwise yes.	Yes in general
Ireland	Yes, meetings are in principle held in public.	Yes meeting documents are available on the website of the Parliament.
Italy - Chamber of Deputies	Yes, sittings are generally public	
Italy - Senate	Yes, sittings are generally held in public	
Latvia	Yes	Yes, minutes and other documents are public
Lithuania	Yes, meetings are generally held in public	
Luxembourg	No. The meetings are held in private unless otherwise decided by Committee.	
Malta	No,	Explanatory memoranda are public
Netherlands - House of Representative	Yes	Yes documents are public
Netherlands - Senate	No, committee meetings are not public	Most documents are public
Poland - Sejm	Yes, unless the committee decides otherwise	Yes all parliamentary (Sejm) documents, which are not restricted are available to the public, i.e. minutes, opinions and resolutions.
Poland - Senate	Yes, meetings are in general public	Yes, Stenographic records from Senate committees are made available to the public.
Portugal	Yes, unless otherwise decided by Committee.	
Slovakia	Yes, unless the committee decides otherwise	
Slovenia - National Assembly	No, meetings are generally not public	
Slovenia - National Council	Yes, meetings are public	
Spain - Congress and Senate	No, in general meetings are not public	
Sweden	No, meetings are in general not public except meetings before meetings of the European Council	Yes, most documents including short hand minutes are public
United Kingdom - House of Commons	No, meetings are generally private, but when taking evidence from minister meetings are public	Yes, most documents are public
United Kingdom	Yes, meetings are public when	Yes, most documents are public.

- House of Lords	hearing evidence from witnesses for an inquiry; but meetings are private when the committee deliberates	
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3 Country-specific section on procedures for scrutinizing European matters in national parliaments

The section below provides more details on the procedures in place in each national parliament for scrutinizing European matters. The details are presented under the following headings:

- parliamentary system,
- legal base of scrutiny system,
- committees involved in the scrutiny of European affairs,
- first establishment of European affairs Committee,
- composition of European affairs committee,
- powers and responsibilities of European affairs committee,
- scrutiny reserve system,
- openness of the meetings of the European affairs committees,
- sectoral committees, and
- recent development in the national parliaments procedures in the course of 2004 and 2005.

3.1 AUSTRIA

Parliamentary system:

Bicameral: the National Council has 183 members; the Federal Council is comprised of 62 representatives of the “länder”.

Legal base of scrutiny system:

The legal base is Articles 23e and 23f (and also partially Art. 23d) of the Austrian Federal Constitution. It is further elaborated in §§ 31b to 31e of the Rules of Procedure of the Nationalrat and § 13a and 13b of the Rules of Procedure of the Bundesrat.

Committee(s) involved in scrutiny of European affairs:

In the Nationalrat it is the Hauptausschuss (Main Committee) or its Permanent Subcommittee on EU affairs.

In the Bundesrat it is the EU-Committee.

3.1.1 European Affairs Committee

Establishment

The Main Committee on European Affairs was first established in 1995, its permanent subcommittee on European Affairs in 2000.

The EU-Committee of the Bundesrat was first established in 1996.

Composition

Nationalrat: Main Committee: 32 members, Permanent subcommittee: 13 members.

Bundesrat: EU-Committee: 15 members.

Powers and responsibilities

The Main Committee is primarily responsible for considering EU projects and submitting opinions on them.

The purpose of the EU-Committee is to safe guard the right of the Federal Council to play a role in European Union matters.

Scrutiny reserve system

This is only envisaged for the Nationalrat – if a legal act of the EU would mean a change of the present federal constitutional law a member of government may only depart of a given mandate if the Nationalrat (i.e. its Hauptausschuss or Permanent Subcommittee) have not declared its opposition within due time.

Openness:

In general meetings of the European Affairs committees in both chambers are held in public which makes it possible that people can directly follow the debates. In addition a summary is prepared by the administration and displayed on the internet.

3.1.2 Sectoral Committees:

Sectoral committees of the National Council may organise debates on annual and multi-annual programmes of the Council, Commission and European Parliament on the basis of reports of the respective members of government as envisaged in the new rules of procedure of the National Council.

3.1.3 Recent developments of scrutiny procedures in the course of 2004-2005:

A recent amendment in the National Council's rules of procedure provides for the possibility that plenary sessions of the National Council could be dedicated to debates on the EU presidencies' programmes and the annual Legislative and Work Programme of the Commission.

3.2 BELGIUM:

Parliamentary system:

Bi-cameral system: the Chamber of Representatives has 150 members; the Senate is composed of 71 members.

Legal base of scrutiny system:

A special Law on institutional reforms of 8 August 1980 and the rules of procedure of the two Houses - in particular, article 85 of the rules of procedure of the Senate and articles 36, 37 and 68 of the rules of procedure of the Chamber of Representatives.

Committee(s) involved in scrutiny of European affairs:

The “Federal Advisory Committee on European Affairs”, which is composed of members of both Houses. The sectoral committees of the two Houses may also be involved.

3.2.1 European Affairs Committee

Establishment

A European Affairs committee of the Belgian Chamber of Representatives was first established in 1962. The committee ceased to exist in 1979, and the Advisory Committee on European Affairs was established in 1985. In 1990 the Senate established its own European Affairs Committee composed of 22 senators. Finally in 1993 the present “Joint Federal Committee on European Affairs was created, replacing the separate committees of the two Houses.

Composition

30 members comprised of 10 members of the Chamber of Representatives, 10 Senators and 10 Belgian MEPs.

Powers and responsibilities

The main tasks of the Federal Advisory Committee are among other things:

- to coordinate and promote parliamentary scrutiny of the European decision-making procedures;
- to draw up reports and adopt opinions on European questions at the request of either the president or by a standing committee of the Chamber of Representatives or the Senate;
- to hear the government before and after all meetings of the European Council;
- to be informed and submit opinions on all revisions of the Treaties of the European Communities;
- to submit opinions on legally binding normative acts of the European Commission executing article 92 of the special Law of 8 August 1980 on the reform of the Institutions.
- to draw up an annual report to the government concerning the implementation of the treaties of the European Union taking into account the progress of the transposition of European law into national legislation; and
- to participate in COSAC.

Scrutiny reserve system

No.

Openness:

In general meetings of the Federal Advisory Committee are public. Documents, including resumes of the meetings, are made available on the websites of the Chamber and the Senate.

3.2.2 Sectoral Committees:

Sectoral committees of the Chamber of Representatives and the Senate monitor European affairs within their own fields of competence.

3.2.3 Recent developments of scrutiny procedures in the course of 2004-2005:

None.

3.3 CYPRUS

Parliamentary system:

Unicameral: the House of Representatives is currently composed of 56 members. (There are a further 24 seats reserved for the Turkish community.)

Legal base of scrutiny system:

The Constitution gives the House of Representatives the power to scrutinise the actions of the executive. This scrutiny can either be (a) indirect - through the Parliament's right to amend or reject bills of law submitted before it by the executive; or (b) direct - through submitting questions to the various Ministries, registering matters pertaining to the actions of the executive to be discussed before the plenary of the Parliament, proposing amendments to legislation, and discussing and approving the budget. Parliamentary committees can call Ministers to attend either in person or through a representative employed in their Ministry to submit further information concerning a matter under examination before the relevant parliamentary committee.

Committee(s) involved in scrutiny of European affairs:

Parliamentary scrutiny of European Affairs is conducted mainly by the European Affairs Committee. However, there may be a request that a specific matter be examined by a sectoral committee in whose responsibility the matter lies (e.g. a request for examination of a matter falling within the ambit of environmental protection by the Environment Committee), in which case the matter may also be referred for examination to the relevant Sectoral Committee.

3.3.1 European Affairs Committee

Establishment

Following a decision of the Plenary of the Parliament on 25 February 1999, the number of members of the Parliamentary Committee on Foreign Affairs was extended and it was vested with the responsibility examining bills of law and regulations of a harmonising nature as well as European Affairs. The Parliamentary Committee was thus renamed Parliamentary Committee on Foreign and European Affairs. Following a suggestion by the Select Committee of the House, the Plenary decided, on 14 June 2001, that the Parliamentary Committee on Foreign and European Affairs be divided into the Parliamentary Committee on European Affairs and the Parliamentary Committee on Foreign Affairs.

Composition

The Parliamentary Committee on European Affairs consists of 15 members, its President and 2 members belong to the DI.KO Party, 4 members belong to the left wing party (AKEL), 3 members belong to the DI.SY Party, and 1 member from each of the following parties: Social Democratic Movement (EDEK), N.H., ED.I and EURO DE. In addition there is one independent member on the Parliamentary Committee.

Powers and responsibilities

The Committee on European Affairs can scrutinise the actions of the executive falling within the ambit of European Affairs, and it can invite the relevant Minister to answer questions to the members of the Committee concerning bills of law and regulations of a harmonising nature as well as the Ministry's stance on a particular matter pertaining to European Affairs. The members of the European Affairs Committee can also submit proposals for amendments to legislation or regulations submitted before parliament for approval or to legislation already enacted to harmonise Cyprus legislation to the Community *acquis* in order to correct possible shortcomings.

Scrutiny reserve system

No.

Openness:

Most of the sessions of the Sectoral Committees are open to the public. Interested parties are usually invited to either submit their views in writing or appear before the Committee in one of its sessions to express their views. Due to the heavy workload of the European Affairs Committee over the years prior to Cyprus Accession to the EU and the need for the speedy harmonization of Cyprus Laws to the *acquis communautaire*, it was decided that the committee would not invite interested parties to express their opinion, in an attempt to speed up the process of examination of bills of law and regulations of a harmonizing nature. However, the Committee on European Affairs requested that the interested parties be heard and their views taken into consideration by the relevant Ministry at the stage of drafting of the harmonizing legislation, before the same is submitted to Parliament for examination. The Committee has asked all Ministries submitting legislation of a harmonizing nature to Parliament for examination that each bill or regulation be accompanied with a concise report in which the opinions of interested parties are stated, along with an assessment of the social and economic impact that the proposed legislation will have in Cyprus. This procedure is followed rigorously as the Committee on European Affairs will not examine any bill of law or regulation of a harmonizing nature submitted before parliament which is not accompanied by such a report. Following Cyprus accession to the EU, the Committee on European Affairs has the discretion to invite interested parties to either attend one of its meetings in order to express their views orally or to invite them to express the same in writing in order to facilitate the process of examination of the relevant bill of law, a European legal proposal or any other European matter falling within the Parliament's competences.

3.3.2 Sectoral Committees:

Members of Sectoral Committees can submit proposals for amendments to legislation or regulations submitted before parliament for approval or to legislation already enacted to harmonise Cyprus legislation to the Community *acquis* in order to correct possible shortcomings.

3.3.3 Recent developments of scrutiny procedures in the course of 2004-2005:

An important debate was initiated in the Cyprus Parliament concerning the creation of mechanisms for the examination of EU draft legislation to ascertain its compliance to the subsidiarity principle, as well as the restructuring of the powers of the Committee on European Affairs, in order to enable the Cyprus Parliament to better discharge its function of scrutinising the actions of the executive both at the national and the European level, and to participate in the decision-making process at EU level. The debate is ongoing, and so no official decisions have yet been taken.

3.4 CZECH REPUBLIC

Parliamentary system:

Bicameral: the Chamber of Deputies has 200 members; the Senate has 81 Senators.

Legal base of scrutiny system:

The legal base for the Czech scrutiny system is primarily the Czech Constitution (art 10b). The system is also based on the Rules of Procedure of the Senate and the Act of 7 May 2004, amending Act No. 90/1995 Coll., on the Rules of Procedure of the Chamber of Deputies, as subsequently amended.

Committee(s) involved in scrutiny of European affairs:

In the Chamber of Deputies the Committee for European Affairs is the principal committee that scrutinises EU affairs. This committee may relay draft acts to other competent committees for their consideration.

In the Senate the main committees involved in the scrutiny of EU Affairs are the European Affairs Committee and the Foreign Affairs Committee; sectoral committees are also involved when they are asked for their opinion on draft legislation.

3.4.1 European Affairs Committee in the Chamber of Deputies

Establishment:

The Committee was first established in May 2004, after the accession of the Czech Republic to the EU.

Composition:

The Committee has 21 members who proportionally represent the five political parties elected to the Chamber of Deputies.

Powers and responsibilities:

The Committee for European Affairs deliberates on draft EU legislation and may relay such drafts accompanied by its opinion to other competent committees or to the plenary session. The Committee may request the relevant Government Minister to attend the Committee meeting prior to the Council meeting; the Minister shall provide MPs with information on the position that the Czech Republic will adopt on the matter being deliberated in the Council.

Scrutiny reserve system:

There is a scrutiny reserve system set out in the above-mentioned Act, which states

“with the exception of acts or other documents of considerable urgency, the Government shall not adopt a final opinion in Council deliberations until the procedure in the Chamber pursuant to the preceding paragraphs has been completed”.

The Committee opinions are not binding for the Government, although the Government must take them into account. The committee reports that in most cases, co-operation between the Committee and the Government is satisfactory.

Openness:

In general all meetings of the Committee for European affairs are open to the public, however, the Government (or a member of the Committee) may request that a meeting - or a part thereof - be held in camera.

All the Acts deliberated by the Committee and all the opinions which it adopts are available on the web-site of the Chamber of Deputies.

Sectoral Committees:

The European Affairs Committee may relay proposals for EU legislation, together with its opinion, to sectoral committees for their comment.

Recent developments of scrutiny procedures:

The above-mentioned amendment to the Act on the Rules of Procedure came into force on 7 May 2004.

3.4.2 European Affairs Committee in the Senate

Establishment:

The EU Affairs Committee in the Senate was established in 1998.

Composition:

There are 11 senators representing the political caucuses in the Senate in a way that proportionally reflects the composition of the Senate.

Powers and responsibilities:

The EU Affairs Committee is responsible for dealing with draft EU legislation under the 1st pillar while the Committee of Foreign Affairs, Security and Defence is dealing with issues under the 2nd and 3rd pillar. Both committees may ask sectoral committees to deliver their opinion.

Scrutiny reserve system:

There is a binding scrutiny reserve system, which is limited to 35 days after the document is deposited in parliament.

Openness:

Meetings relating to EU legislation are held in public, and representatives of concerned organisations can ask to present their views to the Committee.

Sectoral Committees:

Sectoral committees may be asked by the EU Affairs Committee to give their opinion on draft EU legislation.

Recent developments of scrutiny procedures:

The scrutiny system was enacted in connection with the Czech accession to the EU in May 2004. There have been no developments since then.

3.5 DENMARK

Parliamentary system:

Unicameral: the Folketinget has 179 members.

Legal base of scrutiny system:

Accession Act of 1972 (section 6 (2)) and "agreements" between the European Affairs Committee and the Government, which are laid down in "reports" from the Committee.

Committee(s) involved in scrutiny of European affairs:

The European Affairs Committee and sectoral committees.

3.5.1 European Affairs Committee

Establishment

A "Market negotiation Committee" was established in 1961 to monitor Denmark's negotiations to enter the EEC. The Market Committee was created in October 1972 just prior to Danish entry in the EEC. The Committee was renamed the European Affairs Committee in 1994.

Composition

17 members and 12 alternates. All 7 parties in the parliament are represented in the committee. However, when counting "votes" in the European affairs committee, party representatives carry a voting weight reflecting their party's strength in the chamber.

Powers and responsibilities

The European Affairs Committee (EAC) is responsible for the general scrutiny of all EU matters. This responsibility includes mandating the Government before Council votes on all directives as well as regulations of a greater importance. The European affairs committee and the sectoral committees are furthermore responsible for monitoring whether EU legislation complies with the principle of subsidiarity.

Scrutiny reserve system

Yes. The reserve is lifted when the European affairs committee gives the government its mandate. The mandate is politically binding and is very strictly observed by the government.

Openness:

Committee meetings take place in closed session, however, the European affairs committee is at the moment considering whether to begin its meetings with an open session of up to an hour in length.

The vast majority of all relevant documents and memorandums (more than 95 %) received by the Committee as well as the committee's agendas are accessible to the public on the website of the EU Information Centre of the Danish Parliament.

3.5.2 Sectoral Committees:

Sectoral committees receive all relevant EU documents from the government and may make recommendations to the European affairs committee. Furthermore, sectoral

committees play a part in examining whether EU proposals comply with the subsidiarity principle.

3.5.3 Recent developments of scrutiny procedures in the course of 2004-2005:

In December 2004 the Committee adopted its latest change of procedures in a report reforming the treatment of EU issues in the Parliament. The new report formally adopts the Danish system for the “subsidiarity early warning mechanism”, including new procedures for involving sectoral committees in EU affairs as well as enhancing co-operation with MEPs.

3.6 ESTONIA

Parliamentary system:

Unicameral: the Riigikogu has 101 members.

Legal base of scrutiny system:

Riigikogu Rules of Procedure Act Passed 11 February 2003

Committee(s) involved in scrutiny of European affairs:

The European affairs committee, sectoral committees, and the Foreign Affairs Committee in the field of CFSP.

3.6.1 European Affairs Committee

Establishment

January 1997.

Composition

At least 15 members, reflecting the representation of the factions (and sectoral committees) in the House.

Powers and responsibilities

The European Affairs Committee (EAC) is responsible for mandating the government on the basis of opinions from the sectoral committees. The Government of the Republic is required to adhere to the opinion of the Riigikogu. If the Government of the Republic fails to do so, it must provide a justification to the European Union Affairs Committee or the Foreign Affairs Committee at the earliest opportunity.

Scrutiny reserve system

No, this is not legally regulated; however, in practice, the Government normally waits for the opinion of the European Affairs Committee.

Openness:

Meetings of the committees are not public, however the protocols (minutes) are. When a specific interest group (in addition to their consultations with the relevant Government body) wishes to participate in the discussions in either a sectoral committee or the European affairs committee, they are invited to do so by the relevant committee chairman.

3.6.2 Sectoral Committees:

Sectoral committees give their opinions on EU draft legislation to the European affairs committee, which is responsible for adopting the mandate given to the government.

3.6.3 Recent developments of scrutiny procedures in the course of 2004-2005:

The subsidiarity mechanisms are being worked out during 2005. 2004 was the first year of the operation of the new Rules of Procedure Act (scrutiny as a Member State).

3.7 FINLAND

Parliamentary system:

Unicameral: the Eduskunta has 200 members.

Legal base of scrutiny system:

Sections 93, 96 and 97 of the Constitution of Finland.

Committee(s) involved in scrutiny of European affairs:

The Grand Committee is empowered to act on behalf of the Eduskunta on all EU matters except the CFSP. The Foreign Affairs Committee has similar authority concerning the CFSP (including CSDP). The Grand Committee acts on the advice of the competent sectoral committee, so that, in effect, all committees are involved in the scrutiny mechanism.

3.7.1 European Affairs Committee

Establishment

The Grand Committee was established in 1906, and assumed its current role in 1994.

Composition

25 members and 13 substitutes, who attend and may speak (but not vote) even if all titular members are present, and 1 representative of the Åland Islands constituency. (The Åland Islands have autonomy covering most aspects of the EU's competence, except external affairs.)

Powers and responsibilities

The Grand Committee participates in the national preparation of Finnish views by defining the Eduskunta's position on those EU proposals that fall within the Eduskunta's traditional prerogatives. The Grand Committee may also assume any other EU-related business. The opinions of the Grand Committee are politically binding on the government. The Grand Committee also confers with ministers before and after Council meetings and with the Prime Minister before and after European Council meetings. During these meetings with ministers, the Grand Committee ascertains that its views have been observed in the preparations leading to formal decisions by the Council.

Scrutiny reserve system

There is a *de facto* understanding that the Eduskunta shall not be faced with a *fait accompli*. Ministers or civil servants representing Finland in the Council may not commit Finland to any position, until the Eduskunta has been consulted. Finland does not use a parliamentary reserve in the Council for the reason that the Eduskunta has participated in the national preparatory process and is not considered as a separate actor.

Openness:

The Committee meetings in the Eduskunta are not normally open to the public. However, the record of the meeting and virtually all documents are available to the public. The scrutiny in the sectoral committees attempts to include parties who wish to

contribute their opinion on the business at hand. The Eduskunta and its members make an effort to be easily approachable.

3.7.2 Sectoral Committees:

The sectoral committees carry out the detailed scrutiny of EU proposals and make their own suggestion for the national position. The proposals of the sectoral committees are the “default” positions, with which the Grand Committee usually, but not necessarily, concurs

3.7.3 Recent developments of scrutiny procedures in the course of 2004-2005:

There were no formal amendments in 2004-05.

3.8 FRANCE

Parliamentary system:

Bicameral: the Assemblée Nationale has 577 deputies; the Sénat is composed of 331 senators. (The number of senators will be raised to 341 in 2007 and to 346 in 2010.)

Legal base of scrutiny system:

Article 88-4 of the French Constitution.

Committee(s) involved in scrutiny of European affairs:

The “Delegations for the European Union” of the Assemblée Nationale and the Senate and the six sectoral standing committees of each parliamentary chamber.

3.8.1 European Affairs Committee of the National Assembly

Establishment

The Delegation for the European Union was established by law number 79-564 of 6 July 1979.

Composition

The Delegation for the European Union is composed of 36 members. All members are at the same time members of one of the six standing sectoral committees of the House. The composition of the Delegation reflects the representation of the political groups of the House.

Powers and responsibilities

The Delegation examines all EU proposals and other EU texts which the government lays before it. The Delegation can adopt proposals for resolutions which are sent for examination to one of the six standing sectoral committees tasked with reaching a decision within one month of the referral. The sectoral committees may then adopt, amend or reject these proposals. It may equally decide, under certain conditions, to submit proposals for examination and vote by the plenary.

Scrutiny reserve system

Yes. The scrutiny reserve system was introduced on 19 July 1994 by a circular of the Prime Minister. The system lays down a delay of one month from the transmission to parliament of a proposal for a Community instrument before the government can take a position in the Council. In practice this provision of parliamentary scrutiny is interpreted in an extended manner: the government always asks for the view of parliament before the adoption of the text. The opinions of the Delegation are not binding.

There exists a procedure for examining urgent proposals which allows the government to ask the chairman of the Delegation to lift the parliamentary scrutiny reserve directly without reconvening the Delegation, in case the time table of the European Union requires an urgent adoption of a text.

Openness:

Certain meetings of the Delegation are open to the press. Documents that have to do with parliamentary scrutiny are published on the website of the National Assembly in the section *Union Européenne*.

3.8.2 Sectoral Committees:

Proposals for resolutions adopted by the Delegation are sent for examination to one of the six sectoral standing committees, which are tasked with reaching a decision within one month of the referral.

The standing committee appoints a rapporteur and takes a position on the Delegation's proposal for a resolution which it can adopt as such, amend or reject. Within eight days following the distribution of the committee's report, the proposal for a resolution can be included on the National Assembly's agenda on the request of a group chairman, a committee chairman, the Chairman of the Delegation or the government. If no request is presented, the text adopted by the committee responsible is considered final and transmitted to the government. Resolutions have a political scope; they are not legally binding on the government, but the government must take them into account at Community negotiations.

3.8.3 Recent developments of scrutiny procedures in the course of 2004-2005:

The French Constitution was amended on 28 February 2005 to allow the Constitutional Treaty to come into force in France. Three new provisions have been introduced: one on the subsidiarity early warning mechanism and one to oppose a modification of the Constitutional Treaty in accordance with a simplified procedure. Finally, the French government is being obliged to submit all legislative proposals of the EU and not just those that belong to the internal competence of parliament today.

3.8.4 European Affairs Committee of the Senate

Establishment

The Delegation for the European Union of the Senate was established by law number 79-564 of 6 July 1979.

Composition

The Delegation for the European Union is composed of 36 members. All members are at the same time members of one of the six sectoral standing committees of the House. The composition of the Delegation reflects the representation of the political groups of the House.

Powers and responsibilities

The Delegation plays an important role in the process of scrutinising European affairs. The Delegation examines systematically all EU proposals which touch upon French legislation (around 300 pieces of draft acts a year) and selects the most important proposals that need further examination. The Delegation then adopts a proposal for a resolution on those selected proposals, which may be adopted as a Senate resolution either by the plenary of the Senate or by one of the six competent sectoral committees.

On the less important texts the Delegation adopts its own conclusions which are submitted to the government. On texts that the Delegation judges to be without difficulties, it does not intervene. The Delegation states its reason for such a decision and publishes it.

Scrutiny reserve system

Yes. The scrutiny reserve system was introduced on 19 July 1994 by a circular of the Prime Minister. The system is respected by the government.

Openness:

Meetings of the Delegation and of the six sectoral committees of the Senate are held in private. However minutes of these meetings are systematically published and made available on the website of the Senate.

3.8.5 Sectoral Committees:

The six standing sectoral committees play an important role in examining the content of the EU draft legislation considered to be important by the Delegation. The sectoral committees may adopt resolutions on the basis of proposals submitted by the Delegation on the important legislative proposals of the EU.

3.8.6 Recent developments of scrutiny procedures in the course of 2004-2005:

None.

3.9 GERMANY

Parliamentary system:

Bicameral: the Bundestag has at least 598 deputies. In the 15th electoral term (2002-2006) the Bundestag has 603 Members, because there were 5 overhang mandates (4 SPD, 1 CDU/CSU).

The Bundesrat is composed of 69 members of the “Länder governments”.

Legal base of scrutiny system:

Articles 23 and 45, introduced by the Law amending the Basic Law of 21 December 1992; The Act on Cooperation between the Federal Government and the German Bundestag in Matters concerning the European Union of 12 March 1993; the Rules of Procedure of the German Bundestag (Sections 93 and 93a); The Rules of Procedure of the Bundesrat (Sections 45a to 45k).

Committee(s) involved in scrutiny of European affairs:

Depending on the subject, the European Affairs Committee or sectoral committees may be involved in scrutiny of European Affairs.

3.9.1 European Affairs Committee of the Bundestag

Establishment

In September 1991, in the 12th electoral term, the EC Committee was set up as a permanent committee. The EC committee was replaced by the “Committee on the Affairs of the European Union” in 1994.

Composition

The Committee is composed of 33 Members of the Bundestag (14 SPD, 13 CDU/CSU, 3 Alliance 90/The Greens, 3 FDP) who have the right to speak and vote at Committee meetings; 15 German MEPs also sit on the Committee, but they have no right to vote.

Powers and responsibilities

The EU Committee is the central forum for the decision-making process on European policy. It has a horizontal function and is responsible for dealing with matters of central importance for the general process of European integration or institutional questions, such as the European Constitution, issues relating to enlargement and fundamental reforms of certain policy areas such as the Agenda 2007 as well as cross cutting issues.

The Committee is the only parliamentary committee able to adopt opinions that are as binding on the Federal Government as the decisions of the Bundestag. The Federal government shall take the opinion of the Bundestag into account.

Scrutiny reserve system

There is no scrutiny reserve. But the Federal government shall give the Bundestag the opportunity to state its opinion before participating in the legislative process in the EU.

Openness:

Meetings of the EU Committee are held in private, but the chairperson of the EU Committee may decide to convene a public meeting. Around a quarter of the meetings are held in public. Moreover public hearings with independent experts are regularly organised, most recently on the European Constitution and on the consequences of EU enlargement.

3.9.2 Sectoral Committees:

The sectoral committees are concerned primarily with EU items relating to specific, technical aspects of EU legislation. They are responsible for dealing conclusively with draft EU legislation falling within their sphere of competence.

3.9.3 Recent developments of scrutiny procedures in the course of 2004-2005:

In the framework of the ratification of the European Constitution, discussions are currently taking place on the laws accompanying the laws on ratification of the European Constitution concerning the implementation of the control of subsidiarity. The outcome of the negotiations will have an impact on the scrutiny system of the German Bundestag.

3.9.4 European Affairs Committee of the Bundesrat

Establishment

In 1957 the Bundesrat set up a special committee “The Common Market and the Free Trade Area”, which in 1965 became a Standing Committee on Questions pertaining to the European Communities. The committee has had its current title since entry into force of the EU Treaty of 1st November 1993.

Composition

Each federal state appoints one member to the Committee on European Affairs. Some of the committee members are Minister-Presidents of their federal states, others are the State Ministers for European Affairs.

Powers and responsibilities

The Committee on European Affairs is the lead committee on all documents from the Council and the Commission that are of importance for the federal states. This Committee generally discusses the documents on the basis of recommendations from the specialist committees. It is guided in its scrutiny primarily by considerations pertaining to European policy and European integration. Furthermore the Committee on European Affairs also examines whether there is sufficient legal basis in the EU Treaties for the draft legislation and checks that the principles of subsidiarity and proportionality are respected.

However, the final decision on a position of the Bundesrat is taken by the plenary or in an urgent case by the “Europakammer” on behalf of the plenary. According to article 23 Sub-section 4 of the Basic Law, the Bundesrat shall participate in the process whereby the German Federation develops its position, provided that the Bundesrat would be involved in a corresponding domestic measure or if the federal states would be competent nationally.

Scrutiny reserve system:

A scrutiny reserve system does not exist for the Bundesrat.

Openness:

The committees' deliberations are not public. The minutes of the meetings are confidential in respect of the course of discussions. However, the committees' recommendations, i.e. their expert opinions, are available to the public, and can also be accessed on the Internet. This also applies to the Resolutions adopted by the Bundesrat in its public sessions on the basis of these committee recommendations. Also the committee agendas are available to the public.

Individuals and associations may make their positions on subjects discussed by the committee members known via the committee chairs.

3.9.5 Sectoral Committees:

The sectoral committees play a central role in the examination of EU documents. They draw up their position from the perspective of their particular areas of policy expertise. The Committee on European Affairs generally discusses the documents on the basis of recommendations from the specialist committees.

3.9.6 Recent developments of scrutiny procedures in the course of 2004-2005:

None.

3.10 GREECE

Parliamentary system:

Unicameral: the Hellenic Parliament has 300 members.

Legal base of scrutiny system:

There is a broad reference in the Greek constitution, but specific provisions are included in article 41B of the parliament's Standing Orders.

Committee(s) involved in scrutiny of European affairs:

According to the wording of article 41B of the Standing Orders of the Greek Parliament, the competent Standing Committees and/or the Committee for European Affairs Committee are involved in the Scrutiny of European Affairs.

3.10.1 European Affairs Committee

Establishment

The Committee was first established in June 1990.

Composition

The committee is composed of 31 members of Parliament, and is presided over by a four member bureau, where the two main opposition parties are represented.

Powers and responsibilities

The Committee for European Affairs may, according to the article 32A, which regulates its function, express an advisory opinion on any issue referring to its field of competence, and submit it in the plenary and the government, under reserve of article 41B of the Standing Orders of the Parliament. The Committee's opinions are not binding, however, the government is obliged to answer on the follow up given in the opinion.

Scrutiny reserve system

There is no scrutiny reserve.

Openness:

The committee meetings are normally open to the public, with very few exceptions. Meetings are also broadcast on the Greek Parliament's TV channel. The weekly schedule of committee agendas is available on the internet, but not the minutes of committee meetings - these can, however, be sent to anyone upon request.

3.10.2 Sectoral Committees:

The role of the competent sectoral committees of the Greek Parliament, under article 41B, consists in asking information from government representatives or any other person they consider useful. The Committees may submit opinions to the government. Such opinions are not binding, although the government is obliged to answer on the follow up given in the opinion.

3.10.3 Recent developments of scrutiny procedures in the course of 2004-2005:

There is a discussion about possible changes going on at the moment. However, no decisions have been reached yet.

3.11 HUNGARY

Parliamentary system:

Unicameral: the National Assembly has 386 members.

Legal base of scrutiny system:

The Hungarian scrutiny system is based on three elements:

1. Constitution:

Art. 35/A para. (1) sets the obligations for passing by a qualified majority of MPs the Act that details the rules of the scrutiny procedure

Art. 35/A para. (2) obliges the government to inform parliament about draft European legislation

2. *Act LIII of 2004* on the cooperation of the Parliament and the Government in European Union affairs (which entered into force on 24 June 2004)

3. *Standing Orders* of the National Assembly: Articles 134/A-D set the details of the scrutiny procedure

Committee(s) involved in scrutiny of European affairs:

The European Affairs Committee. Other standing committees can be involved in the process as well.

European Affairs Committee

Established:

The European Affairs Committee was established in 1992.

Composition:

The European Affairs Committee has 21 members. The number of members on the committee for each political party reflects the proportion strength of the parties in the Parliament.

Powers and responsibilities:

The European Affairs Committee may examine practically any draft proposal which is to be adopted by the Council, and it can influence the government's position in EU decision-making procedure.

The Committee has decision-making authority in the scrutiny procedure: it is the committee that makes parliamentary decisions in these areas instead of the plenary. In EU affairs the European affairs committee exercises the powers exercised jointly in the legislative process by standing committees and the plenary.

Whilst the European Affairs Committee holds the central role in the daily scrutiny work, the Parliament gives priority to the political control of the standpoint of the Government at European Council meetings. Prior to the European Council meetings and other events of strategic importance, and on the initiative of the Speaker, the Prime Minister informs the Speaker, the leaders of parliamentary factions, the members of the EU Affairs Committee, the chairman of the Committee dealing with constitutional affairs, the chairman of the Foreign Affairs Committee, and other

invited committee chairmen on the position to be adopted by the Government [Article 7, par. (1) of the Act LIII of 2004 on the cooperation of the Parliament and the Government in European Union affairs]. The EU Department of the Office for Foreign Relations of the National Assembly is responsible for the secretarial and organisational work of this consultative forum.

Scrutiny reserve system:

There is no scrutiny reserve system in Hungary.

Openness:

Generally sittings of the European Affairs Committee are open for the press, but the standpoint of Committee is developed in private because of the secrecy of the government's position.

People and organisations can obtain information about the work of the European Affairs Committee from the website or from the information service of the Parliament. MPs also furnish the public with information.

Standing committees (including the European Affairs Committee) may invite representatives of those national interest groups and social organisations that figure on a list drawn up by the Secretary General of the Parliament to their open sittings.

Sectoral Committees:

Standing committees can be involved in the scrutiny procedure so that they may express their opinions on European draft proposals.

Recent developments of scrutiny procedures:

Because Hungary acceded to the European Union on 1 May 2004, the scrutiny system is completely new. There have been no changes to the system since accession.

3.12 IRELAND

Parliamentary system:

Bicameral: the Irish Parliament (Oireachtas) has two chambers - the Dáil (Lower House), composed of 166 members, and the Seanad (Upper House), composed of 60 members.

Legal base of scrutiny system:

The scrutiny system employed in the Oireachtas is based on two sources. First, the European Union (Scrutiny) Act 2002 and secondly the Orders of Reference of the Joint Committee on European Affairs.

Committee(s) involved in scrutiny of European affairs:

The Joint European Affairs Committee, the Sub-Committee on European scrutiny and the sectoral committees of the parliament.

3.12.1 European Affairs Committee

Establishment

There has been a European Affairs Committee in the Oireachtas since 1995. (Prior to this, European Union matters were considered by the Joint Committee on Secondary Legislation of the European Communities.)

The current relevant committees were established as follows:

The Dáil (Lower House) Select Committee on European Affairs was established on 27 June 2002 and had a number of preparatory meetings. The Dáil Select Committee was joined by a Select Committee of the Seanad to create the Joint Committee on European Affairs on 17 October 2002.

The Sub-Committee on European Scrutiny was established in July 2002 and had its first substantive meeting on 10 October 2002.

Composition

The European Affairs Committee is comprised of 17 members. 11 members of the Dáil (Lower House) and 6 members of the Seanad (Upper House).

The Sub-Committee on European Scrutiny is a subset of the Joint Committee and consists of 5 members of the Dáil (Lower House) and 2 members of the Seanad (Upper House).¹⁸

Powers and responsibilities

The Sub-Committee on European Scrutiny, which is a Sub-Committee of the Joint Committee on European Affairs,¹⁹ receives and scrutinises information on legislative proposals and other documents as they arise. The Sub-Committee is mandated to refer (where it deems necessary) proposals to Sectoral Committees for further scrutiny. The Sectoral Committees will in this event make arrangements to further examine the proposal and report to both Houses on the outcome of the examination.

¹⁸ There is currently one vacancy (Lower House) on the Sub-Committee.

¹⁹ The Joint Committee is comprised of members of both Upper and Lower Houses.

Scrutiny reserve system

There is no formal scrutiny reserve in the Scrutiny Act. Section 2.2 of the Scrutiny Act states “The Minister shall have regard to any recommendations made to him or her from time to time by either or both Houses of the Oireachtas or by a committee of either or both such Houses in relation to a proposed measure”.

Openness

In principle all meetings where scrutiny is conducted are held in public. The Sub-Committee on European Scrutiny meets in public on a fortnightly basis. In addition, Sectoral Committees conduct detailed examination of proposals referred to them in public session.

Meetings of Committees of the Houses of the Oireachtas are posted on the website of the parliament on a weekly basis. In addition, the schedule of documents to be considered by the Sub-Committee on European Scrutiny is posted on the website in advance of each meeting.

Where interested parties indicate a wish to attend meetings, such requests are considered by the Joint Committee. The Committee has established a record of meeting in public session with interested parties.

The decisions taken at each meeting are posted on the Oireachtas website (www.oireachtas.ie). Consideration is currently being given to also posting Sectoral Committee reports on the website as they arise.

3.12.2 Sectoral Committees:

The sectoral committees may be asked by the Sub-Committee on European scrutiny to examine EU-proposals where deemed necessary. The Sectoral Committees will in this event make arrangements to further examine the proposal and report to both Houses on the outcome of the examination.

3.12.3 Recent developments of scrutiny procedures in the course of 2004-2005:

One of the main developments in the system in 2004 was the establishment of an Early Warning mechanism for the scrutiny of Trade Measures, which often pass through the European legislative process very quickly. Arrangements are in place in the Oireachtas so that the government department responsible notifies the Sub-Committee on European Scrutiny of such measures at their provisional stage.

Another development is the widening of the scope of documents on which government departments must provide information as a matter of routine. By agreement, the Oireachtas receives information on all proposed Council decisions which are in addition to the proposals received under the EU Scrutiny Act. (The Orders of Reference of the Joint Committee mandates it to examine a very wide range of European Union documents.)

3.13 ITALY

Parliamentary system:

Bicameral: the Chamber of Deputies has 630 members; the Senate is composed of 315 members, and the former Presidents of the Republic, and up to 5 senators for life.

Legal base of scrutiny system:

The parliamentary scrutiny system is based on Law n. 11/2005 and on the Rules of Procedure of the Senate and of the Chamber of Deputies (in compliance with the parliamentary powers and functions envisaged by the Constitution).

Committee(s) involved in scrutiny of European affairs:

The Committee on EU Policies and each of the other Standing committees of the Senate and of the Chamber of Deputies (each for the subjects over which it has jurisdiction) can be involved in the scrutiny of EU affairs.

3.13.1 European Affairs Committee of the Chamber of Deputies

Establishment

The Committee on EU Policies was established in 1990 as a special committee. It was given the status of standing committee in 1996 within a broader revision of the rules concerning relations between the Chamber of Deputies and the European Union.

Composition

The composition of the Committee on EU Policies follows the same rules as for the other standing committees. At present the Committee is composed of 43 members. Each Parliamentary Group appoints its members to the sectoral standing committees, assigning them in equal numbers to each committee. No deputy may be appointed to more than one committee.

Powers and responsibilities

The EU Policy Committee may adopt opinions on EU draft legislative acts, and such opinions are submitted to the competent sectoral committee.

Scrutiny reserve system

One of the most innovative features of Law no. 11 of 4 February 2005 (on Italy's participation in the EU law-making process) is the introduction of the parliamentary reserve. Article 4 establishes that if parliament has started the scrutiny of EU draft measures or other measures sent by the government, the latter can proceed to exercise its own law-making functions in the drafting of EU legislation only after parliament has completed the scrutiny or if after 20 days the Chambers have failed to issue their views. This time limit applies starting from the date in which the government informed parliament that it used the parliamentary scrutiny reserve in the Council of Ministers. The reserve may also be used by the government for draft measures and provisions of special political, economic or social importance. The new system has not been applied yet.

Openness:

Committee meetings are generally held in public, but no direct participation of citizens is envisaged. Organizations and representatives of economic and social group and interests (as well as any person in a position to provide useful information) may be invited to committees sittings devoted to fact-finding investigations aimed at acquiring information and documents that are deemed useful for parliamentary business.

3.13.2 Sectoral Committees:

The sectoral committees are the main committees in the Chamber of Deputies when it comes to scrutiny of EU affairs. Draft legislative acts are referred for consideration to the appropriate sectoral committees according to subject matter, with the opinion of the EU Policy Committee. In not more than thirty days, the appropriate committee(s) shall consider the legislative text in question and may express in a final document their own opinion on the appropriateness of any possible initiatives.

3.13.3 Recent developments of scrutiny procedures in the course of 2004-2005:

The new Law no. 11 of 4 February 2005, amends the rules for the participation of Parliament in the Community and EU decision-making process among other things in order to include a new scrutiny reserve system.

3.13.4 European Affairs Committee of the Senate

Establishment

The Committee on EU Policies of the Senate was established in 2003 to replace the former Committee on European Community Affairs. The Committee on European Community Affairs was established in 1968.

Composition

The 27 members of the Committee on EU Policies are - unlike those of the other 13 Senate Standing Committees - also members of a sectoral standing committee. Double membership aims to ensure that members of the Committee on EU Policies combine knowledge of European issues with a good knowledge of matters within the terms of reference of the other committee they sit on.

Powers and responsibilities

The Committee on EU Policies examines the draft Community measures sent by the government or published in the Official Journal of the European Communities, as well as the information reports issued by the government on relevant Community processes and the compliance of existing national measures with the provisions of the draft Community measure in question, when they concern the institutions or the general policies of the EU. If a matter falls within the jurisdiction of other Committees, the Committee on EU Policies may request that the opinion given, the observations and the proposals made be sent, through the President of the Senate, to the government, if within 15 days since they were received by the Committee having jurisdiction over the matter the latter has not given its opinion.

Scrutiny reserve system

A scrutiny reserve system was adopted on 4 February 2005. The scrutiny reserve establishes that if parliament has started the scrutiny of EU draft measures or other measures sent by the government, the latter can proceed to exercise its own law-making functions in the drafting of EU legislation only after parliament has completed the scrutiny or if after 20 days the Chambers have failed to issue their views. This time limit applies starting from the date in which the government informed parliament that it used the parliamentary scrutiny reserve in the Council of Ministers.

Openness:

Meetings of Senate committees are generally public, but no direct participation of citizens is envisaged. Organizations and representatives of economic and social group and interests (as well as any person in a position to provide useful information) may be invited to the Committees sittings devoted to fact-finding investigations aimed at acquiring information and documents that are deemed useful for parliamentary business.

3.13.5 Sectoral Committees:

Sectoral committees may draw up opinions on EU affairs within their field of responsibility.

3.13.6 Recent developments of scrutiny procedures in the course of 2004-2005:

The participation of the Senate and the Chamber of Deputies in the EU decision-making process, was revised by Law no. 11 of 4 February 2005.

3.14 LATVIA

Parliamentary system:

Unicameral: the Saeima has 100 members.

Legal base of scrutiny system:

Rules of Procedure of the Saeima of 16 February 2001 and a Regulation of the Cabinet of Ministers No. 286 of 3 June 2003 “Temporary procedures for coordination of Latvia’s national positions” and certain general provisions in the Latvian Constitution.

Committee(s) involved in scrutiny of European affairs:

The European Affairs Committee is currently the only body that generally deals with the EU affairs. However, a new mechanism is being put in place to involve sectoral committees in the parliamentary scrutiny of EU proposals. A formal adoption of this mechanism could happen around mid-2005.

3.14.1 European Affairs Committee

Establishment

The European Affairs Committee was established in 1995, shortly after the signing of the European Agreement establishing an association between the European Community and its Member States, and the Republic of Latvia. In February 2001, the role of the Saeima, and particularly the role of its European Affairs Committee as regards EU affairs, was formulated in the Rules of Procedure.

Composition

The European Affairs Committee currently consists of 17 MPs. The European Affairs Committee must be composed of at least one Member from each parliamentary group in the Saeima. The composition of the Committee must be a proportionate reflection of the parliamentary groups represented in the Saeima.

Powers and responsibilities

Currently Latvia’s parliamentary scrutiny of European affairs is based on examining the government’s negotiating positions before these are communicated to the EU institutions. At the moment the European Affairs Committee is the only body involved in this examination.

Scrutiny reserve system

At the moment there is no system of scrutiny reserve. However, talks have begun on that topic, although it is too early to give any indications about how such a system might operate in Latvia.

Openness:

As a rule, meetings of the European Affairs Committee are open to the public, and agendas and minutes of the meetings are available on the Saeima website. However, meetings may be held *in camera* if the information to be discussed is confidential. The committee may also hold a closed meeting if representatives of ministries were to request it.

3.14.2 Sectoral Committees:

The latest amendments made to the Saeima Rules of Procedure on 28 October 2004 make it possible for the European Affairs Committee to forward the official positions and EU-related legislative initiatives, as well as other documents of EU institutions, to sectoral committees for examination and comments. However, in practice this possibility has not been used very often because of planned future changes to the procedures for scrutiny of European affairs in the Saeima.

3.14.3 Recent developments of scrutiny procedures in the course of 2004-2005:

Since accession, the role of the European Affairs Committee has not changed. Only its legal basis changed. However, recent practice has lead the committee to conclude that reviewing the government's positions before Council meetings is not sufficient and that more in-depth scrutiny of EU legislation should be performed. Hence improvements of the current scrutiny system are being worked out. It is expected that the planned improvements of the scrutiny system can be carried out within the framework of the currently extant legal base. The European Affairs Committee considers that it would be beneficial if sectoral committees could be involved at the early stages of draft EU legislation being formulated.

3.15 LITHUANIA

Parliamentary system:

Unicameral: the Seimas has 141 members.

Legal base of scrutiny system:

The Statute of the Seimas of the Republic of Lithuania, the Law on Government of the Republic of Lithuania, the Decree No. 21 of the Government of the Republic of Lithuania dated 9 January 2004.

Committee(s) involved in scrutiny of European affairs:

All committees are involved in scrutiny of European affairs.

3.15.1 European Affairs Committee

Establishment

18 September 1997.

Composition

The Committee on European Affairs is currently composed of 25 members. The rules or procedure lay down that the committee shall be composed of not less than 15 and not more than 25 Seimas members in accordance with a principle of proportional representation of the Seimas parliamentary groups. The exact number of the members and composition of the Committee is approved by a Seimas resolution. Seimas members serving on other committees may also be members of the Committee on European Affairs.

Powers and responsibilities

The Committee on European Affairs can act on behalf of the Seimas in EU matters. It may when necessary express the opinion of the Seimas to the Lithuanian Government on EU proposals. The committee may examine and present conclusions on all EU proposals - except proposals within the domain of CFSP, which are dealt with by the Foreign Affairs Committee. The Committee on European Affairs also evaluates the government's presentation of its position in the institutions of the European Union. The scrutiny made by the committee is to a large extent based on the recommendations of the sectoral committees of the Seimas.

Scrutiny reserve system

Lithuania has a scrutiny reserve system that is politically binding. The Committee on European Affairs or the Committee on Foreign Affairs may obligate Ministers to express the parliamentary reservation in Council with regard to the issues marked by a committee as "very relevant" or "relevant". This system started functioning after the

Statute of the Seimas was amended on 9 November 2004 and has been strictly observed.

Openness:

Meetings of the European Affairs Committee and the sectoral committees are public, unless a government position is being debated. In that case the meeting or parts thereof shall be closed when the committee is debating the position.

Otherwise a number of options are available to the public if it wishes to follow the progress of the scrutiny process. The public may choose:

1. to participate in hearings organised by committees, which as a rule are held in public;
2. to be invited to participate in committee meetings held in public; or
3. to submit written proposals to committees or individual members of parliament.

3.15.2 Sectoral Committees:

The sectoral committees of the Seimas are responsible for the initial examination of EU draft legislative acts. All EU-proposals received by the Seimas are referred to the competent sectoral committee at the same time as they are submitted to the European Affairs Committee. The sectoral committees are then responsible for assigning these proposals to one of the following categories: 1) “very relevant” (red), 2) “relevant” (yellow), or 3) “moderately relevant” (green). These conclusions are submitted to the European affairs committee.

The government is obliged to submit its negotiating “position” on all EU-proposals which are considered to be “very relevant” or “relevant” to the Seimas within 15 days from the receipt of the proposals. Government positions are forwarded to the competent sectoral committees and the European Affairs Committee for their examination.

The sectoral committees may also when deemed necessary submit conclusions regarding the position of the government to the plenary, the Committee on European Affairs, or the Committee on Foreign Affairs.

3.15.3 Recent developments of scrutiny procedures in the course of 2004-2005:

The main developments in the scrutiny of EU matters of the Lithuanian Parliament occurred when the current scrutiny system was set up in November 2004 when amendments to the Statute of the Seimas and the Law on Government were adopted.

3.16 LUXEMBOURG

Parliamentary system:

Unicameral: the Chamber of Deputies has 60 members.

Legal base of scrutiny system:

Article 156 (1) of the Rules of Procedure of the Chamber of Deputies

Committee(s) involved in scrutiny of European affairs:

The “Committee for Foreign and European Affairs, for Defence, for Cooperation and for Immigration” and other standing sectoral committees.

3.16.1 European Affairs Committee

Establishment

The Committee was first established in 1989 as the “Committee on Foreign and Community affairs”. In 1994 it was renamed the “Committee on Foreign and European Affairs”. The latest change of the Committee took place in 2004 when it was established as the “Committee for “Foreign and European affairs, for Defence, for cooperation and Immigration”.

Composition

The Committee is composed of 11 members representing the political groups of Parliament proportionally.

Powers and responsibilities

The Committee is responsible for the parliamentary control within the limits of its competence.

Scrutiny reserve system

No

Openness:

Committee meetings take place in closed session unless otherwise decided by the Committee or the Chamber.

The Chamber of Deputies organises from time to time public hearings in which citizens may participate. For instance three hearings on the Constitutional Treaty were organised. Finally Committees may invite specialists or representatives of non-parliamentary bodies to give evidence, invite MEP’s, etc.

3.16.2 Sectoral Committees:

Sectoral committees are responsible for the parliamentary control within the limits of their respective competences.

3.16.3 Recent developments of scrutiny procedures in the course of 2004-2005:

No changes.

3.17 MALTA

Parliamentary system:

Unicameral: the House of Representatives has 65 members.

Legal base of scrutiny system:

Standing Order of the House of Representatives Article 120 F.

Committee(s) involved in scrutiny of European affairs:

The standing “Committee on Foreign and European Affairs”, which includes the “Scrutiny Committee on Foreign and European Affairs” (together with its three Working Groups - see below) and the “Social Affairs Committee”.

3.17.1 European Affairs Committee

Establishment

The Foreign Affairs Committee was first established in 1995. The committee was amended in 2003, and, following Malta becoming a Member State of the EU, it became the Standing Committee on Foreign and European Affairs.

Composition

The “Committee on Foreign and European Affairs” is composed of 9 members, 5 from the government side (including the Minister of Foreign Affairs) and four from the opposition side. The Scrutiny Committee is composed of three Working Groups. Working Group 1 has a filtering and allocation function with 5 members, three from the government (which includes the Chairman) and another 2 from the opposition. Working Groups 2 and 3 analyse the documents in further detail. These groups are composed of 7 members each, 4 from the government (including the Chairman) and 3 from the opposition.

Powers and responsibilities

The Scrutiny Committee analyses and oversees that the Explanatory Memorandum drafted by Ministers on the pipeline *acquis* reflect the political, economic and social effects that these might have on Malta.

Scrutiny reserve system

Malta does have a scrutiny reserve system. Although it is not a statutory system, it is observed by the Maltese Government.

Openness:

NGOs are consulted by Ministries before drafting the Explanatory Memoranda. Research Analysts reports, pipeline *acquis* and the Explanatory Memoranda are made available on the internet.

3.17.2 Sectoral Committees:

The Social Affairs Committee participates in the scrutiny of EU affairs.

3.17.3 Recent developments of scrutiny procedures in the course of 2004-2005:

The Committee on Foreign and European affairs has recently introduced the function of Pre-and Post-Council Scrutiny and this is being adhered to by Ministers.

3.18 NETHERLANDS

Parliamentary system:

Bicameral system: the House of Representatives has 150 members; the Senate is composed of 75 senators elected by the members of the twelve Provincial Councils who are elected by the voters.

Legal base of scrutiny system:

Articles 68 and 90-95 of the Constitution of the Kingdom of the Netherlands.

Committee(s) involved in scrutiny of European affairs:

Nearly all committees of the House of Representatives are involved in the scrutiny of European Affairs. This includes in particular the following committees: Agriculture, Nature and Food Quality; Defence; Economic affairs; Education, Culture and Science; European Affairs; Finance; Foreign affairs; Health, Welfare and Sport; Interior and Kingdom Relations; Justice; Netherlands Antilles and Aruban affairs; Public Expenditure; Social affairs and Employment; Spatial Planning, Housing and the Environment; Transport, Public Works and Water Management.

Similarly, in the Senate both the committee on “European Cooperation Organisations” and the competent sectoral committees are involved.

3.18.1 European Affairs Committee of the House of Representatives

Establishment

1986.

Composition

The European Affairs Committee is currently composed of 27 members. All political parties, represented in the House of Representatives, are represented in the Committee.

Powers and responsibilities

The European Affairs Committee’s task is to play an “initiating, signalling and coordinating” role for the purpose of parliamentary control of decision making in the European institutions, and particularly the Council. The Committee for European Affairs has its own responsibility in controlling government with respect to broader, more general and horizontal developments in Europe. Furthermore, it has its own competence in institutional matters. The Committee for European Affairs can draw the attention of the sectoral committees to specific developments and advise them.

Scrutiny reserve system

There is no system of scrutiny reserve.

Openness:

Debates on European affairs in committees are all held in public. People and organisations outside the parliament can therefore follow the debates on European affairs. Furthermore, parliamentary documents on European affairs are made publicly available both electronically and in hard copy through a database specifically set up for parliamentary documents. This database is called “Parlando” and it is linked to the website of the House of Representatives.

Citizens and Organisations may have their views taken into account by submitting a petition to the parliament.

3.18.2 Sectoral Committees:

The sectoral committees are responsible for controlling the government with regard to European matters relating to their own policy areas and in their “own” Council formations. Before every meeting of the Council the responsible committees debate with the member(s) of government who will take part in the Council. These debates take place on the basis of the annotated agendas for the Council meetings, which are sent to the House of Representatives by the government. The House also receives reports summarising the results of the Council meetings.

In general the scrutiny system in the Netherlands is not one that is based on a mandate. However, on issues relating to Justice and Home Affairs both the Senate and the House of Representatives have special rights as regards controlling the position taken by the Dutch government in the JHA Council. The Government cannot agree to a European decision, to be adopted in the area of Justice and Home Affairs, intended to bind the Netherlands until both Houses of Parliament have given their assent. A special committee on Justice and Home Affairs prepares the assent of the House of Representatives.

3.18.3 Recent developments of scrutiny procedures in the course of 2004-2005:

The main development in the scrutiny system of the Dutch Parliament is that both Chambers have created a joint parliamentary procedure for the future subsidiarity check.

3.18.4 European Affairs Committee of the Senate

Establishment

The committee on European Cooperation Organisations of the Senate was established on 9 June 1970.

Composition

The committee is composed of 13 members and 11 substitute members.

Powers and responsibilities

The committee on “European Cooperation Organisations” is responsible for examining all European Commission proposals that are sent to the Senate by the Dutch Government. The committee may just take note of the proposal or may refer the proposal to a sectoral committee.

Scrutiny reserve system

There is a scrutiny reserve system in the area of Justice and Home Affairs. Proposals in this field that would be binding for The Netherlands need the approval of the Senate (and the House of Representatives) before the Minister can give his or her assent to them in the Council.

The criteria which must be met before the Senate will its approval are as follows:

- the documents must be presented to the States-General 15 days before the proposals are to be discussed in the JHA Council;
- the proposals must be presented in the Dutch language; and
- the Senate does not give its approval unless the documents are public in the Council’s register for at least six weeks (legal basis for this criterion is a unanimously adopted motion in the Senate).

This system is statutory, the government does its utmost to observe this system and only in exceptional cases are the described rules stretched.

Openness:

The meetings of the European affairs committee and sectoral committees are held in private. However, reports of these meetings are available on the website of the Senate.

All proposals of the European Commission that the Government sends to the States-General are put on the website of the Dutch Senate (www.europapoort.nl). The following documents appear on the website:

- an abstract(s) of the proposal;
- the opinion of the Dutch Government;
- a view on whether the proposal complies with the principles of subsidiarity and proportionality; and (depending on the procedure)
- the consideration in the European Parliament, the House of Representatives and the Senate.

Those who have a login-code for the website can additionally find the advice of the European Office of the Senate to the committee on European Cooperation Organisations on whether or not to bring the proposal under the attention of a select committee.

Through the website people can not only follow the scrutiny procedure, but also give their opinions. The website also had a facility that allows civil society, organisations and anyone else who would like to give their opinion or make a statement regarding a certain proposal.

A more extensive description of the website can be found in a Contribution to the Convention on the Future of Europe from Mr René van der Linden, member of the Convention, and Mr Wim van Eekelen, alternate member of the Convention (CONV 182/02 <http://register.consilium.eu.int/pdf/en/02/cv00/00182en2.pdf>).

3.18.5 Sectoral Committees:

Sectoral committees may submit written questions to the government to, for example, find out the strategy of the government or to make known by letter the opinion of the committee (be it positive or negative) to the government. This opinion is not binding on the government. The sectoral committees can also decide to just take note of EU proposals or decide to include proposals or European topics in a plenary debate with the government.

In the area of Justice and Home Affairs special procedures apply, where proposals that are binding for The Netherlands need approval of the Senate (and the House of Representatives) before the Minister can give his or her assent in the Council. This mandate for the government is granted by the Committee on Justice and Home Affairs of the Senate, but needs final confirmation by the plenary of the Senate.

3.18.6 Recent developments of scrutiny procedures in the course of 2004-2005:

In anticipation of the Early Warning System (EWS) of the Constitutional Treaty, the Committee on “European Cooperation organisations” in the Senate decided to scrutinise all European Commission’s proposals as a trial run.

Furthermore a Joint Committee Application Subsidiarity (of the Senate and the House of Representatives) was installed to report to the States-General on how to implement the EWS in an efficient way. Also in anticipation of the report of this Joint Committee the Senate started with the scrutiny system.

3.19 POLAND

Parliamentary system:

Bicameral: the Sejm has 460 members; the Senate is comprised of 100 senators.

Legal base of scrutiny system:

The Act of 11 March 2004 on “Co-operation of the Council of Ministers with the Sejm and the Senate in Matters Related to the Republic of Poland’s Membership in the European Union”, “Standing Orders of the Sejm”, “The Resolution of the Senate of the Republic of Poland of November 23, 1990: Rules and Regulations of the Senate” [amendment of 22 April 2004] and the “Judgment” of the Polish Constitutional Tribunal of 12th January 2005, K 24/04 on “Inequality in competences of Sejm and Senate committees in respect of European Union legislative proposals”.

Committee(s) involved in scrutiny of European affairs:

The European Union Affairs Committee of the Sejm; and the European Union Affairs Committee and the sectoral committees of the Senate.

3.19.1 The European Union Affairs Committee of the Sejm.

Establishment

The current European Union Affairs Committee was established on 14 May 2004. Prior to Poland’s accession to the EU there was a special European Integration Committee during the II and III term of the Sejm from October 2001 to 31 July 2004.

Composition

The European Union Affairs Committee should be composed of no more than 46 members (10% of the Sejm). The composition should reflect the composition of the chamber.

Powers and responsibilities

The European Union Affairs Committee is empowered to express opinions on behalf of the Chamber on EU legislative proposals to be adopted by the Council of Ministers and on the negotiating positions of the Polish Government in relation to these.²⁰ The opinions of the committee should constitute a basis for the position of the Government. If the Government decides to deviate from the opinion of the committee, it is obliged to explain the reason why.

Scrutiny reserve system

The Act of 11 March 2004 did not establish a scrutiny reserve system. But Polish ministers do nonetheless tend to cite the parliamentary reserve principle in the Council in case they fail to obtain the European Union Affairs Committee’s opinion in time. However, the government is not obliged to do this but does so of its own accord.

Openness:

Committee meetings are open for the public unless the Committee decides otherwise. Occasionally special invitations are issued.

²⁰ Article 10, p. 1 of the Act of 11 March 2004.

3.19.2 Sectoral Committees:

There is no involvement of sectoral committees.

3.19.3 Recent developments of scrutiny procedures in the course of 2004-2005:

The existing scrutiny system was introduced in May 2004.

3.19.4 The European Union Affairs Committee of the Senate

Establishment

The European Union Affairs Committee was set up by the Senate on 19 May 2004. But already, prior to Polish accession of the EU, a number of special committees responsible for monitoring European integration and Poland's accession negotiations had been established. The first such "European Integration Committee" was created in March 1993.

Composition:

By mid-March 2005 the European Union Affairs Committee of the Senate was comprised of 15 members. But there are no formal rules regarding the number of committee members, or their political affiliation.

Powers and responsibilities

The European Affairs Committee may express opinions to the government concerning its negotiating positions in the Council. If the government decides not to seek the opinion of the Committee, it must explain why it fails to seek the opinion of the committee. However the government is not compelled to base its negotiations on the opinion of the committee.

Scrutiny reserve system

The government is obliged to seek the opinion of the European Affairs Committee of the Senate and present its negotiation position before it can start negotiating in the Council of Ministers.

Openness:

Sittings of the European Affairs Committee are public. The committee has the power to hold a secret sitting or a sitting in camera, but it has never so far decided to do so.

Stenographic records from Senate committees are made available to the public.

Access to documents and other information is provided by way of placing them on "the computer information network".

3.19.5 Sectoral Committees:

The European Union Affairs Committee may turn to another committee for an opinion on the matter deliberated at its sitting."

3.19.6 Recent developments of scrutiny procedures in the course of 2004-2005:

The developments in the Polish scrutiny system in the course of 2004-2005 have been predominantly related to the accession of Poland to the European Union.

3.20 PORTUGAL

Parliamentary system:

Unicameral: The Assembly of the Republic is composed of 230 Deputies.

Legal base of scrutiny system:

The scrutiny system is based on Law no. 20/94 of 15 June 1994: Review and Evaluation by the Parliament of Portugal's participation in the process of construction of the European Union". Also the Portuguese Constitution contains certain provisions in article 161 (n), 163(f), 164 and 197.

Committee(s) involved in scrutiny of European affairs

The Committee on European Affairs.

European Affairs Committee

Establishment:

The Committee on European Affairs was first established in 1987 when Portugal became member of the European Communities. However a European Integration Committee had already been created in 1980.

Composition:

The Committee is composed of 33 members from 6 different parliamentary groups.

Powers and responsibilities:

Evaluate all the subjects of interest to Portugal within the framework of the European institutions or of the cooperation between member States of the European Union, in particular the activities of the Government with reference to those affairs

The Committee on European Affairs will be responsible for the distribution of the proposals with legal contents and the orientation documents, either to its members or to other specialized committees according to the subject, for information or opinion.

Whenever the Committee for European Affairs so requests, the other committees will issue formal opinions.

The opinions mentioned in the above paragraphs can conclude with specific proposals to be evaluated by the Committee for European Affairs, which can prepare a report to be sent to the President of Parliament and to the Government.

Whenever it is decided to prepare a report on a subject of its competence, the Committee for European Affairs will attach to the report the opinion requested to other committees.

The Committee for European Affairs can attach draft resolutions to the reports to be presented to the Plenary Session.

Scrutiny reserve system:

No.

Openness:

All meetings of the Committee are public, unless the committee decides otherwise. The Committee also organises public meetings and conferences, inviting other institutions, organisations and the public in general in order to debate specific issues.

Sectoral Committees:

The sectoral committees may issue formal opinions on EU proposals or orientation documents if so requested by the Committee on European Affairs.

The opinions can conclude on specific proposals to be evaluated by the Committee for European Affairs, which can prepare a report to be sent to the President of Parliament and to the Government.

Whenever the European Affairs Committee decides to prepare a report on a subject of its competence, it will attach to the report the opinion requested to other committees.

Recent developments of scrutiny procedures:

No recent development has taken place. The Portuguese Parliament was dissolved in December 2004 until recently where it took seat. The committees were settled on 5 April 2005. New rules of procedure were adopted for the European Affairs Committee on 3 May 2005.

3.21 SLOVAKIA

Parliamentary system:

Unicameral: the National Council of the Slovak Republic has 150 members.

Legal base of scrutiny system:

The scrutiny system is based on Constitutional Act No. 397/2004 Coll. on the cooperation between the National Council of the Slovak Republic and the Government of the Slovak Republic in affairs concerning the European Union.

This Constitutional Act is to be implemented by an amendment to the Rules of Procedures of the National Council of the Slovak Republic.

Committee(s) involved in scrutiny of European affairs

The Committee on European Affairs, which may ask sectoral committee for their position.

European Affairs Committee

Establishment:

29 April 2004.

Composition:

11 members (6 members of government coalition parties, 5 members of opposition parliamentary parties).

Powers and responsibilities:

According to the above-mentioned Constitutional Act and the draft amendment of the Rules of Procedures, the Committee on European Affairs will be delegated the power to approve the positions of the Slovak Republic concerning proposals for EU legislation. The approved positions shall be binding for the government.

Scrutiny reserve system:

According to the Constitutional Act, government ministers have to submit to the National Council for its approval the positions of the Slovak Republic before they agree upon them in the Council. If the National Council fails to provide its own position on the position proposed by the government within two weeks of its receipt, or if the National Council of the Slovak Republic fails to adopt an approval while at the same time not proposing and adopting any other position on the matter, the minister shall act on the originally proposed position.

The scrutiny reserve system on the level of working groups of the Council is regulated by governmental decree. So far there has not been a motion from the European Affairs Committee to put down a parliamentary scrutiny reserve.

Openness:

All committee meetings are public, unless the committee decides otherwise.

Sectoral Committees:

According to the draft amendment of the Rules of Procedures, the European Affairs Committee can ask sectoral committee to give their opinion on the position the Government is proposing to take in Council.

Recent developments of scrutiny procedures:

The scrutiny system is still in the process of being created, since the implementing acts to the Constitutional Act have not yet been adopted.

3.22 SLOVENIA

Parliamentary system:

Bicameral: the National Assembly has 90 members; the National Council has 40 members.

Legal base of scrutiny system:

The scrutiny system in the National Assembly is based on the following:

- Article 3a of the Constitution of the Republic of Slovenia;
- the Act on cooperation between National Assembly and Government; and
- the EU section of the Rules of the Procedure of the National Assembly.

The scrutiny system in the National Council is based on Article 97 of the Constitution of the Republic of Slovenia (as well as the EU section of the Rules of the Procedure of the National Assembly).

Committee(s) involved in scrutiny of European affairs:

In the National Assembly the Committee on EU Affairs scrutinises areas under the 1st and 3rd pillars. The Committee on Foreign Policy scrutinises issues under the 2nd pillar. And sectoral committees may also be involved.

European Affairs Committee in the National Assembly

Establishment:

April 2004.

Composition:

The Committee has 14 members, including a Chairman and two vice-Chairmen. The political parties represented proportionally.

Powers and responsibilities:

The committee is responsible for discussing and formulating the position of the National Assembly on legislative proposals and other EU-related matters. The committee also scrutinises the government's negotiating positions before Council meetings.

Scrutiny reserve system:

There is no scrutiny reserve system. Parliament must discuss a matter in due time, or it is otherwise deemed to have agreed with the government's position.

Openness:

Meetings of the EU Affairs Committee are generally not open to the public when it is discussing EU affairs. However, if an issue is brought before the plenary, the public may attend the plenary session.

Sectoral Committees:

None.

Recent developments of scrutiny procedures:

No developments have been made so far, but it is envisaged that proposals for amending the rules of procedure for dealing with EU affairs will be made.

The International Relations and European Affairs Commission in the National Council

Establishment:

1993.

Composition:

The commission is composed of a Chairman, a Vice-Chairman and 8 other members. The interest groups are represented proportionally.

Powers and responsibilities:

The National Council may convey to the National Assembly its opinion on all matters within the competence on the National Assembly. This happens by a member of the National Council attending a meeting of the EU or Foreign Policy Committees of the National Assembly and presenting the opinion of the National Council.

The National Council is not obliged to discuss every EU legislative proposal.

Scrutiny reserve system:

There is no scrutiny reserve system.

Openness:

Meetings of the International Relations and European Affairs Commission are open to the public. Anyone can attend meetings and present their view to the Commission.

Sectoral Committees:

Sectoral committees are not involved in the scrutiny of EU affairs.

Recent developments of scrutiny procedures:

None.

3.23 SPAIN

Parliamentary system:

Bicameral: the Congress of Deputies is composed of 350 members; the Senate has 259 members.

Legal base of scrutiny system:

The legal base for the scrutiny system in relation to EU Affairs is the Standing Orders of the Congress of Deputies and Act 8/1994, of 19 May, governing the Joint Committee for the European Union.

Committee(s) involved in scrutiny of European affairs:

European Affairs are dealt with in Spain by the “Joint Committee on European Affairs”. Nevertheless, some European matters can also be dealt with, when relevant, by a sectoral committee.

3.23.1 European Affairs Committee

Establishment

The Congress of Deputies and the Senate established a Joint Committee on European Affairs in May 1994.²¹ This committee replaced the “Joint Commission for the European Communities” that had been established in 1986 following Spanish accession to the EC.

Composition

The Joint Committee on European Affairs consists of 42 parliamentarians in accordance with the following composition, as determined by the Bureau of both Houses sitting jointly:

Popular Group: 9 Deputies and 9 Senators; Socialist Group: 11 Deputies and 6 Senators; Catalan (CiU) Group: 1 Deputy or 1 Senator; Entesa Catalana del Progrés Group: 1 Senator; Basque (PNV) Group: 1 Deputy or 1 Senator; Esquerra Group: 1 Deputy; Green Left Group: 1 Deputy; Canarian Coalition Group: 1 Deputy or 1 Senator; Mixed Group: 1 Deputy or 1 Senator.

The Committee is officially chaired by the Speaker of the Congress of Deputies. But in practice the Speaker has always delegated this role to a Deputy of the main party of the opposition.

Powers and responsibilities

The Joint European Affairs Committee may table reports on any matters relating to the activities of the European Union that it may consider of interest, including legislative proposals of the European Commission. The committee may also organise debates on

²¹ The Joint Committee was established by Act 8/1994, of 19 May.

a specific proposal for legislation and request the Speaker of either or both Chambers to debate the proposal in the Plenary of the respective House, with the Government's participation in both cases.

Scrutiny reserve system

No scrutiny reserve system is provided for in Spanish legislation.

Openness:

Meetings of the Joint Committee are held in private. However, they may be attended by accredited representatives of the media, except when they are secret. The sessions of the Committee are televised and can be viewed on the Parliamentary Channel or on the internet (www.congreso.es). The Committee may decide to request the attendance of civil servants, authorities and persons competent in the subject matter for the purposes of reporting to and advising the Committee.

3.23.2 Sectoral Committees:

Sectoral committees of either chamber may be asked by the Joint Committee, via the Bureau of the Congress of Deputies, to draw up a preliminary report on a specific matter.

3.23.3 Recent developments of scrutiny procedures in the course of 2004-2005:

There have been no developments in the scrutiny system in the course of 2004-2005.

3.24 SWEDEN

Parliamentary system:

Unicameral: the Swedish Parliament “Riksdagen” has 349 members.

Legal base of scrutiny system:

Chapter 10 Art. 6 of the Swedish Constitution.

Committee(s) involved in scrutiny of European affairs:

The formal scrutiny is the task of the Committee on EU Affairs. However, the sectoral Committees shall (Riksdag Act Chapter 10 Art. 3) monitor activities of the European Union in the subject areas set out for each committee in the Riksdag Act. The Committee on Foreign Affairs and/or the Committee on the Constitution (sometimes jointly) prepare the Swedish Parliament’s decision on the approval of the Treaties of the European Union.

3.24.1 European Affairs Committee

Establishment

The Committee on European Affairs was established by decision of the Parliament on 21 December 1994 and had its first meeting the following day.

Composition

The Committee on European Affairs is composed of 17 members from the 7 political parties represented in Parliament – as is the case with the sectoral committees in the Swedish Parliament. The Committee on EU Affairs differs from the sectoral committees by having a larger number of alternates in order to be able to cover all EU cooperation field. There are at presently 33 deputy members in the Committee on EU Affairs. All sectoral committees are represented in the Committee on EU Affairs.

Powers and responsibilities

The primary role of the Committee on European Affairs is to formulate a mandate on the basis of the Government’s proposed position for negotiations in the Council. It is the Government’s duty to comply with that mandate. Although the mandate is not formally binding but only politically so, it is normally very strictly observed by the Government. There have only been a few cases to the contrary.

Scrutiny reserve system

There is no scrutiny reserve system in Sweden.

Openness

The meetings of the Committee on European Affairs are generally held in private. However, meetings prior to the European Council (with the Prime Minister) are held in public.

During the meetings short-hand recordings are drawn up, which are published on the internet. The main part of the committee documents are published on the website of the Swedish Parliament (www.riksdagen.se). People and organisations sometimes write letters to the members of the Committee and to the Secretariat. In the latter case the members are informed by the Secretariat.

Sectoral Committees:

It is the responsibility of the sectoral committees to “monitor” EU business in their respective subject areas.

3.24.2 Recent developments of scrutiny procedures in the course of 2004-2005:

None.

3.25 UNITED KINGDOM

Parliamentary system:

Bicameral: the House of Commons has 646 members; the size of the membership of the House of Lords is not fixed, but on 1 March 2005 the House of Lords had 706 members.

Legal base of scrutiny system:

None. In the House of Commons the system is based on the House's standing orders and the scrutiny reserve resolution passed by the House in 1998. The system in the House of Lords rests on a scrutiny reserve resolution passed by the House in December 1999.

Committee(s) involved in scrutiny of European affairs:

In the House of Commons the European Scrutiny Committee scrutinises all EU proposals. (The three European Standing Committees to which it refers individual documents for debate exist only for that purpose.) The Foreign Affairs Committee occasionally examines EU matters, as do the other select committees related to government Departments, though they do this on their own initiative and are not formally part of the European scrutiny system.

In the House of Lords scrutiny of European affairs is done by the European Union Committee and its seven sub-Committees which cover sectoral policy areas. Very occasionally, one of the (very few) other Committees (e.g. the Constitution Committee) may look at an EU issue, but the House of Lords does not have "sectoral" committees.

3.25.1 The House of Commons European Scrutiny Committee

Establishment

1974.

Composition

16 Members, all of whom are backbench Members. Their party composition reflects that in the House; for example, in the last Parliament (2001-05) there were ten Labour Members, four Conservative, one Liberal Democrat, one Scottish National Party.

Powers and responsibilities

The role of the European Scrutiny Committee is to report to the House on the legal or political importance of each EU document, to decide which documents should be debated (in a Standing Committee or on the Floor of the House), and to consider any issues arising or related matters (e.g. new treaties).

Scrutiny reserve system

There is a scrutiny reserve which is based on a resolution of the House and is not statutory. In the period July–December 2004, the latest for which figures are available, there were 22 scrutiny overrides, amounting to 7.5% of the documents to which the scrutiny reserve applied (many of the 7.5% relating to the Common Foreign and Security Policy). In 2001 the Committee adopted a policy of calling Ministers to appear before it if they override the resolution without what the committee regards as

good cause; this has discouraged overrides. The effectiveness of the scrutiny reserve also depends on the way the Council organises its business.

Openness:

When taking evidence from Ministers and others (about ten times a year), the Committee's meetings are always in public (and broadcast on the internet). Other meetings of the Scrutiny Committee (e.g. to agree the weekly reports on documents) are held in private.

The Committee publishes reports covering in detail every document it regards as important (about half of the total number of EU documents in Parliament); these reports are published on the internet and in hard copy. Documents deposited in Parliament and awaiting scrutiny are listed in a paper called 'Remaining Business', which is updated weekly and is on the Committee's website. The Committee encourages organisations, etc. outside Parliament to send in their views, and these are mentioned in the Committee's reports and sometimes give rise to questions to Ministers and even debates. The limited time available for scrutiny makes it hard to gather such views or for those outside Parliament to submit views in time, but the Committee has been working to develop links with outside organisations, especially business organisations.

All meetings of the three European Standing Committees (which debate documents referred to them by the Scrutiny Committee and question Ministers on those documents) are in public. Transcripts of these are placed on the internet.

3.25.2 Sectoral Committees:

The sectoral/departmental committees have the role of monitoring a particular government Department, and it is up to them to decide how much time they will spend on the European issues within the responsibility of that department.

3.25.3 Recent developments of scrutiny procedures in the course of 2004-2005:

The main development has been an inquiry into the Commons European scrutiny system by the House's Modernisation Committee. Among the recommendations are: (i) the establishment of a Parliamentary European Committee, meeting about four times a year to discuss broad subjects such as the Commission's Work Programme, which any Member of either House and the UK's MEPs would be entitled to attend; Commissioners would sometimes be invited to address the Committee and answer questions; (ii) reform of the system of European Standing Committees which debate European documents, including an increase in the number from three to five so they can be more specialised; (iii) arrangements for implementing the subsidiarity early-warning mechanism (see below). All these will need to be agreed by the House to be implemented.

3.25.4 The House of Lords European Union Committee

Establishment

6 May 1974.

Composition:

Around 18 members from across the parties, with a further 52 on the Sub-Committees meaning that 70 members of the House of Lords are involved in the scrutiny of EU affairs.

Powers and responsibilities

The EU Committee has as its terms of reference “To consider European union documents and other matters relating to the European Union”.

Scrutiny reserve system

There is a scrutiny reserve which is not statutory. The Committee reviewed its scrutiny procedures in 2002 and made a number of recommendations including that the UK Government more regularly and transparently report to parliament in cases where the scrutiny reserve is overridden, and this is now happening every six months. In the period July–December 2004, the latest period for which consolidated figures are available, there were 20 overrides of scrutiny out of 293 legislative proposals to which the Reserve could apply, i.e. 7.51%. 16 of these 20 cases were accounted for by 4 government departments. The EU Committee continues to monitor the system carefully and will be examining the latest figures in June.

Openness:

- The Committee takes evidence in public meetings which are audio webcast (and sometimes televised or video webcast); deliberation is conducted in private.
- Evidence given to the EU Committee is published, in hard copy and freely available on the internet, along with the Committee’s final report on a topic, which also includes a summary of the evidence received.
- Much of the evidence is also published on the website, shortly after it is received.
- Committee reports are published for sale in hard copy and are freely available on the internet (copies are sent to COSAC colleagues: the distribution arrangements are currently under review).
- Plenary debates on EU Committee reports take place in public and broadcast on the internet; transcripts are published in Hansard and are freely available on the internet.
- All of the Committee’s formal correspondence with Ministers is published and made freely available on the website.
- A *Weekly Bulletin* lists forthcoming meetings and is published free and is freely available on the internet.
- A fortnightly *Progress of Scrutiny*, also published for sale and freely available on the internet, gives details of which proposals are under consideration by the Committee and its sub-committees.
- The Committee has undertaken to produce a free electronic monthly newsletter which will begin later this year.
- Our website allows users to register for free email alerts on the work of the Committee.

3.25.5 Sectoral Committees:

The House of Lords does not have sectoral committees.

3.25.6 Recent developments of scrutiny procedures in the course of 2004-2005:

Developments include:

- Review of scrutiny overrides
- Review of arrangements for plenary debates
- Review of proposals for subsidiarity scrutiny – decisions by the House awaited
- Contribution to government proposals for an additional joint parliamentary European Committee of the two Houses – decisions of the two Houses awaited
- Launch of inquiry into more effective regulation in the EU (to report by July 2005)
- Agreement to hold inquiry into CFSP scrutiny (to report by July 2005)
- Secondment of a member of staff to join the COSAC secretariat and act as the Committee's representative in Brussels

4 Monitoring the principle of subsidiarity

The subsidiarity principle requires that legislative actions are only taken by the European Union if the proposed objectives cannot be sufficiently achieved by the Member States.²² The subsidiarity principle first appeared in the EU treaties in 1993 when the Maastricht Treaty came into force and was given further emphasis with new detailed criteria to regulate the application of subsidiarity introduced by the Amsterdam treaty.²³ In particular the latest introduction of the so-called “subsidiarity early warning mechanism” in the Constitutional Treaty making *national parliaments* “players” at the European level has created renewed interest in the subsidiarity principle.

This chapter looks at how national parliaments presently *monitor the subsidiarity principle*, where they are in place as well describing the planned procedures for monitoring the EU institutions’ compliance with the subsidiarity principle under the “subsidiarity early warning mechanism” proposed in the Constitutional Treaty.

4.1 PRESENT MONITORING OF SUBSIDIARITY

Some national parliaments have since the introduction of the subsidiarity principle in 1993 had it as an important element of their scrutiny of European affairs to carry through an examination of whether EU draft legislation adheres to the principle of subsidiarity.

Today around half of the national parliaments have established procedures with the purpose of monitoring subsidiarity.

Most of these parliaments examine compliance with the subsidiarity principle as an integral part of the regular scrutiny of EU legislative proposals. A few parliaments have an independent capacity to analyse the legislative proposals, while the majority rely on an assessments provided by their governments.

Procedures vary from parliament to parliament in accordance with the type of scrutiny system in place. In general, European affairs committees are the key committee responsible for this control. This includes for instance the system in the German Bundesrat, where the Committee on European Affairs checks whether EU draft legislation respects the principle of subsidiarity, and in the Czech Chamber of Deputies, where all resolutions adopted by the European Affairs Committee on specific pieces of EU draft legislation are accompanied by an opinion on the compliance of the proposal with the subsidiarity principle.

In some parliaments, such as the Finnish, Dutch and Lithuanian, sectoral committees are also involved. The subsidiarity principle is one of the issues that the Grand Committee and the sectoral committees of the Eduskunta have routinely examined since 1995. The so-called “fiche procedure” of the Netherlands House of Representatives provides that a government “fiches” on an EU proposal shall be referred to the relevant sectoral committee, which may then call upon the minister to explain a subsidiarity issue before the legislative proposal is decided on at a Council meeting.

²² TEC article 5, second indent and TEU article 2 last indent.

²³ See protocol n. 30 of the Amsterdam Treaty coming into force on 1 May 1999.

Some national parliaments already start considering possible breaches of the subsidiarity principle further upstream in the EU decision-making procedure. This is for instance the case in the UK House of Lords and the Chamber of Deputies and the Senate of the Italian Parliament. In Italy the check takes place when the European Commission presents its annual work and legislative programme and when the Council of Ministers presents the annual and multi-annual programmes of the Council.

Table3: Current systems in national parliament for monitoring the subsidiarity principle

Member State	European Affaires Committee	Procedures for monitoring subsidiarity?
Austria - Nationalrat	Main Committee	Yes as part of the mandating process
Austria - Bundesrat	EU-Committee	Yes as part of the mandating process
Belgium - Chamber and Senate	The Federal Advisory Committee on European Affairs	No
Cyprus	Committee on European Affairs	No
Czech Republic - Chamber of Deputies	Committee for European Affairs	Yes
Czech Republic - Senate	Committee on European Affairs	No
Denmark	European Affairs Committee	Yes as part of the mandating process
Estonia	European Union Affairs Committee of the Riigikogu	No
Finland	The Grand Committee	Yes as part of the mandating process
France - Senate	Delegation of the Senate for the European Union	Yes as part the regular scrutiny of EU documents.
France - National Assembly	The Delegation for the European Union	Yes as part of the regular scrutiny of EU documents.
Germany - Bundestag	Committee on the Affairs of the European Union	Not systematically, but occasionally.
Germany - Bundesrat	Committee on questions of the European Union	Yes
Greece	Special Standing Committee for European Affairs	No
Hungary	Committee on European Affairs	No
Ireland	Joint Committee on European Affairs	Yes as part of the regular scrutiny of EU-proposals.
Italy - Chamber of Deputies	Committee on EU policies	Yes, when considering the European Commission's annual legislative programme
Italy - Senate	14th Standing Committee on EU-policies	Yes, when considering the European Commission's annual legislative programme
Latvia	European Affairs Committee	Yes when examining the governments position.
Lithuania	European Affairs Committee	Yes
Luxembourg	Committee for Foreign and European Affairs, for Defence, for Cooperation and for Immigration	No
Malta	Standing Committee on Foreign and European Affairs	No
Netherlands - House of Representative	The committee on European Affairs	Yes according to the so-called Fiche procedure
Netherlands - Senate	Standing Committee for European Co-operation Organisation	Yes
Poland - Sejm	The European Union Affairs Committee	No
Poland - Senate	The European Union Affairs Committee	No
Portugal	Committee on European Affairs	No

Slovakia	Committee of the National Council of the Slovak Republic on European Affairs	No
Slovenia - National Assembly	Committee for EU Affairs	No
Slovenia - National Council	The International Relations and European Affairs Commission	No
Spain - Congress and Senate	Joint Committee on European Affairs	No
Sweden	Committee on European Union Affairs	Yes as part of scrutiny process.
United Kingdom - House of Commons	European Scrutiny Committee	Yes as part of the regular scrutiny of commission documents and legislative proposals
United Kingdom - House of Lords	European Union Committee	Yes as part of the regular scrutiny of Commission documents and legislative proposals.

4.2 SUBSIDIARITY EARLY WARNING MECHANISM

As mentioned, many national parliaments already examine EU proposals with a view to their compliance with the subsidiarity principle as part of their *national scrutiny procedures*. But in the future, national parliaments will be directly involved in monitoring subsidiarity at the *European level* as well. This is one of the major developments of the Constitutional treaty which is currently in the process of being ratified in the 25 EU member states. This new role is most clearly expressed in article I-11 of the Constitutional Treaty which states: “*national parliaments shall ensure the compliance with the subsidiarity principle in accordance with the procedure set out in that protocol*”.

The control will be carried out in accordance with a special “*subsidiarity early warning mechanism*”, which empowers national Parliaments to demand that the Commission “*reviews*” a draft legislative act, if *at least one third* of the national Parliaments within six weeks submit a *reasoned opinion* arguing that a proposal breaches the subsidiarity principle.²⁴ This mechanism is often referred to as the “*Yellow card*”, because national parliaments can issue a *warning* to the Commission, if they find a breach on subsidiarity, but they are not empowered to block a piece of EU draft legislation. The Commission may “legally speaking” decide whether it wishes to withdraw, revise or maintain its proposal.

The Early warning mechanism was by the European Convention designed as an individual right of each national parliament (or parliamentary chamber). It was therefore also left to the discretion of each parliament to decide for itself how to organise the internal procedures to exercise the “subsidiarity check”. It is presently far from clear how national parliaments will handle this new responsibility, but provisional information provided by the national parliaments for the preparation of this report indicates that parliaments are making good progress.

4.2.1 Work in progress in the national parliaments

Up to now the parliaments of Denmark, Finland, Hungary, Lithuania and the Netherlands have concluded their considerations on how to operate the subsidiarity

²⁴ Also proposals originating from a group of Member States, European Parliament or other EU-bodies are to be examined by national parliaments with a view to their compliance with subsidiarity.

early warning mechanism. In Hungary, Lithuania and Denmark the systems have already come into force. In Hungary this happened in June 2004, whereas the Lithuanian system took effect in November 2004. The new Danish model came into force on 1 January 2005. The systems in Finland and the Netherlands are waiting for the Constitutional Treaty to come into force. In Finland an ad hoc committee of senior MPs and civil servants was set up on 21 November 2003 by the Speakers' Council of the Finnish Parliament to look into the matter. The conclusions of the Committee were agreed and submitted to the Speakers' Council on 18 February 2005. The intention is that the necessary adaptations of the Eduskunta's rules of procedure will be formally adopted at the same time as the Constitutional Treaty is approved. Information on the systems of the five parliaments can be found on COSAC's website on: www.cosac.org.

A number of other parliaments have come quite far in their internal considerations. This includes Sweden where a formal decision by the parliament is scheduled for December 2005 and the UK Parliament where the House of Commons is likely to adopt its system shortly after the new UK parliament assembles on 11 May. In the House of Commons a proposal has been drawn up by the European Scrutiny Committee and endorsed by the Modernisation Committee, but the formal approval by the House is missing. Also in the House of Lords the EU Committee has put forward recommendations as to which committees should be entrusted with the task of monitoring subsidiarity, but a final decision from the House is still to be taken. In the French National Assembly a report was published on 16 November 2004 from the European Delegation, which suggests a number of different possibilities.²⁵

4.2.2 Subsidiarity models to be foreseen in national parliament

Monitoring subsidiarity

European affairs committees appear to have been given a central role in a large number of the national parliaments when it comes to monitoring subsidiarity under the early warning mechanism. According to information provided by the parliaments for this report 18 of 37 chambers have indicated that the European affairs committees are foreseen to be entrusted with this task. In approximately half of the cases this will be done jointly with the competent sectoral committees of the Parliaments. In some parliaments such as the Finnish, Lithuanian, Latvian and Slovenian, the sectoral committees could even play the leading role when it comes to carrying through the actual examination of the EU proposals. In Finland the sectoral committees are the initiators of the process. Only if a sectoral committee proposes an examination, will it be examined by the Grand Committee. In Lithuania also the possibility of organising joint meetings between the European Affairs Committee and the responsible sectoral committee is foreseen.

The Netherlands Parliament has opted for a model, which does not involve its European affairs committee. The Netherlands has taken the decision to set up a special "Joint Subsidiarity Committee" composed of members of both Houses. The new Joint Subsidiarity Committee will also share the task with the sectoral committees of the Houses. In Sweden a decision is likely to be taken in the course of the spring which

²⁵ Towards a more democratic and efficient Europe: National parliaments and the subsidiarity principle, information report tabled by the National Assembly Delegation for the European Union (I), on the application of the subsidiarity principle:
<http://www.cosac.org/en/info/earlywarning/countryspecific/france/doc/information/>

could involve the Constitutional Affairs committee of the Riksdag in a joint procedure with the sectoral committees of Parliament.

The remaining 14 Parliamentary Chambers have not given indications of what they foresee as their preferred models.

Formal adoption and transmission of reasoned opinions

In most cases the formal adoption of *reasoned opinions* is foreseen to be taken by the in plenary but also some national parliaments are planning to grant this task to their European affairs Committees. This will for instance be the case in Denmark and Latvia.

The transmission of the “reasoned opinions” appears to be the job for the European affairs Committees in a large number of parliaments, but some parliaments have opted for the plenary as it may be the case in Hungary and the German Bundesrat.

For further details, see the table below.

Table 5: Bodies foreseen to be responsible for monitoring breaches on the subsidiarity principle

Member State	Bodies foreseen to monitor the compliance with subsidiarity principle	Bodies foreseen to be responsible for submitting reasoned opinion to EU-institutions
Austria - Nationalrat	European Affairs Committee	European Affairs Committee
Austria - Bundesrat	European Affairs Committee	European Affairs Committee
Belgium - Chamber and Senate	Not yet decided	Not yet decided
Cyprus	European Affairs Committee, sectoral committees, plenary	European Affairs Committee and plenary
Czech Republic - Chamber of Deputies	European Affairs Committee	European Affairs committee and Plenary
Czech Republic - Senate	European Affairs Committee	European Affairs Committee
Denmark	European Affairs Committee and sectoral committees	European Affairs Committee
Estonia	Not yet decided	Not yet decided
Finland	European Affairs Committee, sectoral committees	Plenary
France - Senate	Not yet decided	Not yet decided
France - National Assembly	Not yet decided, but probably European delegation and sectoral committees	Not yet decided, but probably the European delegation and sectoral committees
Germany - Bundestag	Not yet decided	Not yet decided
Germany - Bundesrat	European Affairs Committee and sectoral committees	Plenary
Greece	Not yet decided	Not yet decided
Hungary	European Affairs Committee and plenary	Plenary
Ireland	Not yet decided	Not yet decided
Italy - Chamber of Deputies	Not yet decided	Not yet decided
Italy - Senate	Not yet decided in public	Not yet decided
Latvia	European Affairs Committee and sectoral committees	European Affairs Committee
Lithuania	European Affairs Committee and sectoral committees and plenary	European Affairs Committee
Luxembourg	European Affairs Committee and sectoral committees and Plenary	Sectoral committee
Malta	European Affairs Committee and plenary	European Affairs Committee

Netherlands - House of Representative	A Joint Subsidiarity Committee, sectoral committees and plenary	A Joint Subsidiarity Committee
Netherlands - Senate	A Joint Subsidiarity Committee, sectoral committees and plenary	A Joint Subsidiarity Committee,
Poland - Sejm	Not yet decided	Not yet decided
Poland - Senate	European Affairs Committee and Plenary	European Affairs committee
Portugal	Not yet decided	Not yet decided
Slovakia	Not yet decided	Not yet decided
Slovenia - National Assembly	European Affairs Committee and sectoral committees responsible in the field	European Affairs Committee
Slovenia - National Council	Will not participate	Will not participate
Spain - Congress and Senate	Not yet decided	Not yet decided
Sweden	Not yet formally decided	Not yet formally decided
United Kingdom - House of Commons	European Scrutiny Committee and plenary	The speaker of the House
United Kingdom - House of Lords	European Union committee and the plenary	Not yet decided, but the EU Committee has made its recommendations

5 The Role of National Parliaments in the area of Freedom, Security and Justice under the Constitutional Treaty

This chapter describes the procedural developments relating to the EU's "area of freedom, security and justice" incorporated in the Constitutional Treaty, and further describes the specific procedures for scrutinising this area which have been adopted in some national Parliaments. It will focus on the description of the changes in the procedures to third pillar issues in the Constitutional Treaty.

The treaty takes over the notion of area of freedom, security and justice "with respect for fundamental rights and the different legal systems and traditions of the Member States". The treaty also hallows the principle of a "common policy of asylum, immigration and external border control, based on the solidarity between Member States". Following the decisions of the Tampere European Council in October 1999, it sets out the principle of "mutual recognition of judicial and extrajudicial decisions in civil matters".

The Constitutional Treaty will have a significant impact on the European Union's cooperation in the area of freedom, security and justice. Most importantly, it will bring to an end the current intergovernmental method in the field of police and judicial cooperation in criminal matters, introducing in its place the so-called community method, leaving it to the EU institutions to legislate in that area. The predominant legislative procedure in this area will be co-decision, or the "ordinary legislative procedure" (as it is renamed in the Constitutional Treaty), giving the Council and the European Parliament joint responsibility for legislation.

It is proposed that the so-called co-decision procedure should be named the "**ordinary legislative procedure**", because, under the Treaty, this procedure will become the predominant way of adopting European legislation. The remaining procedures will be called "**specialised legislative procedures**", under which the European Parliament may be consulted, asked for its consent or not involved.

Furthermore, the Council will take decisions on measures in most of the area by qualified majority voting. Unanimity will still be maintained in certain sensitive fields within the area of freedom, security and justice, such as the rules for establishment of the European Public Prosecutor. The treaty also seeks greater direct involvement of national Parliaments in the area by giving them tasks in monitoring the activities of the EU institutions.

5.1 THE CHANGES IN LEGISLATIVE PROCEDURES

5.1.1 *Ordinary and specialised legislative procedures*

As mentioned above, the Constitutional Treaty foresees a number of changes to the legislative procedures of the European Union in the area of freedom, security and justice. The Treaty puts the European Parliament on an equal footing with the Council for legislating in a number of fields in this policy area, where it previously held a smaller role. Take, for example, Article III-271, paragraph 1, which concerns the establishment of minimum rules on the definition of criminal offences and sanctions in the area of particular serious crimes with a cross-border dimension, where, at present,

the decision-making procedure presently provides only for consultation with the European Parliament. For a complete list of the legal bases in the area of freedom, security and justice where the ordinary legislative procedure will be applied, refer to Table 1.

In other fields, the actual decision-making process is going to remain unchanged, which in many cases implies unanimity in the Council. Art. III-269 specifies that Council shall act unanimously after consulting the European Parliament on measures concerning family law with cross-border implications. For a complete list of the legal acts in the area of freedom, security and justice, where the specialised legislative procedures are going to be applied, please refer to Table 2.

5.1.2 Instruments

Going from the present intergovernmental cooperation on police and judicial cooperation in criminal matters to the community method introduced by the Constitutional Treaty also mean that current inter-governmental legal instruments such as decisions, framework decisions and conventions would be replaced by European laws and framework laws (as directives and regulations are called under the current EC Treaty). They could therefore create directly applicable rights for citizens and enterprises.

5.1.3 Right of initiative

With the ratification of the Constitutional Treaty, the right of initiative in section 2 policies on Border checks, Asylum and Immigration will become a Commission monopoly. Under the current rules the Commission has the main responsibility, but the Member States could still request the Commission to examine proposals for submission at least until 1st May 2004. This is to say that the right of initiative in this field was shared between the Commission and Member States. The limitation of the intergovernmental method in these areas have led Member States to partially communitarise these areas as foreseen in the Treaty of Amsterdam (title IV). Some specificities in comparison to the Community method were maintained: the right of initiative for the Member States until 1st May 2004, unanimity in the Council, and limited rights for the Court of Justice. The ratification of the Constitutional Treaty will introduce the Community method.

On **judicial cooperation in criminal matters** and **police cooperation**, the right of initiative is not an exclusive Commission prerogative. Under the Constitutional Treaty, the Commission will share its right of initiative with Member States, as is presently the case under the EC Treaty. Legislative acts within these areas can be adopted on a proposal from the Commission or from one quarter of the Member States. Under the current treaty, one single Member State can submit a proposal. The necessary qualified majority for initiatives originating from the Member States will be higher than for those coming from the Commission, because they have to represent 72% of the Member States and 65 % of the population.

5.1.4 Passerelle Clauses

The Constitutional treaty contains a number of so-called passerelle clauses allowing the Council to introduce the ordinary legislative procedure and qualified majority in a number of specific fields without having to go through an IGC: This includes for instance measures concerning family law with cross-border implications which are to be subject to unanimity in the Council and consultation of the European Parliament. Article III-269, paragraph 3 contains such a "passerelle", allowing to pass to the ordinary legislative procedure concerning certain aspects of the family law. Unlike the general passerelle clause in art.IV-444, it does not provide the national Parliaments

with a right to oppose the acts. The Council, following a proposal from the Commission, could act unanimously after consultation of the European Parliament and could apply the ordinary legislative procedure in this area. A similar passerelle provision is presently included in Article 67 paragraph.2 in the TEC, but has not been used.

Another passerelle clause concerns Article III-270 paragraph.2, i.e. the mutual recognition of judgements and judicial decisions and police and judicial cooperation in criminal matters with a cross-border dimension. The ordinary legislative procedure is already applicable in fields such as mutual admissibility of evidence between Member States; the rights of individuals in criminal procedure and the right of victims of a crime. Under the Treaty, the Council may decide to add any other aspect of criminal procedure to this article, after having taken an unanimous decision and after having obtained the consent of the European Parliament.

Finally article III-271 provides for the Council to identify other areas of crime for which the EU may establish minimum rules concerning the definition and sanctions in the areas of particularly serious crime with a cross-border dimension. This would require the consent of the European Parliament.

5.1.5 "Safety clauses for Member States"

If a Member State considers that a draft European framework law within the Judicial cooperation in criminal matters (III-270, p.3) would affect fundamental aspects of its criminal justice system it may request the draft act to be referred to the European Council. The Constitutional Treaty provides a special safety clause in art.III-270 paragraph.3 and Art.III-271 paragraph 3 specifying this. These paragraphs apply more specifically to the fields of "mutual recognition of judgements and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension" as well as the "areas of particular serious crimes (defined in Art.III-271) with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis".

If the draft act is referred back to the European Council, the European Council shall decide, within four months, to refer the draft back to the Council or to request the Commission or the group of Member States from which the draft originates to submit a new draft.

An "accelerating mechanism" was inserted in the safety clause. If a Member State has chosen to use its right to refer a proposal to the European Council and, and no decision has been taken by the European Council within a period of a year, a group comprising at least one third of the Member States may establish enhanced cooperation on the basis of the draft framework law concerned.

5.1.6 Court of Justice

The competences of the Court of Justice are presently limited in the areas under Title IV of the TEC (free movement of persons), as well as in third pillar issues (Title VI of TEU). Under the Constitutional Treaty, the Commission would be entitled to start infringement procedures against Member States breaching the Treaty in the area of freedom, security and justice. The competence of the European Court of Justice would no longer be limited, except where Article III-377 applies. The article states that: "the Court of Justice shall have no jurisdiction to review the validity or proportionality of operations carried out by the police or other law-enforcement services of a Member State or the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security."

5.2 THE ROLE OF NATIONAL PARLIAMENTS IN THE AREA OF FREEDOM, SECURITY AND JUSTICE

The constitutional treaty provides a privileged role for national parliaments in the area of freedom, security and justice.

5.2.1 Monitoring subsidiarity in the judicial cooperation in criminal matters and police cooperation

In the Constitutional Treaty, national parliaments are given a strengthened role in monitoring whether the EU-institutions respect the subsidiarity principle in the areas of judicial cooperation and police cooperation. Article III-259 states that national Parliaments "shall ensure that the proposals and legislative initiatives submitted under **judicial cooperation in criminal matters** and **police cooperation** comply with the principle of subsidiarity". The Protocol on the application of the principles of subsidiarity and proportionality specifies that the necessary threshold for legislation in the area of freedom, security and justice to be reviewed is reduced from one third to one quarter of all the votes allocated to the national Parliaments.

Sections 4 and 5 of the area of freedom, security and justice are still characterised by a shared right of initiative. Whereas under the "pure" Community method, the Commission monopolises the right of initiative, one quarter of the Member States may initiate acts under Sections 4 and 5, as well as under the European regulations referred to in article III-263,

5.2.2 National Parliament's right of information

Furthermore, Article III-260 provides for the creation of a mutual evaluation mechanism of the measures regarding the area of freedom, security and justice. Member States, in collaboration with the Commission, may conduct objective and impartial evaluations of the implementation of the Union's policies in this area, in particular in order to facilitate full application of the principle of mutual recognition. Regulations or decisions setting out the arrangements for such evaluations may be adopted by the Council on a recommendation from the Commission. The Article specifically provides that national parliaments, as well as the European Parliament, shall be informed of the content and the results of that evaluation.

There is a similar requirement to inform national Parliaments and the European Parliament of the proceedings of the standing committee to be set up within the Council under Article III-261. This standing committee is to be established to ensure that operational cooperation on internal security within the Union is promoted and strengthened. The new Committee is not to be confused with the existing coordination committee on questions of internal security, the so-called "Article 36 Committee", since its role is clearly to promote operational cooperation, not the coordination of legislative work. The composition of this Committee is not described in detail in the Treaty. The statute of this Committee will be adopted by simple majority of the Council after consultation of the Commission (Art. III-346).

5.2.3 A role for national Parliaments in scrutinising Eurojust and Europol

The Constitutional Treaty associates national Parliaments to the political control of Eurojust and Europol. The treaty makes provisions for national Parliaments, together with the European Parliament to evaluate the activities of Eurojust, (art. III-273) and to scrutinise Europol's activities (Art. III-276).

Article III-273 paragraph 1 determines Eurojust's structure, operation, field of action and tasks. The treaty reinforces Eurojust's role by allowing the initiation of criminal

investigations as well as proposing the initiation of prosecutions conducted by the competent national authorities by taking into account the national traditions and practices as stated in declaration No.23 in the Annexes of the Treaty. Eurojust's tasks shall also include the coordination of investigations and prosecutions and the strengthening of judicial cooperation, including by resolution of conflicts of jurisdiction and by close cooperation with the European Judicial Network.

The structure, operation, field of action and tasks of Europol can be adopted, as for Eurojust, by the ordinary legislative procedure. Furthermore, Art.III-276 paragraph 2, which refers to Europol, calls for national parliaments to develop procedures to scrutinise Europol, together with the European Parliament.

Table 6: Overview of legal acts in the area of freedom, security and justice, where the ordinary legislative procedure will be applied (co-decision and qualified majority in the Council)

	New procedure?	Article	Decision-making procedure today	Role of the European Parliament today
1		III-265, p.2: Controls on persons when crossing internal and external borders, etc. (TEC Art. 62 and 67)	Unanimity ²⁶ /QMV	Consultation/co-decision.
2		III-266, p.2: Asylum. (TEC Art. 63, p.1 and 2 and 67)	Unanimity/QMV	Consultation/co-decision ²⁷
3		III-267, p.2: Immigration. (TEC Art. 63, p.3 and 4 and 67)	Unanimity ²⁸	Consultation
4	New article	III-267, p.4: measures to provide incentive measures and support action of Member States with a view to promoting the integration of third-country nationals.		
5	Partly new article ²⁹	III-269, p.2: Judicial cooperation in civil matters. (TEC Art. 65 and 67)	QMV - unanimity in Council is nevertheless maintained for family law measures with cross-border implications.	Co-decision (except measures concerning family law, where the EP is consulted.)
6		III-270, p.1: judicial cooperation in criminal matters; mutual recognition of judgements and judicial decisions. (TEU Art. 31)	Unanimity	Consultation
7	New article	III-270, p.2: judicial cooperation in criminal matters; minimum rules concerning mutual admissibility of evidence between Member States, the rights of individuals in criminal procedures and the right of victims of crime.		
8		III-271, p. 1: minimum rules concerning the definition of criminal offences and sanctions in the areas of particular serious crime with a cross-border dimension. (TEU Art.. 31)	Unanimity	Consultation
9	New article	III-271, p.2: minimum rules with regard to the definition of criminal offences and sanctions in relation to the approximation of criminal laws and regulations of the Member States.		

10	New article	III-272: measures to promote and support the action of Member States in the field of crime prevention.		
12	New article	III-273: Eurojust.	Unanimity	Consultation
12	New article	III-273: arrangements for involving the European Parliament and national parliaments in the evaluation of Eurojust's activities.	Unanimity	Consultation
13	New article	III-278: judicial cooperation in civil matters; e), g) and h)	Unanimity	Consultation
14	New article	III-276, p.2: Europol. (TFII Art. 30)	Unanimity	Consultation

Table 7: Overview of the legal bases in the area of freedom, security and justice where specialised legislative procedures will be applied

	New procedure?	Article	Decision-making procedure today	Role of the European Parliament today
1		III-269, p.3: Family law with cross-border implications. (TEC Art. 65 and 67)	Unanimity/unanimity	Consultation/consultation
2	New article	III-274, p.1: European Public Prosecutor.	Unanimity	Consent
3		III-275, p.3: Operational cooperation between authorities of Member States' including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences. (TEU Art. 30, p. 1a)	Unanimity/unanimity	Consultation/consultation
4		III-277: Conditions and limitations under which the competent authorities of the Member States may operate in the territory of another Member State in liaison and in agreement with the authorities of that state. (TEU Art. 32)	Unanimity/unanimity	Consultation/consultation

5.3 SPECIALISED PROCEDURES ADOPTED BY THE NATIONAL PARLIAMENTS TO SCRUTINISE MEASURES IN THE AREA OF FREEDOM, SECURITY AND JUSTICE

5.3.1 Scrutiny procedure

Whereas most national parliaments use their standard European scrutiny procedures to scrutinise measures in the area of freedom, security and justice, some Parliaments have adopted different procedures to examine matters in this area.

The Member States whose national parliaments have developed different scrutiny systems for measures in the area of freedom security and justice are Denmark, Italy and the Netherlands.

Denmark

As a result of the Danish referenda on the Maastricht Treaty in 1992 and 1993, Denmark has opt-outs from participation in EU policies in four areas (monetary policy, union citizenship, defence, and justice and home affairs). The opt-out related to justice and home affairs means, that Denmark only participates in EU judicial cooperation at an intergovernmental level (3rd pillar). Accordingly, Denmark takes no part in the justice and home affairs co-operation in Column 1. Thus, Denmark does not participate in the adoption of acts in this area and is not bound by them. (An exception is that Denmark participates in the part of the visa co-operation already located in Column 1 before the Amsterdam Treaty.)

When it comes to the intergovernmental cooperation in 3rd pillar (e.g. adoption of Framework Decisions regarding judicial cooperation in criminal matters) the parliament's scrutinising measures are slightly different than the procedure used in other EU policy areas: If a Framework Decision does not require changes in any Danish laws, the European affairs committee will – as usually – be responsible for giving the government a mandate before the minister can agree to a given proposal in the Council. However, if the implementation of a Framework Decision requires changes in Danish law, the government can not agree to the proposal in the Council before the Danish parliament as such – not the European affairs committee – has given its consent. The Parliament gives its consent by passing a draft resolution regarding the Framework Decision in question.

The Minister of Justice reports on a regular basis to the European affairs committee on the activities of Europol and Eurojust.

Italy

The parliamentary scrutiny in the area of freedom, security and justice is not systematically regulated by the Rules of the Senate and the Chamber of Deputies. The general provisions concerning the drafting of EU legislation apply.

A more structured control procedure is envisaged for the Parliamentary Committee on Schengen, Europol and immigration issues, established under Law no. 388 of 30 September 1993, which ratified the Schengen Agreement, and the Convention applying it. The ratification law provided, in addition to the provisions on the direct implementation of the two treaties, for the establishment of a parliamentary committee responsible for “verifying the implementation and functioning of the Convention applying the Schengen Agreement”. Under the above law, the Committee should exert its control functions mainly by giving binding opinions on proposed measures sent by the Government. Following the entry into force of the Amsterdam Treaty, the Schengen provisions were no longer a matter of intergovernmental cooperation and

were incorporated into the first and third pillars of the European Union. Consequently, the Government stopped sending proposed measures to the Committee for advice. At present, the Committee's advisory functions are generally regulated by the provisions on Parliament's participation in the EU decision-making process.

Law no. 93 of 23 March 1998, ratifying and enforcing the Brussels Europol Convention of 26 July 1995 which established the European Police Office, assigned to the Committee oversight functions on the Europol national unit according to the procedures established by the Committee's own Rules. The above law also laid down that the Committee shall receive an annual report from the Government on the implementation of the Europol Convention, including the essential information and assessments by the Government on the privileges and immunities enjoyed by Europol staff.

Under law no.189 of 30 July 2002 on "Amendments to the legislation on immigration and asylum", the Committee's name was changed into "Parliamentary Committee for the control of the implementation of the Schengen Agreement, oversight on the activity of Europol, control and oversight on immigration". In conformity with the provisions of article 37 of the above law, the Committee's control and oversight functions extend to the actual implementation of the legislation on immigration and asylum and the relevant international agreements. Furthermore, the Government shall submit an annual report to the Committee that will report yearly to the Chambers on its activity.

The Netherlands

Since the entry into force of the Treaty of Maastricht on 1 November 1993, under the act of assent to that treaty both Chambers of the States General have the right to approve all draft decisions that will bind the Kingdom of the Netherlands which are pending before the Justice and Home Affairs Council. The two Chambers retained this right on the entry into force of the Treaties of Amsterdam and Nice. In this context, the House of Representatives has established a special internal procedure known as the Justice and Home Affairs procedure.

This right of assent means that the Netherlands, or the government on its behalf, cannot agree in Council to a European decision, intended to bind the Kingdom to be adopted under Title VI of the Treaty on European Union or Title IV of Part three of the Treaty establishing the European Community intended to bind the Kingdom until the States-General have given their assent. On the terms of this right of assent, the act sanctioning the Treaty of Maastricht provides (in Section 3) among other things that:

A draft decision within the said areas, that is intended to bind the Kingdom, shall be published and submitted to the States-General immediately after the text of the draft has been produced, and before any decision on it is made by the (Justice and Home Affairs) Council.

The assent of the States-General is required before the representative of the Kingdom may cooperate in the adoption of a decision. Tacit approval is granted if neither Chamber has expressed a wish for the draft decision to be explicitly approved within 15 days of submission of the draft decision to the States-General. The right of assent does not apply to the ratification of treaties, since treaties must be ratified by the relevant individual member states and therefore have to be approved by both Chambers of the States-General in the Netherlands.

Both Chambers must approve draft decisions if the government wishes to cooperate with the adoption of a decision. If, therefore, one of the Houses withholds its assent the government will not be able to give this cooperation.

The House of Representatives normally gives its assent tacitly. In practice, the House of Representatives is normally deemed to have given its assent if a majority of the members in the House of Representatives indicates held during the general consultations, prior to the relevant meeting of the Justice and Home Affairs Council, that they will not withhold their assent.

It also follows from the act of assent that the right of assent is limited to giving or withholding approval. The right of assent therefore does not give the right the States-General the right to issue a binding mandate, which the government is obliged to follow. However, the right of assent does mean that the Senate and the House of Representatives may steer the negotiations by passing a motion setting out the course they wish the government to take.

For the procedure examining whether legislative proposals comply with the principle of subsidiarity the same procedure as described above will be used.

5.3.2 *Scrutiny of Europol and Eurojust*

France

In France, article 88-4 of the Constitution provides for the examination of the activities of Europol and Eurojust. For example, the Assemblée Nationale examines the budget of Europol as well as the protocols which amend the Convention. In the past, the Senate has for instance heard the President of the common control authority of Europol on the question of data protection.

The Assemblée Nationale, in its resolution n.158 of June 2003, in application of article 88-4 of the Constitution, has adopted a position which advocates the establishment of a mixed parliamentary Committee on the future of Europol. But the establishment of such a mixed committee is bound to the ratification of the Constitutional treaty. This Committee would be composed of national and European parliamentarians. In its conclusions, the Assemblée underlined the present lack of democratic control over Europol. The role of Europol and Eurojust in the fight against terrorism has also been examined in the information report No.2123 of M. Christian Philippe.

The French Senate adopted a position in favour of creating a mixed parliamentary committee in November 2003. The Senate's delegation for European Affairs has decided to create a working group to examine the questions of Europol and Eurojust more specifically.

Italy

In Italy, Europol activities have been examined through fact-finding enquiries. Two enquiries have been conducted by the Parliamentary Committee of control on the implementation of the Schengen Agreement, oversight on Europol activity, control and oversight on immigration issues. The first enquiry on the implementation of the Europol Convention was conducted during the previous legislature; the second on Europol's potential and prospects was concluded with a document adopted on 29 January 2003.

According to the conclusions of the second enquiry, "it is extremely important to establish an actual operational link between the individual national parliaments and the European Parliament by creating a mechanism which – through a regular and institutionalised exchange of information – would make it possible to examine and coordinate the respective roles. The experience of the Italian Parliament through the Committee suggests that the European Commission's proposal on the creation of a joint committee composed of members of national parliaments' committees and of the European Parliament having jurisdiction over police matters is the most adequate and can provide a useful tool to make the parliamentary scrutiny of Europol more

effective. In this context, the Committee believes that the establishment of a body involving all national parliaments in the oversight of the European police institution can be a further step towards the integration of Europol in the Community structure and can provide an opportunity for a real democratic dialogue on matters such as freedom, security and justice, which concern all Union citizens without distinction...”.

Spain

In Spain, a number of specific measures related to Europol or Eurojust have been discussed by the relevant committees (Interior, Justice) either as oral questions or as non-legislative motions.

United Kingdom

In United Kingdom, the House of Commons the European Scrutiny Committee already examines documents relating to Europol and Eurojust, especially its annual report. At present the committee examines documents relating to Europol and Eurojust by using its standard procedure for examining EU documents. No decisions have been made as to whether any changes may be made if Articles III-273 and III-276 of the Constitutional Treaty come into force.

Europol has been the subject of several inquiries and reports by the EU Committee in the House of Lords. Most recently, the Committee examined proposals for amending the Europol Convention (which initially published by the Danish Presidency in July 2002). The report *Europol's Role In Fighting Crime* (5th Report of Session 2002-03, HL 43) is available on the internet.³⁰ In its report, the Committee supported the idea of a joint committee of Members of national parliaments and the European Parliament to scrutinise the work of Europol.

Successive drafts of the Decision to establish Eurojust were subject to detailed scrutiny in the House of Lords by Sub-Committee E (Law and Institutions) of the Select Committee on the European Union, which led to an extended correspondence with the Government over a period of more than a year starting in November 2000.³¹ Sub-Committee F (Home Affairs) conducted an inquiry into the work of Eurojust in 2004. The Committee's report *Judicial Cooperation in the EU: the role of Eurojust* (23rd Report of Session 2003-04, HL 138) is available on the internet.³²

In its report the Committee pointed out that in spite of the fact that Eurojust is a Third Pillar body, there is no formal mechanism for regular parliamentary scrutiny of the work of Eurojust by national parliaments. Furthermore, the European Parliament has only a limited say—the Eurojust Decision requires the Presidency of the Council to forward to the European Parliament the Eurojust Annual Report and the Report on the activities of the Joint Supervisory Body.

The Committee welcomed the fact that the Constitutional Treaty calls for the adoption of legislation to determine arrangements for involving the European Parliament and Member States' national parliaments in the evaluation of activities of Europol and Eurojust. The Committee recommended that the idea of a joint committee of Members of national parliaments and the European Parliament could be the way forward in developing parliamentary scrutiny of the activities of Eurojust.

³⁰ <http://www.publications.parliament.uk/pa/ld200203/ldselect/lducom/43/43.pdf>

³¹ See the Committee's report *Correspondence with Ministers* (18th Report, 2001-02, HL Paper 99), pages 48-62.

³² <http://www.publications.parliament.uk/pa/ld200304/ldselect/lducom/138/138.pdf>

Table8: Overview of the use special procedures in the area of freedom, security and justice under the new Constitutional treaty and the future role of national Parliaments concerning the examination of Europol and Eurojust

Member State	Scrutiny procedure	Subsidiarity procedure	Europol and Eurojust
Austria - Nationalrat	no specific procedure	no specific procedure	not yet decided
Austria - Bundesrat	no specific procedure	no specific procedure	not yet decided
Belgium - Chamber and Senate	no specific procedure	no specific procedure	not yet decided
Belgium - Senate	no specific procedure	no specific procedure	not yet decided
Cyprus	no specific procedure (the normal scrutiny procedure still being formulated)	no specific procedure	not yet decided
Czech Republic - Chamber of Deputies	not yet decided	not yet decided	not yet decided
Czech Republic - Senate	no specific procedure	no specific procedure	not yet decided
Denmark	special procedure (see above)	special procedure (see above)	The Minister of Justice reports on a regular basis to the European affairs committee on the activities of Europol and Eurojust.
Estonia	no specific procedure	no specific procedure	not yet decided
Finland	no specific procedure	no specific procedure	not yet decided
France - Senate	no specific procedure	no specific procedure	mixed parliamentary committee. The Senate has examined the activities of Europol through hearings
France - National Assembly	no specific procedure	no specific procedure	mixed parliamentary committee. The Assembly examines the budget of Europol as well as the protocols amending the Convention.
Germany - Bundestag			
Germany - Bundesrat	no specific procedure	no specific procedure	not yet decided
Greece	no specific procedure	no specific procedure	not yet decided
Hungary	no specific procedure	no specific procedure	not decided yet
Ireland	no specific procedure	no specific procedure	The Joint Oireachtas Committee on Justice, Equality, Defence and Women's Rights have considered both topics as part of its ongoing work programme.
Italy - Chamber of Deputies	no specific procedure	no specific procedure	Europol activities have been examined through fact-finding enquiries
Italy - Senate	no specific procedure	no specific procedure	Europol activities have been examined through fact-finding enquiries
Latvia	no specific procedure	no specific procedure	not yet decided
Lithuania	no specific procedure	no specific procedure	not yet decided
Luxembourg	no specific procedure	no specific procedure	not yet decided
Malta	no specific procedure	no specific procedure	not yet decided
Netherlands - House of Representative	special procedure (see above)	special procedure	not yet decided
Netherlands - Senate	special procedure	special procedure	not yet decided
Poland - Sejm	no specific procedure	no specific procedure	not yet decided
Poland - Senate	no specific procedure	not yet decided	not yet decided
Portugal	no specific procedure	no specific procedure	not yet decided
Slovakia	no specific procedure	no specific procedure	not yet decided
Slovenia - National Assembly	no specific procedure	no specific procedure	not yet decided
Slovenia - National Council	no specific procedure	no specific procedure	not yet decided
Spain -Congress and Senate	no specific procedure	no specific procedure	activities have been discussed by the relevant Committees
Sweden	no specific procedure	not yet decided	Not examined the activities as such but dealt with

			proposals concerning the Europol and Eurojust in the framework of the information and consultation procedure.
United Kingdom - House of Commons	no specific procedure	no specific procedure	In United Kingdom, the House of Commons the European Scrutiny Committee already examines documents relating to Europol and Eurojust
United Kingdom - House of Lords	no specific procedure	no specific procedure	Europol has been the subject of several inquiries and reports by the EU Committee in the House of Lords

6 The role of MEPs in national parliaments

This chapter provides an overview of the current involvement of MEPs in the national parliamentary activities concerning European Affairs. It focuses on the possibilities for MEPs to participate in the activities of European affairs committees, sectoral committees, plenary debates or meetings of their political groups.

On the basis of the replies by national parliaments to the questionnaire sent out by the COSAC secretariat, the following information can be provided.

6.1 THE RIGHT FOR MEPS TO PARTICIPATE IN MEETINGS OF THE EUROPEAN AFFAIRS COMMITTEES AND SECTORAL COMMITTEES OF THE NATIONAL PARLIAMENTS.

In 19 parliamentary chambers, MEPs have the right to participate in regular meetings of the European Affairs Committee, on the basis of a standing invitation. In 5 other chambers MEPs also have the right to participate in the European affairs committees case, but only on a special invitation from the committee. 11 chambers do not have provisions for MEPs to participate in the meetings of their European affairs committees on a regular basis.

As regards to sectoral committees, in 8 parliamentary chambers MEPs have a standing invitation to participate in regular committee meetings, in 7 chambers this participation is only on the special invitation of the committee, and in the other 20 chambers the possibility for MEPs to participate does not exist.

In the cases where MEPs do participate in committee meetings, they never have the right to vote or to present motions or amendments. Their participation is limited to the right to speak.

Most of the parliamentary chambers that indicated they have no formal rules regarding the participation of MEPs in committee meetings, do however organize *ad hoc* meetings with MEPs in which they can present their views on specific topics or a given legislative proposal. These meetings are to be considered as hearings in which MEPs are invited as specialists and experts on certain issues.

A number of national parliaments have special provisions for involving MEPs in their work:

The Belgian parliament has created a Federal Advisory Committee on European Affairs that is composed of members of both national chambers as well as 10 MEPs. The MEPs participate fully in this advisory committee. (The responsibilities of this committee are described in Chapter 1 of this report.) Furthermore, Belgian MEPs have the right via the advisory committee to present written questions on European issues to the Belgian Government. This procedure is related to the right of information and is not considered as a control of the national government.

In the German Bundestag, 15 German MEPs are members of the EU Affairs Committee and they participate in regular meetings of the European Affairs Committee. As committee members, the MEPs may attend committee meetings, table proposals for the agenda, provide information and state opinions. They have the same access to documentation as the other members of the EU Affairs Committee. The EU

Affairs Committee occasionally invites other MEPs to report on specific aspects of the activities of the European Parliament.

In the UK, the scrutiny committees of the two Houses arrange informal meetings with UK MEPs twice a year. The decision has been taken that future meetings of that sort will be public, but none has yet been held in public. The European Scrutiny Committee recently had a formal meeting with members of the European Parliament's Constitutional Affairs Committee, which was treated as an evidence session. The House of Commons Modernisation Committee has proposed the establishment of a "Parliamentary European Committee", which UK MEPs would be entitled to attend.

In Denmark, the European Affairs Committee is at the moment planning to arrange special joint meetings with Danish MEPs on a monthly basis. These meetings will be on invitation, and will not be open to the public.

In Finland, both the Grand Committee and the Foreign Affairs Committee arrange joint meetings with the Finnish MEPs twice every year. The Eduskunta encourages sectoral committees to arrange periodic joint meetings with MEPs serving on similar committees, but so far with little success. The joint meetings would typically focus on 2-3 topical items that have been agreed beforehand. The meetings are for sharing information and discussion only; no decisions are taken.

In the Second Chamber of the Netherlands Parliament MEPs can take part in the debates of the EUC with the member(s) of government who will take part in the Council, before the Council takes place (this concerns the European Council and the General Affairs and External Relations Council). The MEPs can also take part in meetings of the sectoral committees, in the debates with the member(s) of government who will take part in the sectoral Council, for which the committee is responsible for.

In the Netherlands it is also possible for MEPs to submit a proposal for an inquiry to the Second Chamber via a parliamentary committee. The parliamentary committee can also decide to appoint a mixed working group (with members from the House of Representatives and the European Parliament) to study a subject with a particular EU dimension. The working group would then report to the "parent committee", which decides whether to publish the report as a parliamentary document and on any proposals to be made to the House of Representatives.

In the Irish Oireachtas, MEPs may take an active part in meetings of the Joint Committee on European Affairs and its Sub-Committees but without having a right to vote or to move motions and amendments. MEPs may also take part in meetings of the Joint Committee on Foreign Affairs and its Sub-Committees, on the same basis.

In the Italian Chamber of Deputies, the EU Policies Committee organizes every year a hearing of the Italian MEPs within the procedure for the consideration of the work and legislative programme of the European Commission as well as the annual and multi-annual programme of the Council.

6.2 THE RIGHT FOR MEPS TO PARTICIPATE IN PLENARY DEBATES

With a few exceptions, MEPs are generally not allowed to participate in plenary sessions of the parliamentary chambers of their national parliaments.

In the case of Hungary, MEPs can ask for the floor in the plenary only when legislative issues related to European affairs are being debated. They cannot however table amendments, nor put questions directly to ministers. In addition to this, the

Speaker invites the Hungarian MEPs to present their views to the national parliament at the start of each legislative semester.

In the Lithuanian Seimas, MEPs can take the floor in plenary debates when parliament allows them, and ask questions to rapporteurs or shadow rapporteurs.

In the Netherlands Second Chamber, MEPs can take part in the annual debate on the State of the Union, the government's report surveying the financial and policy implications of European decision-making process for the Netherlands, as well as a survey of policy intentions and financial implications in the coming year. This debate is held in the weeks after "Prinsjesdag", the third Tuesday in September, when the government presents its budget. The MEPs have the right to give their evidence, but cannot make interruptions, present motions or participate in the vote.

In the Netherlands Senate there are no provisions for MEPs to participate in debates or meetings. However, in the future the Committee on European Cooperation Organisations would like MEPs to participate in the annual debate of the States-General on the working and legislative program of the European Commission.

In the National Council of Slovenia, MEPs can also present their views in the plenary if the Speaker allows so.

6.3 COORDINATION WITH POLITICAL GROUPS IN THE NATIONAL PARLIAMENTS.

The question regarding the coordination between MEPs and their political groups in the national parliament was answered positively by most of the parliaments. The general additional remark was however that this was a matter for the political parties themselves, and that the method of coordination depended on the political groups.

The Hungarian Parliament responded that there were no official procedures. Nevertheless there were regulations related to this issue: the two biggest EP-factions (Socialists and the EPP) had their own central co-ordinating secretariat. The Act 57 provided the legal basis for the groups of MEPs to have office space in the Parliament Building free of charge [Article 15. par. (3)]. Each group of MEPs could employ one civil servant [Article 15. par. (6)]. Among each other MEPs have formulated a co-ordinating body, the Forum of Members of the European Parliament, which is a consultative body, and each Hungarian MEP is a member (Article 3. Act LVII of 2004 on the Legal Status of the Hungarian Members of the European Parliament).

Belgian MEPs are represented in the organs of their political parties. The political parties and their parliamentary groups organise regular meetings with their MEPs.

German liaison officers from the European Parliament's parliamentary groups attend the working groups of the corresponding parliamentary groups of the German Bundestag as well as meetings of the parliamentary groups themselves.

In Latvia, MEPs ensure cooperation with their political groups in the parliament by participating at the meetings of their respective political groups. They also pursue close cooperation with their political parties as MEPs take part at the parties' board meetings.

In the Austrian National Council, MEPs are members of their group in the national parliament. This is the same in the Slovak Parliament.

In the Slovenian National Assembly, MEPs coordinate with the national representatives on the level of working parties on particular EU-related issues before

the sessions of the Committee on EU affairs.

Swedish MEPs and national parliamentarians also meet party wise prior to meetings of the Committee on EU Affairs.

The Irish Parliament indicated that a number of political parties give MEPs the right to attend National Parliamentary Party meetings.

Table 9: Participation of MEPs in the work of national parliaments

Member State	Participation in regular European affairs committee			Participation in sectoral committees			Participation in plenary debates		Coordination with political groups		with
	Yes	On special invitation	No	Yes	On special invitation	No	Yes	No	Yes	Depends	
Austria -Nationalrat	x					x		x	x		
Austria -Bundesrat	x					x		x	x		
Belgium -Chamber	x				x			x	x		
Belgium -Senate	x					x		x	x		
Cyprus		x			x			x	x		
Czech Republic - Chamber of Deputies	x				x			x		x	
Czech Republic -Senate	x			x				x		x	
Denmark			x			x		x	x		
Estonia	x					x		x			
Finland			x			x		x	x		
France -Senate			x			x		x			x
France -National Assembly		x			x			x			x
Germany -Bundestag	x					x		x	x		
Germany -Bundesrat			x			x		x		informal	
Greece	x					x		x		x	
Hungary	x			x			x		x		
Ireland	x					x		x	x		
Italy -Chamber of Deputies			x			x		x			x
Italy -Senate			x			x		x			x
Latvia		x			x			x	x		
Lithuania	x			x			x			Informal	
Luxembourg		x			x			x	x		
Malta	x					x		x			
Netherlands -House of Representative	x			x			x		x		
Netherlands -Senate			x			x		x	x		
Poland -Sejm	x			x				x			
Poland -Senate	x			x				x		Not formally	
Portugal		x			x			x	x		
Slovakia	x			x				x	x		
Slovenia -National Assembly	x					x		x	x		
Slovenia -National Council	x			x			x				x
Spain Congress and Senate			x			x		x			x
Sweden			x			x		x	x		
United Kingdom -House of			x			x		x			

Commons										
United Kingdom -House of Lords			x			x		x	x	
