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## **New opportunity structures for the “*unusual suspects*”?**

**Implications of the Early Warning System for the  
role of national parliaments within the EU system  
of governance**

*Christine Neuhold & Alexander Strelkov*

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# New opportunity structures for the “*unusual suspects*”? Implications of the Early Warning System for the role of national parliaments within the EU system of governance

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## **Abstract**

*The Treaty of Lisbon upgrades the role of national parliaments in the European Union (EU) by foreseeing a number of mechanisms in order to contribute actively to the “good functioning of the Union”. One of the most notable provisions is the so-called Early Warning System (EWS), which has already been put to the test before the Treaty came into force. This contribution aims to assess first empirical experiences with this new mechanism. In this quest the concept of “opportunity structure” is used to assess the redistribution of power between the national level and the EU arena. The main argument is that a new opportunity structure empowers national parliaments that have thus far not played a pro-active role in EU affairs and as such provides new venues for their political action. These observations are based on an analysis of data of the “COSAC subsidiarity checks” and the IPEX database.*

**Keywords:** Early warning System (EWS), Lisbon Treaty, National parliaments, Inter-institutional relations

# New opportunity structures for the “*unusual suspects*”? Implications of the Early Warning System for the role of national parliaments within the EU system of governance

Christine Neuhold & Alexander Strelkov

## Introduction

National parliaments have undergone a remarkable fate within the European Union (EU) system of multi-level governance. From political players that have largely been side-lined by way of Treaty reform, the Treaty of Lisbon<sup>i</sup> now upgrades the role of national parliaments in the EU by foreseeing a number of mechanisms through which national parliaments are to “contribute actively to the good functioning of the Union”.<sup>ii</sup> A cornerstone in this context is the mechanism of subsidiarity control, which is commonly known as the early warning system (EWS). The EWS provides national parliaments with the prerogative to directly influence the EU policy process; by addressing the compliance of EU documents with the principle of subsidiarity. The EWS provides for a clear procedure, national parliaments do not depend on any other political actors to “activate” it. The ability of national parliaments to shape the content of EU policies can be assessed only on a case-by-case basis. So far it has not been clear to what extent the opinions of national parliaments have actually had an impact on EU legislation (Interview 16.09.2011)<sup>iii</sup>.

Against this background this contribution wants to examine first empirical experiences of implementing the EWS in the practical political process and probe into the variation of the use of the new instrument at the macro-level. Although the level of communication on subsidiarity issues between the national parliaments and the EU institutions has clearly increased, at the same time there are stark contrasts in the level of participation in the EWS by various national parliaments. In order to understand which factors can account for this variance the following data has been analyzed. First, we examined the so-called subsidiarity checks carried out by the Conference of Parliamentary Committees for Union Affairs (COSAC) across all Member States since 2005. Eight of these tests have been conducted to date and although they might have been carried out in somewhat artificial conditions they still shed light on some relevant issues at stake in the practical political process. Secondly, this is supplemented by an analysis of all reasoned opinions<sup>iv</sup> put forward by national parliaments since the entry into force of the Treaty of Lisbon until December 2011, which then allows us to draw first observations of seven years of experiences with the EWS<sup>v</sup>. The relevant data is retrieved from the IPEX database and cross-referenced with materials of the Directorate General of the European Commission, dealing with the European Parliament and national parliaments. Moreover interviews have been conducted with National

Parliamentary Representatives to the EP and administrators working within selected national parliaments as they not only have a unique insight into their own political system but also into the stance of national parliaments within EU affairs.

By examining both the COSAC subsidiarity tests and reasoned opinions submitted in 2010-2011 it is thus possible to provide an evaluation of how subsidiarity control mechanisms - enshrined in the Lisbon Treaty - are resorted to by national parliaments in the quest to influence the EU policy-making process.

In this quest, the main argument put forward is that the Treaty provides for new opportunity structures for national parliaments that have thus far-not played a “pro-active” role in EU affairs. To stretch the argument, one could thus speak of a certain degree of “emancipation” of national parliaments on the EU arena from their respective domestic executives.

To this avail this contribution is structured as follows: After examining the mechanisms of the EWS, as laid out in the Lisbon Treaty, an overview of the academic debate on the role of national parliaments in the process of EU integration is provided by linking it up to the model of opportunity structures. Drawing upon the main conclusions of the academic debate and the conceptual model (of opportunity structures), a number of assertions on the functioning of the EWS are then developed. The article concludes with an analysis of the data in light of the assertions as well with suggestions for a future research agenda.

## **I. The system of Early Warning in the Lisbon Treaty**

The debate on the democratic deficit of the EU has led to renewed interest in the possible role of national parliaments within the EU institutional framework - not only within the scholarly debate - but also on the political level. Within the political debate this is exemplified by the fact that the issue of national parliaments was on the agenda of the Convention on the Future of Europe. As a result, stipulations on enhancing the role of national parliaments were not only enshrined into the Constitutional Treaty but taken over (with few exceptions) virtually unchanged into the Lisbon Treaty<sup>vi</sup> (Raunio 2007a).

The formulation of policies and decision-making at the European level was to become a two-way democratic process in which Parliaments are the leading players:

- in the internal legal order, through scrutiny of the action of their respective government in the Council;
- and in the European legal order, through the new mechanisms provided for in the Treaty of Lisbon (Canas 2010, p. 2)<sup>vii</sup>.

The Lisbon Treaty thus added a new avenue for national parliaments - that at least theoretically - is to make parliaments into stronger players within the multi-level system. An overview of the new provisions for national parliaments can be found elsewhere (COSAC (2008)<sup>viii</sup>, Raunio (2007b) but at this stage it suffices to go into the mechanism to ensure compliance with the principle of subsidiarity. Accordingly, all Commission consultation documents are sent directly by the Commission to national parliaments. Moreover, draft legislative acts that are sent to the EP and to the Council, such as initiatives from a group of Member States or recommendations from the European Central Bank (ECB) are sent to national parliaments either by the EP (when it refers to an EP initiative) or by the Council (for all the other drafts).<sup>ix</sup> As soon as all language versions have been sent, national parliaments currently have eight weeks to check these proposals as to whether they comply with the principle of subsidiarity. Any national Parliament or any parliamentary chamber may then send to the Presidents of the EP, the Council and the Commission a reasoned opinion stating why the draft in question is seen to violate the principle of subsidiarity (COSAC 2008, p. 23). Each national parliament has two votes and in the case of bicameral systems, each of the two chambers has one vote. In this context two procedures, commonly referred to as ‘yellow and orange cards procedures’ come into play (Rothenberger and Vogt 2007). The so-called ‘yellow’ card procedure consists of the following: where reasoned opinions on violation of subsidiarity represent at least one third of all the votes of national parliaments, the draft must be reviewed (i.e. 18 votes out of 54).<sup>x</sup> After such review, the institution that has put forward the proposal may decide to maintain, amend or withdraw the draft and justify its decision. The ‘orange’ card procedure states that under the ordinary legislative procedure, if the reasoned opinions regarding subsidiarity represent at least a simple majority of the votes allocated to national parliaments (28 votes out of 54), the proposal must be reviewed. The Commission may then maintain, amend or withdraw the proposal but must give a reasoned opinion if it maintains the draft. This opinion, together with the reasoned opinions from national parliaments, shall be submitted to the co-legislators: Council and the EP. These can then overrule the Commission<sup>xi</sup> and no further consideration shall be given to the draft (COSAC 2008, p. 23-24).

## **2. Putting the Early Warning System into context within the academic debate on national parliaments within EU affairs**

### ***2.1. Linking up the concept of opportunity structure to the debate on national parliaments***

For the purpose of this contribution, the EWS is considered to represent a change in the opportunity structure<sup>xii</sup> for national parliaments. Opportunity structures form an interface between “structure” and “agency” in a given political system, implying a degree of redistribution

of resources and power. A change of opportunity structure provokes a redistribution of political resources and ultimately leads to a transformation of the balance of power between institutions, enabling actors to undertake new actions (Poloni-Staudinger 2008, p.533).

Opportunity structures can moreover be defined as “various types of channels of access to the public sphere and to the policy-making and implementation processes” (Nentwich, 1996). Hence, the creation of the EWS and the introduction of other formal provisions of the Lisbon Treaty create new mechanisms of involving national parliaments in EU policy-making, expanding their room of manoeuvre. What remains unclear is precisely how national parliaments will seize their new rights. Opportunity structures are seen as not external to the political process but defined and formed as a result of its development. Drawing on Princen and Kerremans (2008) one could thus argue that although the EU system has formally become more open to the concerns of national parliaments, it is unclear, whether EU institutions will be receptive to their suggestions and how exactly the legislatures will interpret the new provisions. The Lisbon Treaty has expanded the legal framework for the involvement of national parliaments in EU affairs, yet the provision of other elements such as resources necessary for its full use largely depend on the actions of political entrepreneurs<sup>xiii</sup>, who can interpret these rules to the benefit of parliaments. It goes beyond the scope of this paper to provide a full-scale evaluation of how national parliaments adapt to the new opportunity structures provided for by the Lisbon Treaty, yet this concept is, nevertheless, seen a useful heuristic devise to explain the changes that can be brought about by the EWS.

An opportunity structure (“post-Lisbon-Treaty”) would provide for new procedures and routines so that parliamentary actors become more autonomous and uphold more extensive contacts with EU institutions and experts. While “strong parliaments” will attempt to spread their influence to the realm of EU affairs, “weak parliaments” may attempt to develop procedures that would at least allow them to secure a “niche” in formulating policy towards the EU. A promising example is Romania<sup>xiv</sup>: after the split of the Joint European Affairs Committee and the adoption of a procedure for subsidiarity checks in Spring 2011, the chances of establishing a legal framework for executive-legislative cooperation in EU affairs seem higher, as the activity of both chambers in EU affairs increased (Interview 27.09.2011)<sup>xv</sup>; Interview 07.10.2011)<sup>xvi</sup>. New (and better) ways of establishing links between the European Affairs Committees and standing committees could also be established as reaction to the Lisbon Treaty. A staff-report from a working group of the Swedish Riksdag (2011) could be used as an example: here it is suggested to decentralise the system of scrutiny of EU affairs in Sweden even further; by providing standing committees with a right to mandate the government (Interview 13.03.2012<sup>xvii</sup>).

The new opportunity structure could moreover alter the relationship between the chambers in bicameral parliaments. For example the Czech Senate has not only complained directly to the European Commission that the so-called “convergence reports” were not sufficiently discussed at national level (Interview 19.10.2011)<sup>xviii</sup> but also directly addressed other national parliaments with requests to conduct scrutiny of specific legislative proposals according to the principle of subsidiarity (Interview 09.04.2012)<sup>xix</sup>. The Czech Chamber of Deputies has not shown such activism.

The discussion on the new opportunities the EWS could provide for national parliaments can be rooted into a much larger academic debate on national legislatures within the EU system of multi-level governance.

Several attempts to develop a classification of the involvement of member-states’ parliaments and explain cross-country variation have been made, although according to Costa and Rozenberg (2008) these are still highly subjective. An attempt of a classification is further complicated by the fact that research has repeatedly highlighted the stark contrast between legal provisions and parliamentary practice (Auel and Benz (2005), Kiiver (2006a), Sprungk 2010). Comparative case studies point to a distinct cross-national variation in scrutiny activities (Maurer and Wessels (2001), Raunio and O’Brennan (2007), Auel (2009)<sup>xx</sup>.

As with all branches of legislative studies, the literature on parliamentary scrutiny of EU affairs fails to provide a clear definition of a strong parliament. Attempts to define parliamentary power and influence<sup>xxi</sup> have largely centered around the debate coined by Mezey and Norton (Arter 2006a). According to Mezey (1979) the power of a legislature lies in its ability to constrain the executive. Yet, according to Norton (1998) the power to reject government’s proposals is a “negative” category, hence it can not form the basis of a typology of national parliaments. Indices of budgetary power of parliaments, for instance developed by Wehner (2006) can serve as a proxy for parliamentary strength, although Wehner’s typology does not include all CEE states. Using the Parliamentary Power Index (Fisch and Kroenig, 2009) is not seen as fruitful as due to a large N design it does not reflect significant differences between any of the European countries. Recent quantitative research by Sieberer (2011) sheds light on the fact that parliamentary power is a multi-dimensional concept, that includes influence on policymaking and the *ex ante* control of external officeholders and *ex post* control of the cabinet.

Nevertheless, several attempts to provide a classification of parliaments in EU affairs have been undertaken, for example by Magone (2001), Raunio (2005), Maurer and Wessels (2001) These typologies generally consider the Nordic parliaments as the strongest and most “pro-active” legislatures both in the domestic arenas and in EU affairs.



The relative newcomers to the EU, for example Slovakia and Latvia, are also described as assigning the Parliament quite strong a role at least from a legal perspective (Dimitrova and Mastenbroek 2006). Overall the parliaments of the Central and East European member-states are, however, described as still facing shortcomings but these are expected to diminish over time leaving countries such as Slovenia, which has largely taken over the Finnish system, with an effective system of control and oversight (Szalay (2007), Vehar (2007)<sup>xxii</sup>).

The UK, the Irish, the Dutch have also been classified as “moderate” players with having impact on their respective government’s position but without being able to block a governmental decision (Cygan 2007, p.93), Conlan (2007), Neuhold and De Ruiter (2010). The French and the German parliaments have been able to consistently increase their rights of information. Despite the fact that the French parliament has less formal scrutiny powers than its German counterpart, the latter is much more willing to hold its respective government accountable for the conduct of the EU policy (Sprungk 2010). The Southern European Member States have traditionally been coined as “laggards”, where the Italian and Portuguese parliaments have, however, been investing more resources into the scrutiny of EU affairs since the 1990s. The Spanish and Greek parliaments still seem to be very weak when it comes to controlling their government in EU affairs (Magone (2007)<sup>xxiii</sup>).

Others have engaged in a quest of defining the factors that contribute to effective parliamentary scrutiny in EU affairs. Drawing upon empirical research, the relations with sectoral committees, the access to expertise and the ability to process information are considered as the key explanatory elements (MacCarthaigh 2007, p. 37<sup>xxiv</sup>; Sprungk 2010; Neuhold and de Ruiter 2010). The Finnish parliament is seen somewhat as the “shining light” in this context, where particularly the decentralization of scrutiny and policy formulation to sectoral committees “increases the ability of the whole parliament to influence the government” (Raunio 2007b, p. 42).

Inter-chamber relations are also considered to have a major impact on the role parliaments play within the scrutiny of EU affairs. Here the German Bundesrat is seen as the strongest player, at least on paper. The involvement of the Länder governments is seen as more nuanced in the practical political process, however, as their participatory powers in European affairs depend on the extent to which the Länder or the Bundesrat are actually affected by EU measures (Kiiver 2006a, p. 55). Other upper houses for example in Austria, Belgium and the Czech Republic are seen as being over-shadowed by lower chambers when it comes to exercising control in EU affairs (Pollak and Slominski (2003), Vos et.al (2007), Pitrova and Coxova (2007)).

An emerging set of literature also focuses on the implications the EWS could have for parliamentary control. Due to the fact that we treat the EWS as one of the elements within the quest of national parliaments to influence governmental policy, this section thus relates to the

strands of the literature that focus on the control over the executive by way of parliamentary scrutiny. This in turn builds the basis for assertions as regards to the changes the EWS is expected to make to the system of parliamentary control.

Ultimately, the impact of the EWS on domestic executive-legislative relations is ambiguous. On the one hand, the EWS may hamper the development of a national position on a specific EU issue. Given that the EWS can be considered as a rather reactive mechanism, with national parliaments unable to actually set the agenda, this might create a burden for executive units coordinating EU policies. In fact, the parliament becomes a veto player (Tsebelis 1992), which can only hamper but not assist in developing a common national position. Being a veto player at the domestic level, a national parliament can easily “transcend” to the EU level, having the potential to block decisions, going against the position of the government in the Council, bringing the speed of integration to the “lowest common denominator” (Raunio 2005, 2007b, Hölscheidt 2008).

On the other hand, the EWS could have a positive impact on executive-legislative relations. A parliament recurring to the EWS may trigger a process of socialization with the executive, so the government becomes more accustomed to work with a “strong” parliament on EU affairs. The fact that a national parliament becomes more autonomous in a certain policy does not necessarily mean that relations with the government need to become more conflict driven. For example, according to Kiiver (2011, p.101) the development of the EWS at the EU level arguably mimics the functions of several political institutions at the national level, for example the French Council of State (Kiiver 2011, p. 101). Like the opinions of national parliaments within the EWS framework, the advice of a Council of State on bills is not binding but, in both cases, the procedure is an “institutionalised part” of the legislative process providing an additional platform for deliberation. This new “culture” of compromise can have the impact on the EU level as well. The EWS has been considered as a new model of parliamentary involvement in EU affairs and as such national parliaments are regarded as constituting a “virtual third chamber” for the EU “whose role is to pass democratic judgement collectively on EU legislative proposals” (Cooper 2006 , p. 291, Cooper 2012).

This contribution echoes those scholars that evaluate the EWS from a more positive stance. Although it is fully acknowledged that it is hard to distinguish between subsidiarity concerns and the content of the EU proposals, we argue that the EWS represents a rather simple route to acquaint members of national parliaments with EU policies. Given that the involvement of national parliaments is meant to achieve increased congruence between EU and national policies as well as to diminish the democratic deficit, the potential long-term socialising effect of the EWS should not be disregarded. Although the legal provisions of the EWS are not seen as path-

breaking, it is clear that institutions can interpret legal norms to their own benefit.<sup>xxv</sup> The early warning system can ultimately be interpreted by parliaments not only as a mechanism to influence EU legislation but also as an instrument to enhance inter-parliamentary cooperation and to influence respective domestic governments.

## **2.2. Putting forward some assertions**

Against this background the paper draws out several assertions, which are corroborated with more general observations on legislatures, that could explain the variance in the participation of national parliaments in the EWS.

**Assertion 1: National chambers which are classified as “strong” in domestic politics will play an enhanced role in the EWS.**

Parliaments that are strong and active players at the national level will be interested in maximising their mechanisms of influence and use the new opportunity structure the Treaty provides by trying to influence EU legislation directly by way of the EU institutions, rather than going via the Council. Arguably, the “cost” of trying to influence EU affairs will not be very high, as parliaments can draw on established resources and expertise prevalent within the domestic arena. In this context one could expect a certain degree of path-dependency: strong control mechanisms on the domestic arena could be translated into equally profound measures of controlling EU affairs. Parliaments that have been able to minimise “agency loss”<sup>xxvi</sup> within the context of domestic politics will have a better chance when EU decisions are at stake. At the same time legislatures with weak institutions simply provide no venue for placing effective constraints on government ministers and will have to undergo a long “learning process” to benefit from the EWS.

**Assertion 2: National chambers with specialised committees that play a subordinate role in the scrutiny of EU affairs will make limited use of the EWS**

Drawing on the studies of the US Congress one could argue along the lines of Gilligan and Krehbiel (1989) and Krehbiel (1991) by stressing that specialised committees cut transaction costs and enhance the access to information. In order to assess potential breaches of the principle of subsidiarity, the European Affairs Committees (EAC) of the EU Member-States’ parliaments must thus have access to policy expertise and information of other specialised committees. The EWS is directed towards influencing policy outputs (EU legislation) and strong committees are considered to be the most effective tool in this quest (Mattson and Strøm 1995). Hence, we expect that national chambers with specialised committees that play a subordinate role in the scrutiny of EU affairs, will resort to the EWS less frequently as they lack expertise and resources to select and

evaluate draft legislation. The process will be just the inverse for Parliaments that make direct use of specialised committees to scrutinise EU affairs, such as the Swedish parliament. It is assumed that these bodies will thus resort to the EWS more frequently as they will be able to process and scrutinise EU legislation in more detail and as such be able to flag up breaches of the subsidiarity principle.

**Assertion 3: Upper houses will participate in the EWS more frequently than lower chambers**

A majority of parliaments of the EU member-states provide examples of “weak bicameralism”, which is characterized either by asymmetric powers of the respective chambers or by their congruency (similar political representation) (Patterson & Mughan 1999, p.4, 338; Lijphart 1999). We thus assume that “weak” upper chambers will be prone to “evade” the dominance of lower chambers on the national level by getting increasingly involved in the EWS and the EU policy-making process. In cases of weak and asymmetrical bicameralism, upper houses will thus participate in the EWS more frequently than lower chambers and thus make use of the opportunity structures.

Arguably, as Scully (2001) claims the upper chamber will resort to its control functions only if different majorities prevail throughout the upper and lower house. This allows the upper house to reduce the dominance of the executive in cases when the lower chamber is controlled by the government, although this rarely happens in practice (Vatter 2005). Hence, the EWS can be used by opposition parties to voice their concerns if these are blocked within the domestic political arena or the parliamentary majority does not allow for any impact on the legislative agenda.

On the contrary, when the executive and parliamentary majority arise from the same party there is a potential risk of abusing the EWS: in compliance with subsidiarity can be voiced by respective governments in an attempt to slow down or block the adoption of draft legislation in the European Parliament and Council. However, not only the conflict between parliamentary majority and opposition can trigger the use of the EWS in (bicameral) parliaments. As Martin and Vanberg (2011, p.4) put it, parliaments “play a central role in allowing coalition parties to “police the bargain” that is at the heart of coalition government and to shape the policies that are ultimately adopted“. Hence, involvement in the EWS can constitute an intrinsic part of control mechanisms over the compliance with coalition bargains<sup>xxvii</sup>. Ultimately, the EWS can be used by parties (coalition members, opposition parties, groups within the parliamentary majority) to have leverage on their “allies” and “adversaries” within the parliamentary arena, allowing to translate scrutiny into policy change.

These assertions are now to be put to the test by way of empirical data of the COSAC subsidiarity tests and the reasoned opinions adopted between 2009 and 2011.

### **3. First observations on putting the Treaty provisions to the test: Subsidiarity checks carried out by COSAC**

#### **3.1. Setting the scene: The subsidiarity checks conducted by COSAC**

As shown above, the provisions on subsidiarity are one of the cornerstones of involving national parliaments into the EU system by way of the Lisbon Treaty. Due to the fact that they are highly complex it comes as no surprise that COSAC has tried to put the provisions to a test before they actually came into force. With the Constitutional Treaty looming in the air and the EU enlarging to 10 new Member States, COSAC already decided in November 2004, at its meeting in the Hague, to try to implement these provisions. So far eight subsidiarity checks were conducted, reaching from strategies to combat terrorism to setting up standards on transplantation of human organs.<sup>xxviii</sup>

It has to be stressed that a varying number of national parliaments participated in the checks. In 2005, when the first pilot project was carried out within the EU 25, 31 of the 37 national parliamentary chambers took part in the test (See figure 1). Once the Treaty actually came into force the number of parliaments not only participating in the checks but also completing them reached a record high: 36 national parliamentary chambers out of 40 participated in the subsidiarity check in December 2009. Problems have been largely overcome when it comes to the very tight deadlines (eight weeks) available for scrutiny under the Treaty of Lisbon. This is reflected by the fact that 34 out of the 36 parliaments participating in the most recent check on matters of succession reported no particular problems (Interview 16<sup>th</sup> November 2010c)<sup>xxix</sup>.

#### **3.2. Political constellations during the COSAC subsidiarity checks**

Based on the assertions formulated above, the checks were evaluated according to the following factors: the involvement of specialized committees and the cooperation between Upper and Lower Houses and the respective consultation of regional parliaments (See table 2).<sup>xxx</sup> Moreover the question was examined which parliaments and chambers took the lead when trying to activate the EWS.

At the launch of COSAC subsidiarity tests the cooperation between the executive and legislative branch was of paramount importance as ultimately the rules of procedure for consecutive subsidiarity checks were established in this quest. This triggered a “socialisation process” by which the governments became more accustomed to sharing information with parliaments on EU

affairs. Establishing the mechanism of data-sharing is crucial as “information is a fundamental pre-requisite for both controlling the government and influencing the policy proposals coming from the executive” (Raunio 2007a, p. 83). In this context it has to be noted that a vast majority of the governments provided written information and assessments on whether the proposal at stake complied with the subsidiarity principle or gave evidence to the respective committees scrutinising the proposals. Forerunners in this context were the UK, Denmark, Sweden, Ireland, the Netherlands, Austria, Germany (both to the Federal Council) Ultimately, most of the above mentioned national parliaments have already been using the provisions of the Maastricht and Amsterdam Treaties to enhance their access to information (ECPRD, 2003, p.16). This trend of cooperation between the executive and legislative can also be observed within newer Member States such as Estonia, Slovakia, Slovenia, Lithuania, Latvia and Bulgaria and to a certain extent the Czech Republic. This sheds light on the fact that a cooperative relationship between the executive and legislative has developed within these Member States at least during these checks and that the avenues for cooperation highlighted in the literature are actually being resorted to within the practical political process. Due to the inability to define a legal framework regulating executive-legislative relations, Romania played a minor role in the COSAC tests but nevertheless participated in the two of the checks with the government providing information (Interviews, 10<sup>th</sup> November 2010 and 12<sup>th</sup> November 2010)<sup>xxxi</sup>

Member States where there was virtually no cooperation with the government include Italy, Hungary, Portugal and the Polish Senate. This is again somewhat in line with traditions prevalent on the national level when it comes to controlling EU affairs where we thus far find little cooperation between the legislative and the executive (Gyori (2007), Lazowski (2007), Magone (2007)).

The involvement of specialized committees was examined as within the internal legal order the rise of sectoral committees can be observed in the quest of dealing with EU legislation (MacCarthaigh 2007, p. 40). In this context one has to stress the fact that during the COSAC checks the staff of EACs were the main players carrying out the checks. Yet we do see a strong involvement of sectoral committees in countries that have a pertinent tradition for involving such fora, for example in Finland, Sweden and Denmark but also in Luxembourg, Belgium, Germany, Greece, the Netherlands and the UK House of Lords and Portugal. In the practical process this is explained by the fact that committees can be activated by way of the subsidiarity checks to process legislation quickly, which is vital due to the tight deadlines (Interview 9. November 2010a and 17<sup>th</sup> November 2010) This trend is not confined to “older” Member States but can also be found in countries that joined the EU during the last round of enlargement such as Estonia, Lithuania and Latvia, which are noteworthy for having adopted some aspects of the Nordic systems of parliamentary control (Interviews 9<sup>th</sup> November 2010b and 03. November 2010).

Member States where the EAC took the lead without the involvement of sectoral committees were Austria, Hungary, the UK House of Commons and the Polish Sejm. This is also in line with the legal framework and traditions prevalent on the national level when it comes to the scrutiny of EU affairs.

As in bicameral systems each chamber has one vote within the EWS framework, coordination between the upper and lower houses is crucial for the efficient use of the subsidiarity mechanism. One would thus expect a coordination of positions in order to maximize influence on issues that are seen as salient at the national level and also the consultation of regional parliaments in this context. Here, however, the picture is quite bleak. This can at least be partly explained by the very limited time available for conducting these checks and potential inter-chamber rivalry. 13 parliaments in the EU of 27 Member States are bi-cameral parliaments but formal cooperation between these chambers has in fact been quite restricted, with Ireland and the Netherlands<sup>xxxii</sup> being forerunners in this context as they have (or had) a joint committee bringing together actors from both chambers. The consultation of regional parliaments was highly exceptional, where in Federal States such as Austria they were only consulted once (see table 2).

This paper does not provide for a comprehensive overview of relations between the parliamentary majority and the opposition, as well as the government on each of the policy issues raised by the EWS. In order to evaluate their role in triggering subsidiarity checks one would also need to assess their salience for a party. Nevertheless, a number of claims can be put forward. In the first place, different majorities in parliament seem to be conducive to triggering the subsidiarity checks. For example, the Czech Senate is dominated by the social-democratic CSSD, while the Chamber boasts a centre-right government majority. The Senate is at the same time much more active than the Chamber in EU affairs. On the contrary, at least on one occasion a reasoned opinion by the Czech Chamber of Deputies was “inspired” by the government, with the suggestions being transmitted along majority party lines. Yet, the majorities in both the Polish upper and lower chamber were similar during two consecutive electoral terms, while the Senate has still been marginally more active than the Sejm.

At the same time the symmetric chambers of the Romanian parliament do not necessarily provide for more activism of the opposition in EU affairs as both houses are so far dominated by the majority supporting the incumbent government. The importance of inter-coalition bargains can also impede on the active use of parliamentary control functions even in “strong” parliaments like Sweden, where “loyalty” and “cooperation” with the government are considered cornerstones of EU affairs scrutiny (Interview 08.03.2012)<sup>xxxiii</sup>. These selected examples thus provide evidence that party constellations do seem to have an influence on the way parliaments approach subsidiarity checks.



### 3.3. Results of the checks

One of the elements which is key, when examining the functioning of the early warning mechanism is whether parliaments actually found breaches with the subsidiarity principle and whether we can identify parliaments taking the lead in this quest. A trend one can observe when analyzing the checks carried out so far is that in none of the cases the necessary majority of votes to activate the early warning mechanism could be found. Even in the case of the third railway package where 14 parliamentary chambers - out of the 31 that participated - found a violation of the subsidiarity principle, they did not identify problems with the same proposal.

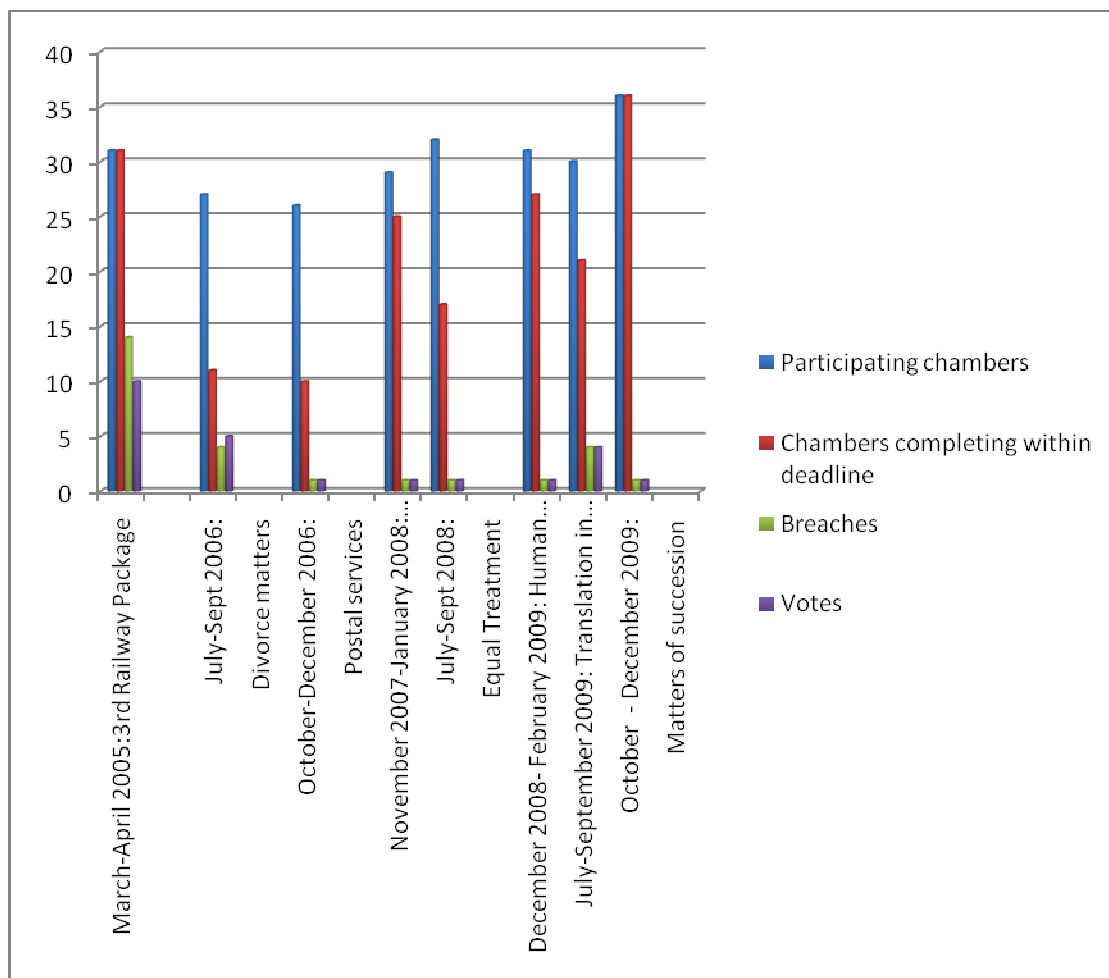
In the other checks the maximum number of parliaments finding a breach of the subsidiarity principle added up to a mere four and in several cases only one parliament or chamber identified a violation. This can at least partly be explained by the fact it is difficult to define and to separate the scrutiny of subsidiarity from the examination of the substance and this exercise was seen as rather artificial and technical (COSAC 2008). Another reason that is given is that the Commission tries to avoid to come up with proposals that could be violating the principle of subsidiarity (Interview 14<sup>th</sup> September 2010, Interview 27<sup>th</sup> September 2010, Interview 9<sup>th</sup> November 2010 and Interview 17. November 2010, Interviews 22. November 2010a).

According to assertion one, it can be expected that parliaments which are strong according to the domestic legal order within EU affairs, will flag up frequent breaches with the subsidiarity principle. Yet this was not the case in the practical political process; for example the Nordic countries did not try to activate the subsidiarity mechanism (see Table 1). In this context it has to be noted that Member States such as Finland actually concentrate on parliamentary control on EU affairs within their own internal legal order and do not see the EWS or other Treaty provisions as relevant when it comes to exercising parliamentary control (Interview, 16<sup>th</sup> November 2010a). This can be explained by the political tradition of consensus building, which can be jeopardized by the EWS as its application increases the cleavages between political actors. In case the “strength” of the parliament would be key, Nordic parliaments would thus have been the most active in triggering the EWS, which is not the case. Contrary to the expectations, parliaments of “new” member-states and rather non-influential legislatures of “older” member-states were most active in the COSAC subsidiarity tests. Although the COSAC tests have not resulted in policy change, they have given parliaments, which are normally unable to contribute effectively to the formulation of the respective governmental policies a mechanism to voice their concerns. This is to a large extent a symbolic act but one, which clearly shows the willingness of selected parliaments to grasp new legal opportunities.



When analyzing the performance of parliaments under the checks, we find that upper houses flag up a breach with the subsidiarity principle more often than lower houses (assertion 3). In this context the Czech Senate is the forerunner with finding breaches in 4 out of the 7 proposals scrutinized. This is explained by the fact that MPs represented in the Senate took a rather Euro-sceptic stance and wanted to give a clear message that these proposals were going too far as regards to the delegation of powers to the European level (Interview 16<sup>th</sup> November 2010d). The activism of the Czech Senate goes in a different direction than the rather passive picture that is painted in the literature (Pitrova and Coxova 2007).

**Figure 1** Number of breaches detected by parliamentary chambers during COSAC subsidiarity checks. March 2005- December 2009<sup>xxxiv</sup>



Source: COSAC Secretariat (2010)

The fact that the Belgian and French senate, the Austrian and German Bundesrat and the UK House of Lords also found breaches with the subsidiarity principle could be seen as a first indication that this is used as tool by these chambers to flex their muscles *vis a vis* their

government (Interviews 22. November 2010a and Interview November 22. 2010b, Interview 16<sup>th</sup> November 2010).

Ultimately, judging by the data from the COSAC tests, the third assertion, which considers bicameralism as the main explanatory factor in assessing the cross-national variance of subsidiarity tests, seems the most convincing. There was little cooperation between upper and lower chambers in checking subsidiarity compliance, which indirectly support the paper's assertion about the crucial role of bicameralism. Although the pooling of resources could have provided for an increase in expertise and leverage, the lack of cooperation between the chambers denotes a willingness of upper houses to develop a profile of their own in EU affairs and become more autonomous players. The data on involvement of specialized committees (assertion 2) provides for a mixed picture. For example in the test of the 3<sup>rd</sup> railway package out of 14 chambers that found a subsidiarity breach, only 6 involved sectoral committees and in the proposal for a regulation on matrimonial issues – 3 out of 5 chambers actually resorted to specialized committees. National chambers that found a subsidiarity breach in the proposal for directives on equal treatment, human organ transplantation and the proposal for framework decision on the interpretation of criminal proceedings did not involve sectoral committees at all. So overall the EACs still seem to be the main actors in light of the Lisbon Treaty, which thus contradicts the notion that sectoral committees would be on the rise due to the increased need for specialized expertise. We do however see a certain degree of path-dependency, Member States that resorted to specialized committees within EU affairs before the Lisbon Treaty also adhere to this system. Arguably, within the national parliaments the EACs are still the main policy entrepreneurs with regard to interpreting of Lisbon Treaty provisions. Although sectoral committees exert influence through technical expertise, it is largely by way of EACs that they can influence the position of the government, which is the main aim of parliamentary scrutiny. The input of sectoral committees varies on a case-by-case basis.

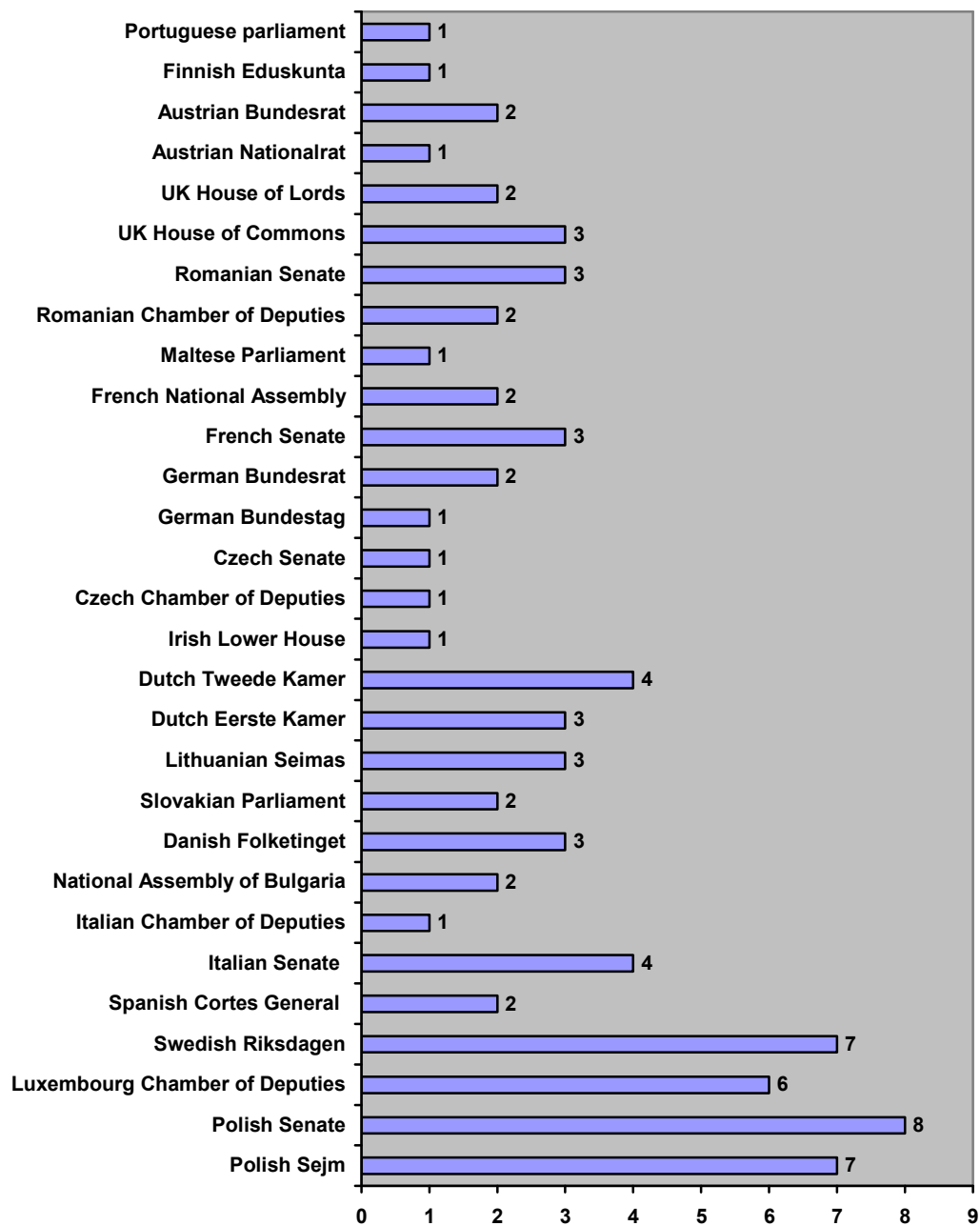
**Table I** Results of COSAC checks: Breaches of subsidiarity according to chambers<sup>xxxv</sup>

<b>Member State</b>	<b>Breach of subsidiarity principle</b>
Austria, Bundesrat	2 x
Belgium, Senate	2 x
Czech Republic, Chamber of Deputies	1 x
Czech Republic, Senate	4 x
France National Assembly	1 x
France Senate	1 x
Germany, Bundesrat	3 x
Ireland	4 x
Malta	1 x
Netherlands (both chambers)	2 x
Poland Sejm	1 x
Poland Senate	1 x
UK, House of Commons	2 x
UK, House of Lords	2 x

These observations are now to be linked up to the first experiences with the Lisbon Treaty by connecting them to the data on the submission of reasoned opinions between 2009-2011.

#### **4. Where to go from here? Two years into the Lisbon Treaty.**

During the period of 1. December 2009 and 18<sup>th</sup> November 2011<sup>xxxvi</sup>, national parliaments have submitted 79 reasoned opinions according to the provisions of the Lisbon Treaty.

**Figure 2** Amount of reasoned opinions submitted per chamber<sup>xxxvii</sup>

Out of the 79 reasoned opinions 26 were submitted by unicameral parliaments and 53 were put forward by bicameral parliaments. Within the set of reasoned opinions submitted by the latter, 27 originated from upper chambers<sup>xxxviii</sup>. The data supports the assertion that in bicameral systems upper chambers resort to the EWS more frequently. Although the quantitative difference between the amount of reasoned opinions by upper and lower chambers is not that large, in all cases (except for the UK and the Netherlands) upper chambers are more active than the lower house or equally active<sup>xxxix</sup>. Clearly, bicameral parliaments also show more activism than the unicameral

chambers. Yet, the fact that in some EU member-states the lower houses are more active than the upper chambers could imply that certain lower houses are keen on maintaining their dominance not only in domestic issues but also to transfer this tradition of inter-chamber relations into the domain of EU affairs.

The IPEX data on the involvement of sectoral committees within the subsidiarity checks reflects that within parliaments where the scrutiny of EU affairs is decentralized, such as in Sweden, the same patterns in subsidiarity checks is adhered to, i.e. specialized committees are increasingly resorted to. The assertion linked to the notion that “strong” national parliaments within EU affairs would also increasingly resort to the EWS, does not find univocal support. Although the “strong” Swedish parliament participates in the EWS, other Scandinavian parliaments such as Finland are much more reluctant, which can arguably be explained by consensual nature of Finnish politics (hence the skepticism towards the EWS which can incite political rivalries) and the focus of the Danish parliament on mandating the government, to the detriment of other forms of engaging in EU politics.

Ultimately, the EWS does open new opportunity structures. In the first place, it can lead to a functional “spillover” from the subsidiarity checks into the day-to-day practice of scrutinising the executive, socialising’ the MPs in a new more proactive culture. This can take the form of simply getting acquainted with the procedure as in the Romanian Senate, which started independent subsidiarity checks only last year (Interview 05.03.2012)<sup>xi</sup>, but also as in the Swedish Riksdag where deliberations over compliance with subsidiarity compliance might give way to formal debates on the content of the EU proposals (Interview 28.02.2012)<sup>xli</sup>. Secondly, the EWS seems to empower parliaments that have previously been inactive in EU affairs and/or rather weak in the domestic legal order when it comes to EU matters. The parliaments of Central and East European (CEE) member-states seem to have learnt the rules of the game to a large extent and participate as actively or even more actively than the “usual suspects” from Western and Northern Europe. The data clearly shows that the “newcomers” have clearly outpaced the parliaments of Southern Europe. The Lisbon Treaty has provided an opportunity to escape the dependency on the government allowing to break with a certain path-dependency of executive-legislative relations. Thirdly, the EWS allows upper chambers to compensate for their somewhat marginal role within the national accountability chain. In almost all occasions it is the upper houses that submit more reasoned opinions. Cooperation between chambers in conducting subsidiarity tests seems to develop on a case-by-case basis with little overall coordination. The EWS provides an opportunity for upper chambers to increase their political autonomy.

In terms of comparing the data from COSAC tests and IPEX there are more similarities between the two than differences. The upper chambers have been always at the forefront of the

participating in the EWS and have shown little interest in cooperating with their respective lower chambers. The involvement of standing committees has been mixed: although the European Affairs committees seem to keep the pride of place, the involvement of standing committees in the subsidiarity checks steadily increases. Yet, one can discern some path-dependency in terms of the standing committee involvement. The key difference between the COSAC tests data and the information retrieved from IPEX seems to be the list of most active participants, with the Central and East European (CEE) countries clearly “learning the rules of the game”. Arguably, these countries have been “socialised” in terms of procedures, as the CEE parliaments have clearly grasped the same formal mechanisms of voicing their opinions.

## 5. Concluding remarks

This contribution aimed to assess the first experiences with the EWS in light of assertions generated based on the academic debate on national parliaments within EU affairs. Based on empirical data we find that bicameralism and the presence of weak upper chambers is conducive to an increased use of the EWS. The various upper houses are trying to overcome their relative weakness in the internal legal order by increasingly resorting to the mechanisms provided for by the Lisbon Treaty. When it comes to the “strength” of a parliament one can observe that “new” member-states’ parliaments participate in the EWS to a greater extent. Ultimately, the main differences between the data obtained from the COSAC subsidiarity tests and the IPEX database is a far greater participation rate of the CEE member-states. As regards to the role of sectoral committees, we see a certain degree of path-dependency. Arguably, in the application of the EWS parliaments follow the established mechanisms of scrutiny within EU affairs, with decentralized parliaments, for example Sweden, relying heavily on sectoral committees.

Despite somewhat vague legal consequences of the EWS, most parliaments clearly see a merit in contributing, with only 11 out of 40 chambers of the EU member-states’ parliaments not presenting a single reasoned opinion so far. In terms of the new opportunity structure, the EWS provides for a direct connection between the EU and national policies. In the future, more qualitative research has to be conducted to supplement this preliminary overview with new empirical data. In-depth case studies on subsidiarity checks could focus on assessing the dynamics between political parties and the role of sectoral committees within the EWS. It would also be important to consider whether the negative opinions posited by national chambers within the EWS framework have resulted in a change of the European Commission’s policy or the actions of a respective national governments. Research into cross-country variance may provide answers to the question of why the parliaments of Central and East European states use the EWS more actively than the legislatures of Southern Europe. A comparison of parliaments’ participation in the political dialogue with the European Commission and the use of subsidiarity tests would shed light on the various dimensions of the new post-Lisbon opportunity structure.

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## Annex

**Table 2** Conduct of the subsidiarity checks carried out by COSAC across Member States

Member State	Other committees involved but EAC	Government participated/ Provided info	Consultation of regional parliaments	Cooperation with other national parliaments <sup>1</sup>
Austria National Council	2 x No	2 x Yes	None	None
Austria Federal Council	1 x Yes 6 x No	7 x Yes	1x Yes	4 x use of IPEX
Belgium Chamber of Representatives	6 x Yes 1 x No	4 x Yes 3 x No	None	2 x use of IPEX
Belgium Senate	7 x Yes	2 x Yes 5 x No	None	2 x use of IPEX
Bulgaria	5 x Yes	5 x Yes	5 x No	3 x use of IPEX
Cyprus	1 x Yes 6 x No	5 x Yes 2 x No	7 x No	-
Check Republic Chamber of Deputies	3 x Yes 4 x No	6 x Yes 1 x No	7 x No	2 x IPEX
Check Republic Senate	1 x Yes 6 x No	5 x Yes 2 x No	7 x No	3 x IPEX and 3 x NPRs
Denmark	8 x Yes	8 x Yes	8 x No	None
Estonia	7 x Yes	7 x Yes	7 x No	1 x IPEX and 1 x NPRs
France Senate	2 x Yes 6 x No	3 x Yes 5 x No	8 x No	1 x NPRs and 2 x IPEX
France National Assembly	4 x Yes 3 x No	5 x Yes 2 x No	7 x No	2 x IPEX, 2 x NPRs
Finland	5 x Yes 1 x No	4 x Yes 2 x No	6 x No	None
Germany Bundestag	6 x Yes	5 x Yes 1 x No	6 x No	2 x IPEX
Germany Bundesrat	7 x Yes	7 x Yes	7 x No	3 x IPEX
Greece	7 x Yes	4 x Yes 3 x No	7 x No	4 x IPEX
Hungary	1 x Yes 6 x No	2 x Yes 5 x No	7 x no	3 x NPRs and 1 x COSAC
Italy Senate	3 x Yes 3 x No	6 x No	6 x No	3 x IPEX
Italy Deputies	3 x Yes 2 x No	5 x No	5 x No	3 x IPEX
Ireland	5 x Yes 3 x No	8 x Yes	8 x No	1 x IPEX, 2 x NPRs,
Latvia	5 x Yes 2 x No	6 x Yes 1 x No	7 x No	4 x IPEX and 2 x NPRs
Lithuania	7 x Yes	7 x Yes	7 x No	2 x IPEX and 1 x NPRs
Luxembourg	7 x Yes	7 x Yes	7 x No	2 x IPEX

Malta	1 x No	1 x No	1 x No	1 x IPEX
Netherlands Tweede Kamer	8 x Yes	7 x Yes 1 x No	8 x No	1 x IPEX
Poland Sejm	8 x No	3 x Yes 5 x No	8 x No	None
Poland Senate	6 x Yes 2 x No	8 x No	8 x No	None
Portugal	7 x Yes	7 x No	7 x No	3 x IPEX 1 x NPRs
Romania	2 x Yes	2 x Yes	2 x No	2x IPEX
Slovakia	3 x No 3 x Yes	6 x Yes	6 x No	IPEX
Slovenia National Assembly	8 x Yes	8 x Yes	8 x No	None
Slovenia National Council	6 x Yes 2 x No	7 x Yes 1 x No	8 x No	None
Sweden	6 x Yes	6 x Yes	6 x No	4 x IPEX
UK House of Commons	8 x No	8 x Yes	2x Scottish parliament	Ireland
UK House of Lords	8 x Yes	8 x Yes	2 x Scottish parliament	2 x NPRs

## Endnotes

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<sup>i</sup> Art. 12 of the amended Treaty on the European Union, to be quoted as TEUn (TEUnew version)

<sup>ii</sup> The Treaty on the Functioning of the European Union (TFEU) replaces the Treaty on establishing the European Community (TEC).

<sup>iii</sup> Interview with a European Parliament staff member. 16.09.2011

<sup>iv</sup> “Reasoned opinions” imply submissions that indicate non-compliance of the EU draft legislation with subsidiarity principle and which were submitted to the EU institutions within the 8 week deadline as stipulated in the Article 6 of Protocol 2 of the Treaty of Lisbon

<sup>v</sup> Contributions other than reasoned opinions, e.g. those arriving later than 8 weeks or any other contributions of national parliaments within the framework of Barosso initiative are not included in the sample. Only the opinions of the national parliaments that comply with the formal criteria of the Early Warning System are assessed for the purpose of the study.

<sup>vi</sup> See especially article 12 TEUn and the two Protocols to the Treaty of Lisbon: on the role of national parliaments to the EU and on application of the principles of subsidiarity and proportionality.

<sup>vii</sup> Speech to the XLIII COSAC, Chairman of the Committee on European Affairs, MP Vitolino Canas, 1 June 2010

<sup>viii</sup> 8<sup>th</sup> and 9<sup>th</sup> COSAC Bi-annual reports on EU procedures and practices

<sup>ix</sup> See: Protocol on the role of national parliaments in the EU, Treaty of Lisbon.

<sup>x</sup> If the draft legislative act is about the area of freedom, security and justice (Article 76 TFEU), this threshold shall be  $\frac{1}{4}$  of the votes.

<sup>xi</sup> By a majority of 55% of the members of the Council or a simple majority in the EP.

<sup>xii</sup> The concept originated in late 1970s from the studies of social movements by US scholars such as Charles Tilly, Doug McAdam, Sidney Tarrow. For an overview of the development of the opportunity structure concept see D.McAdam, J.D.McCarthy, M.Zald (eds), *Comparative perspectives on social movements. Political opportunities, mobilizing structures, and cultural framings* (Cambridge: Cambridge University Press, 1996)

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<sup>xiii</sup> On political entrepreneurship see A.Sheingate, J.Hopkins., ‘Political entrepreneurship, institutional change, and American political development’, *Studies of American Political Development*, Vol.17 (2003), pp.185-203; J.Beckert, ‘Agency, entrepreneurs and institutional change. The role of strategic choice and institutionalized practices in organization’, in *Organizational Studies*, Vol.20 (1999), pp.:777-799. Within the scope of this study the concept of political entrepreneurship shows that parliaments are not unitary actors but consist of various sub-elements that can be classified along party lines (majority-opposition) or functional lines (MP-administrative staff). These sub-units may form shifting alliances and may have conflicting interests.

<sup>xiv</sup> The authors acknowledge the potential problem of endogeneity: the work on the draft law on executive-legislative cooperation in EU affairs could have been accelerated due to the establishment of an autonomous Ministry of EU affairs, while the Joint European Affairs Committee was split not only due to the “Lisbon Treaty pressure” but also due to a formation of a new party within the Romanian Chamber of Deputies.

<sup>xv</sup> Interview with a staff member A of the Romanian Chamber of Deputies

<sup>xvi</sup> Interview with a staff member A of the Romanian Senate

<sup>xvii</sup> Interview with a staff member A of the Swedish Riksdag

<sup>xviii</sup> Interview with a member of the Czech Republic Permanent Representation in Brussels

<sup>xix</sup> Interview with two staff members (B, C) of the Romanian Chamber of Deputies

<sup>xx</sup> For the most comprehensive comparative analysis of the EU-15 see Maurer and Wessels 2001 and for some insights on the role of national parliaments of the more recent Member States, see. Raunio and O’ Brennan 2007. Explanatory variables of cross-country variation in the design of the EU affairs parliamentary scrutiny have been covered: T.Bergman, ‘National parliaments and EU affairs committees: notes on empirical variation and competing explanations’, *Journal of European Public Policy*, Vol.4 (1997), pp.373-387; T.Saalfeld, ‘Deliberate delegation or Abdication? Government backbenchers, ministers and European Union legislation’, *Journal of legislative studies*, Vol.11 (2005), pp.343-371; T.Raunio, ‘Holding governments accountable in European Affairs: Explaining cross-national variation’, *Journal of legislative Studies*, Vol.11 (2005), pp.319-342

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<sup>xxi</sup> The author is aware of the potential differences between these two terms although for this specific argument they are considered to be negligible. For the overview of the debate see R.Zimmerling, *Influence and power. Variations on a messy theme* (Dodrecht: Springer, 2005)

<sup>xxii</sup> Both works are contributions to the Raunio, O’Brennan (2007)

<sup>xxiii</sup> Contribution to the Raunio, O’Brennan (2007)

<sup>xxiv</sup> Contribution to the volumen of O’Brennan and Raunio (2007)

<sup>xxv</sup> As, for example, has been the case with the ECJ rulings favorable to the development of the Union competencies

<sup>xxvi</sup> A term from the principal-agent theory describing the fact that the agent’s actions can diverge from the principal’s preferences.

<sup>xxvii</sup> Testing this assumption requires extensive qualitative research and, although going beyond the scope of the current paper, provides a promising area of research

<sup>xxviii</sup> For more details on the checks please see the COSAC website

<sup>xxix</sup> Interview with a representative of the Slovenian National Assembly in Brussels (16.11.2010c)

<sup>xxx</sup> This was done by evaluating the reports drawn up by COSAC for all eight tests and for all participating chambers. See: <http://www.cosac.eu/en/info/earlywarning>.

<sup>xxxi</sup> Interview with members of staff of Romanian Senate and Chamber of Deputies

<sup>xxxii</sup> Between 2003-2009 the Dutch parliament had a joint committee on subsidiarity checks, although in practice the chambers often arrived to different conclusions and establishing a compromise was very complicated. For more information see L.Besselink, The Netherlands. The role of the States General within the European Union, Report for the FIDE XXIVth Conference, Madrid 2010

<sup>xxxiii</sup> Interview with a member of the Swedish Riksdag

<sup>xxxiv</sup> Source for data: COSAC Secretariat.

<sup>xxxv</sup> Author’s calculations based on the information provided by COSAC.

<sup>xxxvi</sup> This data is to be updated for the last period of 2011 (given that the article is accepted.)



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<sup>xxxvii</sup>Based on authors’ calculations, official EU institutions data and information from COSAC 16<sup>th</sup> bi-annual report and IPEX; chambers which didn’t submit a reasoned opinion are not included

<sup>xxxviii</sup>Reasoned opinion of the Spanish Cortes wasn’t included as in its case both chambers need to adopt a common contribution

<sup>xxxix</sup>These differences should be treated with caution as in the process of data-gathering the upper-chambers had a larger majority at the end of October 2011.

<sup>xl</sup>Interview with the staff member B of the Romanian Senate

<sup>xli</sup>Interview with a staff member B of the Swedish Riksdag

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