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

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COSAC SECRETARIAT

WIE 05 U 040, 50 rue Wiertz, B-1047 Brussels, Belgium
E-mail: secretariat@cosac.eu | Tel: +32 2 284 3776

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Background

This is the Twenty-seventh Bi-annual Report from the COSAC Secretariat.

COSAC Bi-annual Reports

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

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

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

The three chapters of this Bi-annual Report are based on information provided by the national Parliaments of the European Union Member States and the European Parliament. The deadline for submitting replies to the questionnaire for the 27th Bi-annual Report was 15 March 2017.

The outline of this Report was adopted by the meeting of the Chairpersons of COSAC, held on 23 January 2017 in Valletta.

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

Complete replies, received from 40 out of 41 national Parliaments/Chambers of 28 Member States and the European Parliament, can be found in the Annex on the COSAC website. The Bulgarian *Narodno sabranie* did not answer the questionnaire due to elections.

Note on Numbers

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

Although they have bicameral systems, the national Parliaments of Austria, Ireland and Spain each submitted a single set of replies to the questionnaire, therefore the maximum number of respondents per question is 39. There were 38 responses to the questionnaire.

ABSTRACT

CHAPTER 1: SCRUTINY OF GOVERNMENT BY NATIONAL PARLIAMENTS OF EU PROPOSALS, REPORTS AND IMPLEMENTATION OF EU LAW

The first chapter explores the existing scrutiny procedures and practices which enable national Parliaments to scrutinise the government and EU proposals during the legislative phase. It also examines the scrutiny of EU law and implementation of EU law in national Parliaments.

National scrutiny systems and practices vary according to the national context and to constitutional provisions in place. In the vast majority of Parliaments/Chambers the European Affairs Committee (EAC) was not the only Committee responsible for the scrutiny of EU proposals. In a number of cases where the EAC was not the only Committee responsible, EU proposals were scrutinised by sectoral committees. In a few cases where the European Affairs Committee was the one responsible, it could also delegate this responsibility to other sectoral committees for further scrutiny. The information given showed that the modalities and the degree of committees' involvement in scrutiny varied.

National Parliaments' EAC or other relevant sectoral committees met to carry out scrutiny of the government position on EU proposals every week, or every month, or once every fortnight; the possibility of extraordinary meetings was also mentioned. In certain cases, the frequency depended on the workload. In the vast majority of cases, the frequency of meetings was not governed by any legal text.

The majority of Parliaments/Chambers stated that they selected those EU proposals that were deemed important or sensitive and scrutinised the government's position throughout the EU legislative process. Only few respondents scrutinised the government's position throughout the whole EU legislative process.

With regard to the relationship between national Parliaments and the government in relation to scrutiny of EU proposals, in more or less half of the respondents the government briefed the Parliament/Chamber before taking a position in the Council, sent explanatory memoranda outlining its position on selected EU proposals, or on all EU proposals, and reported to the Parliament/Chamber about the positions taken in the Council. Less than one fourth Parliaments/Chambers reported that the government needed a parliamentary mandate before taking a position in the Council.

In cases of subsidiarity and proportionality checks, slightly less than half of the responding Parliaments/Chambers always received the government's position on the draft legislative act within the 8-week deadline.

In the majority of cases, the relevant Minister was obliged to appear before the relevant parliamentary committee on issues related to scrutiny of the government position. This obligation arose from constitutional provisions, established practice, legislation, Rules of Procedure or an agreement between the government and the EAC.

On scrutiny of EU reports and implementation of EU law, the results showed that the vast majority of responding Parliaments/Chambers did not carry out the evaluation of existing EU legislation, and that only in few Parliaments/Chambers was such evaluation occasionally or regularly carried out. However, according to the results, over half of the responding Parliaments/Chambers did indeed engage in the scrutiny of government positions on the reports of the European Commission

Whereas the majority of the responding Parliaments/Chambers did not express an opinion on whether the evaluation reports of the European Commission presented enough background to evaluate the implementation of EU legislation or whether they provided enough detail on a country-by-country basis, more than half of the responding Parliaments/Chambers did agree that access to additional documentation would actually be of value to national Parliaments.

Out of the tools available in national Parliaments/Chambers, the possibilities for members to raise issues of implementation of EU law in the committee and in the plenary were the most common ones, present in large majorities of Parliaments/Chambers respectively. The possibility to compile own initiative reports on this issue however was rather rare.

As far as the assessment of the role of national Parliaments in evaluating the implementation of EU law, approximately the same number of responding Parliaments/Chambers considered that national Parliaments should have a greater role as those which did not. Most Parliaments/Chambers wishing for a greater role in this matter however did not elaborate on what an increased role should look like, as such debates had not taken place yet.

CHAPTER 2: THE OUTCOME OF THE UK REFERENDUM AND THE FUTURE OF THE EUROPEAN UNION

The second chapter of the 27th Bi-annual Report of COSAC focusses on the Parliaments'/Chambers' work related to the outcome of the United Kingdom (UK) European Membership Referendum and the future of the European Union, presenting their views on the way negotiations should be conducted and their role for the coming years in the EU context and *vis-a-vis* the European project. It further explores national Parliaments' discussions on their role in the unfolding of the future of the EU, more specifically in further strengthening and promoting the four freedoms, and presents the parliamentary scrutiny of the Commission Work Programme (CWP) 2017.

The vast majority of Parliaments/Chambers indicated that they had discussed the effects of the UK referendum on national policies, with the majority of debates taking place at committee level.

The majority of Parliaments/Chambers had also discussed the effects of the outcome of the UK referendum on the future of the European Union, but only a small minority had issued a Resolution on Brexit.

According to the findings of the Report, most Parliaments/Chambers also agreed that the developments of the negotiating process should be featured in COSAC meetings in the event of the triggering of Article 50 by the UK, and almost all Parliaments/Chambers agreed that they should receive regular updates from their governments on the negotiation process. A great number of Parliaments/Chambers also said that national Parliaments should be given the opportunity to ask questions and obtain further clarification or receive updated reports. Half of the respondents further thought that a contact person from the negotiating team should be appointed to liaise with national Parliaments on issues related to the negotiation process.

The majority of Parliaments/Chambers had discussions on the possible impact that the deal with the UK might have on the four freedoms, with most taking place at committee level.

Asked how national Parliaments could further strengthen and promote the four freedoms, slightly more than half of the respondents proposed that this could be achieved by discussing further the impact of the four freedoms on national economies. A slightly smaller number of respondents replied that this could be achieved by discussing ways how national Parliaments could secure and

promote the development of the four freedoms, while an almost equivalent number thought this could be achieved by proposing ways in which the European Commission and other EU institutions could ensure the development of the four freedoms. Only a minority of respondents thought conducting impact assessments on legislative packages, specifically keeping in mind the four freedoms would help in further strengthening and promoting them.

As regards the CWP 2017, the vast majority of Parliaments/Chambers had discussed it, with most of them holding discussions at Committee level, and only a handful holding discussions at plenary level. A minority of Parliaments/Chambers had not discussed the CWP, but most of these intended to do so.

When asked to rate the importance of each of the ten priorities identified by the Commission, most Parliaments rated each priority as either “Very Important” or “Important”. Only one priority was considered as being “Not Important”, and only by one Parliament.

Asked in which ways national Parliaments could further promote the European project, the majority of respondents replied that this could be done through improved cooperation among national Parliaments throughout the legislative process, and an almost equivalent number responded that the European project could be further promoted through a more effective scrutiny process throughout the legislative process. A relatively small number of Parliaments/Chambers said that this could be achieved through enhanced input from European citizens on EU actions, while some others provided alternative answers.

CHAPTER 3: MIGRATION: COMBATting HUMAN SMUGGLING AND TRAFFICKING AND ESTABLISHING A HUMANE AND EFFECTIVE RETURN AND READMISSION POLICY

The third chapter focusses on the work done by national Parliaments on issues related to migration and human trafficking and seeks to discover whether they have considered return and readmission policies and whether they consider that the current framework is helping to reduce illegal migrant smuggling.

Only a couple of Parliaments/Chambers had not dedicated a debate on the subject of migratory pressures facing Member States close to the Mediterranean and Balkan route and the unprecedented pressure to provide humanitarian assistance to people in distress, whilst securing external borders against potential criminal and terrorist infiltration.

Asked which of the main migratory routes needed increased attention at EU level, the vast majority of Parliaments/Chambers said that both the Mediterranean and Balkan route needed equal attention. Only a handful of Parliaments/Chambers chose one over the other, while a few more focussed their attention on other routes.

From the results of the report, it transpires that a number of Parliaments/Chambers had not discussed the Europol report on migrant smuggling in the EU. Some Parliaments/Chambers had discussed the EU strategy towards the eradication of trafficking in human beings, and the EU action plan against migrant smuggling, as well a number of reports.

Half the responding Parliaments/Chambers regularly sustained an open and continuous dialogue with the Minister responsible for human smuggling and trafficking, while the other half did so occasionally.

A few Parliaments/Chambers commemorated the 10th year anniversary of the EU Anti-Trafficking Date by organising activities or information sessions directly addressing human trafficking and smuggling or by holding talks with representatives from key national organisations. A minority of Parliaments/Chambers held meetings with representatives from leading European institutions or agencies. A couple of Parliaments/Chambers had drawn up a report detailing national initiatives aimed at combating human trafficking and smuggling, and another couple of respondents had drawn up a report on legislation transposed or enacted nationally. Only one Parliament/Chamber had included the date in the Parliamentary calendar. Some other Parliaments had marked the anniversary through other activities.

At EU level, several important actions aimed at addressing migration in a systematic way and acting as a deterrent for prospective irregular migrants were proposed in recent years. In most of the responding Parliaments/Chambers discussions took place on the Proposal for a Regulation on a European travel document for the return of illegally staying third-country nationals and on the Commission's Communication on the EU Action Plan on Return. A little over half of the responding Parliaments/Chambers had already discussed the 2015 Declaration and Action Plan of the Valletta Summit on migration and the Commission's 2011 Communication on Evaluation of EU Readmission Agreements. All but one responding Parliaments/Chambers agreed the Commission should conduct a new evaluation process of readmission agreements.

Parliaments/Chambers were asked to rate the actions proposed in the Valletta Declaration and Action Plan and to which extent they reflected the national priorities in this field. Preventing and fighting irregular migration, migrant smuggling and trafficking in human beings ranked highest; it was followed closely by the priority of addressing the root causes of irregular migration and forced displacement. Working more closely to improve cooperation on return, readmission and reintegration was third on the list of priority actions of the responding Parliaments/Chambers, while reinforcing the protection of migrants and asylum seekers was fourth. Enhancing cooperation on legal migration and mobility was the last on the list of priority actions.

Only a third of the responding Parliaments/Chambers indicated that they were required to ratify signed bilateral readmission agreements with third countries; the majority of respondents pointed out that they had no role.

Less than half of the responding Parliaments/Chambers agreed that return and readmission agreements could effectively act as a deterrent for illegal crossings and therefore contribute to disrupt criminal business models. Around a third of the respondents replied they neither agreed nor disagreed with this view.

Half of the respondents agreed with the idea that legal migration could effectively act as a deterrent for illegal crossings, while over a third neither agreed nor disagreed. All but two of the responding Parliaments/Chambers agreed with the idea of increased harmonised measures at Union level with regard to human trafficking and with regard to migrant smuggling and return and readmission agreements.

CHAPTER 1¹: SCRUTINY OF GOVERNMENT BY NATIONAL PARLIAMENTS OF EU PROPOSALS, REPORTS AND IMPLEMENTATION OF EU LAW

Section A of Chapter 1 explores the existing scrutiny procedures and practices which enable national Parliaments to scrutinise the government and EU proposals during the legislative phase. In this context, the role of the European Affairs Committee (EAC), as well as of sectoral committees is examined. In addition, scrutiny of the government and national Parliaments' relationship with the government are highlighted.

Section B of Chapter 1 deals with scrutiny by national Parliaments of EU reports and the implementation of EU law. It presents in what ways, if at all, national Parliaments are involved in the monitoring and evaluation of the transposition and implementation of EU laws nationally. Questions addressed to the national Parliaments on this topic also look to the future, examining the ways in which they see this process developing in the future.

SECTION A: SCRUTINY OF EU PROPOSALS

i. Involvement of European Affairs Committee and sectoral committees in scrutiny in national Parliaments

The vast majority of Parliaments/Chambers (29 out of 37) stated that the EAC was not the only Committee responsible for the scrutiny of EU proposals.

In those cases where the EAC was not the only Committee responsible for scrutiny, EU proposals were scrutinised by sectoral committees according to the policy area (10 out of 32 respondents). In those cases where the EAC was the Committee responsible, it could also delegate this responsibility to other sectoral committees for further scrutiny (six out of 32 respondents).

A number of Parliaments/Chambers provided other information on different arrangements in relation to their scrutiny systems. The modalities and the degree of committees' involvement in scrutiny varied.

The French *Sénat* reported that its EAC scrutinised EU proposals when sectoral committees did not undertake it within 15 days, while the French *Assemblée nationale* gave information on how its Committee on European Affairs scrutinised all EU proposals on the basis of Article 88-4 of the French Constitution and on how it had the monopoly of issuing proposals of European resolutions sent to sectoral committees.

The Czech *Senát*, as well as the Estonian *Riigikogu*, specified that their EACs were responsible for the scrutiny of EU proposals with the exception of CFSP and CSDP; the first respondent clarified that in those cases the Committee on Foreign Affairs, Defence and Security was responsible, while the latter said that, in cases of foreign affairs and security, the Foreign Affairs Committee was responsible and gave a mandate to the government.

In the Austrian *Nationalrat* and *Bundesrat*, although the EAC was the only Committee responsible for scrutiny of EU proposals, the Permanent EU Subcommittee or EU Committee of the National Council was entitled to ask the President of the Chamber to refer the EU proposal to a sectoral committee for further deliberations, without binding members of government, or adopting reasoned opinions on subsidiarity and opinions addressed to EU institutions.

¹ Chapter 1 is not applicable to the European Parliament.

In the case of the German *Bundestag*, in principle, all committees discussed European affairs relating to the areas they were responsible for with the EU Affairs Committee, being a cross-cutting committee. The standing Committee on European Affairs of the Dutch *Eerste Kamer*, among its other tasks, acted as a co-ordinator and facilitator in case of cross-committee proposals.

The Grand Committee of the Finnish *Eduskunta* deliberated on EU matters on the basis of statements provided by the Parliament's sectoral committees.

According to the Belgian *Sénat*, the delegation of the Senate to the Federal Advisory Committee on European affairs acted as a filtering committee; the proposals selected were scrutinised by the relevant sectoral committees. According to the Belgian *Chambre des représentants*, on the federal level, the relevant EU proposals were analysed by the EU Task Force and subsequently submitted to the appropriate standing committee(s). However, some proposals were considered directly by those committees. Due to the Belgian institutional landscape, the parliaments of the federated entities were responsible for the proposals that fell within their respective remits.

According to the Parliament's Rules of Procedure, in the Italian *Senato della Repubblica*, EU proposals were scrutinised by sectoral committees according to policy areas. Scrutiny was completed with the approval of a resolution. In those cases, the EU Affairs Committee was always requested to issue an opinion together with the Foreign Affairs Committee. If the relevant sectoral Committee did not conclude its consideration within fifteen days after the transmission of the opinions of the obligatorily consulted Committees, the consulted Committees could vote a document instead.

According to the Rules of Procedure of the Hungarian *Országgyűlés*, at the proposal of the Committee on European Affairs, the standing committee responsible for the subject of the EU proposal issued an opinion.

According to the Standing Orders of the Romanian *Camera Deputaţilor*, selected EU proposals were submitted to the EAC and the relevant sectoral committees. The sectoral committees transmitted their opinion / reasoned opinion to the EAC, which could adopt its own opinion, taking into consideration or not the sectoral committees' opinions. This opinion was subsequently submitted to the Chamber's sittings.

In the case of the Portuguese *Assembleia da República*, the EAC was responsible for the scrutiny of European initiatives in cooperation with the other parliamentary standing committees and in the Greek *Vouli ton Ellinon* EU proposals were scrutinised jointly by the EAC and the relevant sectoral Committee.

The UK *House of Lords*' EU Committee was made up of a Select Committee and six sectoral sub-committees. The EU Select Committee examined cross-cutting issues, and issues of constitutional significance, while the six sub-committees considered sector-specific issues.

ii. Frequency of meetings of European Affairs Committee and sectoral committees in national Parliaments

Responding to the question as to how frequently the EAC or other relevant sectoral committees met to carry out scrutiny of the government position on EU proposals, 10 respondents out of 36 said these met every week, four said they met every month and only one said they met once every fortnight.

Of those who gave other information, the Czech *Senát* mentioned meetings on average every three weeks, the German *Bundestag* mentioned meetings every week of sitting and the Finnish *Eduskunta* mentioned meetings twice weekly. In the Irish *Houses of the Oireachtas*, Committees met on a weekly or fortnightly basis and carried out EU scrutiny as necessary.

The Joint Committee for EU Affairs in the Spanish *Cortes Generales* met at least once per week, but several meetings could be convened on the same week, depending on the Committee's agenda. The frequency's dependence on the committees' workload was also mentioned by the Cyprus *Vouli ton Antiprosopon* and by the Latvian *Saeima* of which the Committee met at least once a week, but up to three times per week in cases of a busy agenda. Along the same lines, the UK *House of Lords'* EU Select Committee and its six sub-committees met at fixed times every week, but during busy periods they could meet more than once a week and on different days. The Croatian *Hrvatski sabor* referred to meetings on average every fortnight, but also to varied frequency depending on the incoming flow of EU documents and governmental positions. The EU Affairs Committee of the Polish *Sejm* held seven to nine committee meetings per month; Committee meetings were held every two weeks, unless the situation at the EU level required extraordinary/additional meetings.

The Committee on European Affairs of the Lithuanian *Seimas* met every time before and after a relevant Council meeting, while the Committee of the Dutch *Tweede Kamer* usually held discussions in advance of a Council meeting. According to the Rules of Procedure of the Belgian *Chambre des représentants*, each standing committee held an exchange of views once a month on European questions on the Council of Ministers' agenda or which had been the subject of a decision by that Council, as well as on resolutions with which it was concerned and which had been officially sent to the House by the European Parliament.

The competent Committees of the Belgian *Sénat*, the Dutch *Eerste Kamer* and the Portuguese *Assembleia da República* convened meetings and introduced EU proposals on the agenda whenever deemed necessary or appropriate. In the case of the Swedish *Riksdag*, the parliamentary committees and the Committee on EU Affairs met whenever it was necessary for the *Riksdag* to fulfil its responsibilities. The Italian *Camera dei Deputati* referred to meetings held on an *ad hoc* basis, while the Greek *Vouli ton Ellinon* mentioned that meetings were not regular.

The Hungarian *Országgyűlés* referred to scrutiny in the form of weekly hearings of Government State Secretaries on current EU issues and proposals beside the formal scrutiny procedure.

In the vast majority of cases (29 out of 36) the frequency with which the EAC or other relevant sectoral committees met to scrutinise the government's position on EU proposals was not governed by any legal text. The UK scrutiny system was governed by the Standing Orders of each House, which were not judicially reviewable, but were part of the order of Parliament and bound the Government.

iii. Scrutiny of Government's position and EU proposals and stage of national Parliaments' involvement

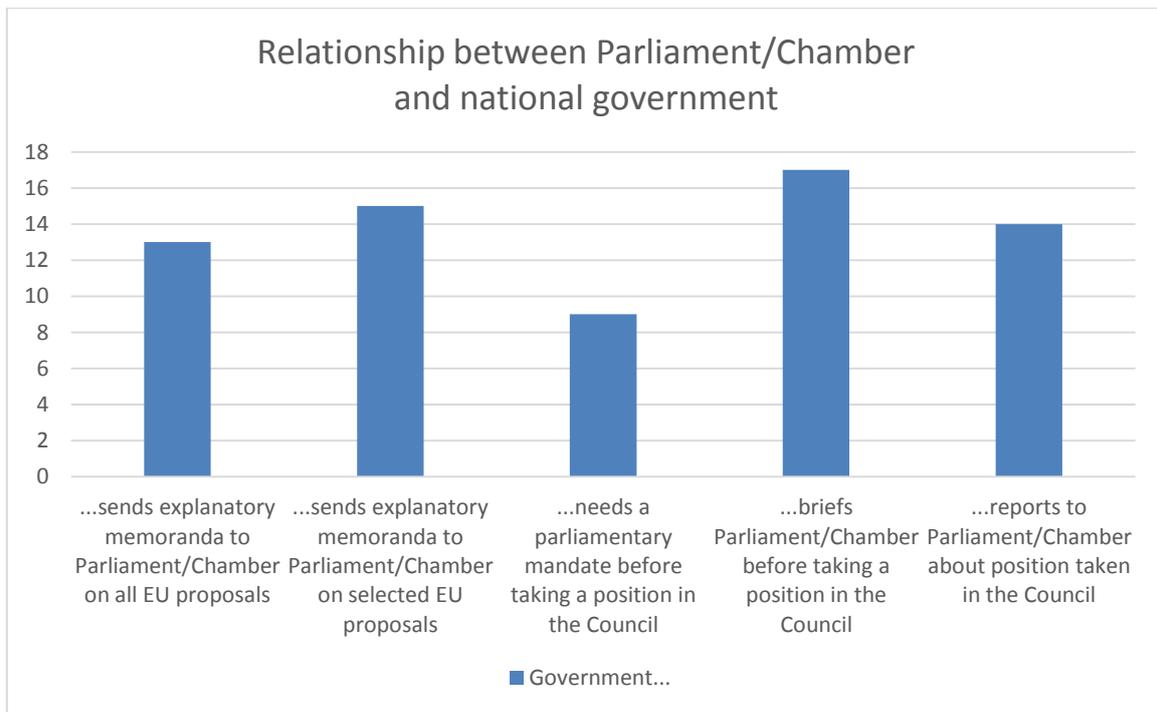
In the context of national scrutiny systems' diversity according to the national context and to constitutional provisions in place, the majority of Parliaments/Chambers (22 out of 37) stated that they selected those EU proposals that were deemed important or sensitive and scrutinised the government's position throughout the EU legislative process. Only few respondents scrutinised the government's position throughout the whole EU legislative process; on all EU proposals (four) or only on the original proposal of the EU institutions (three). In the case of the Czech *Senát*, in most cases, only the position on the original proposal was scrutinised.

Some Parliaments/Chambers gave more information as to which proposals were selected and at which point the scrutiny took place. Among those, the Finnish *Eduskunta* scrutinised those EU proposals that were constitutionally of concern. It scrutinised the government's position throughout the EU legislative process.

In addition, some Parliaments/Chambers specified that they scrutinised the government's position on the original EU proposal (Irish *Houses of the Oireachtas*), or before decisions on relevant matters in the European Council / the Council of Ministers (Latvian *Saeima*), but that they could choose to scrutinise throughout the legislative process (Irish *Houses of the Oireachtas*), if certain EU proposals were deemed important or sensitive (Italian *Senato della Repubblica*, Latvian *Saeima*). The extended Bureau of the Joint Committee for EU Affairs in the Spanish *Cortes* selected those EU proposals that were deemed important or sensitive for Spain, in order to conduct subsidiarity checks on them. The government position on the original proposal of the EU institutions was scrutinised in the framework of the subsidiarity checks. The German *Bundesrat* selected those EU proposals that were deemed important or sensitive and scrutinised the Government's position throughout the EU legislative process whenever this was considered necessary. In the case of the Danish *Folketing*, the Government presented matters to the EAC orally, either for information or in order to obtain a mandate to secure its proposed negotiating position. The Government informed about all matters of considerable importance, but presented its proposed negotiating position in the case of decisions of major significance. It was up to the Government to decide which EU matters fell within each of the two categories.

iv. Relationship between national Parliaments and the Government

With regard to the relationship between national Parliaments and the government in relation to scrutiny of EU proposals, slightly less than half (17 out of 37) stated that the government briefed the Parliament/Chamber before taking a position in the Council. In 15 cases, the government sent explanatory memoranda outlining its position on selected EU proposals, while in 13 it sent explanatory memoranda outlining its position on all EU proposals. In 14 cases, the government reported to the Parliament/Chamber about the positions taken in the Council. Only nine Parliaments/Chambers reported that the government needed a parliamentary mandate before taking a position in the Council.



Many Parliaments/Chambers gave additional information, including references to relevant legislation or regulations whenever applicable, which showed the diversity of arrangements in relation to Parliaments’/Chambers’ relationship with the government. Among others, the following were mentioned: non-systematic auditions with Ministers (French *Assemblée nationale*), reporting by the Federal Government in writing and orally (German *Bundestag*), early and continuous information by the Government on all European issues of particular importance to the country (Luxembourg *Chambre des Députés*), transmission of a report to the Parliament on all draft EU proposals under consideration and explication of any different position held by the Government (under the ‘comply or explain’ rule) (Italian *Senato della Repubblica*), briefings and reports of the Government usually on EU proposals selected for scrutiny (Hungarian *Országgyűlés*), automatic transmission of Government framework position on all EU draft legislative act and on selected other EU documents (communications, reports, green papers etc.) (Czech *Poslanecká sněmovna*), monitoring the activity of the Government within the scope of the process of constructing the European Union through meetings between the EAC and a member of the Government before and after European Council meetings, as well as joint meetings between the EAC, the competent parliamentary committee and the competent member of the Government before or after Council of Ministers’ meetings (Portuguese *Assembleia da República*), provision of information by the Government on an ongoing basis on developments within the EU, as well as deliberations with the parliamentary committees and consultation with the Committee on EU Affairs throughout the EU’s decision-making process (Swedish *Riksdag*).

On parliamentary mandates, the Swedish *Riksdag* explained its system whereby the Government consulted with the Committee on EU Affairs ahead of all Council meetings and meetings of the European Council and received a form of mandate for its position. The UK *House of Lords* explained that the UK Parliament did not mandate the positions taken by Ministers in the Council, but that Ministers were under a duty not to agree to EU proposals while they were held under scrutiny by either House of Parliament. The Government wrote or briefed to request clearance from scrutiny. On the other hand, the Cyprus *Vouli ton Antiprosopon* explained that, due to the strict separation of powers provided for in the Constitution, it could not mandate the Government with regard to any EU proposal. However, the Government gave the necessary information when requested by the Parliament both before and / or after a Council meeting.

In cases of subsidiarity and proportionality checks in the context of Protocol 2 TFEU, slightly less than half of the responding Parliaments/Chambers (17 out of 37) always received the Government's position on the draft legislative act within the 8-week deadline, whereas only one Parliament/Chamber reported it rarely or never received such position. Less than half of the respondents stated that they received such information upon request and five said they sometimes did.

In the majority of cases (22 out of 36), the relevant Minister was obliged to appear before the relevant parliamentary committee on issues related to scrutiny of the government position. In the case of the Austrian *Nationalrat* and *Bundesrat*, although there was no such obligation, the Minister was expected to appear before the EU Committee in the National Council or to send at least representatives in the Federal Council. In the case of the Romanian *Camera Deputaților*, there was no such obligation specifically regarding issues related to scrutiny of the Government position on EU proposals, but there was an obligation of Ministers to appear before the relevant committee when summoned.

The obligation arose from constitutional provisions (French *Sénat*, Dutch *Eerste Kamer*), constitutional provisions in the case of the Grand Committee and from established practice in the case of sectoral committees (Finnish *Eduskunta*), constitutional provisions and related acts or legislation (Slovak *Národná rada*, Italian *Senato della Repubblica*), Rules of Procedure (Slovenian *Državni zbor*), Rules of Procedure and Internal Rules Act (Estonian *Riigikogu*), parliamentary practice (UK *House of Commons*, Italian *Camera dei Deputati*), power of every committee to summon a member of the Federal Government to provide information in written or oral form (German *Bundestag*), Standing Orders of the Parliament (Greek *Vouli ton Ellinon*, Irish *Houses of the Oireachtas*, Romanian *Camera Deputaților*), an Act and Rules of Procedure (Hungarian *Országgyűlés*, Polish *Senat*, Polish *Sejm*), legislation on the monitoring, assessment and pronouncement by the Assembleia da República within the scope of the process of constructing the European Union (Portuguese *Assembleia da República*), an Act on Co-operation of the Parliament and the Government and Standing Orders of Parliament (Croatian *Hrvatski sabor*), and from an agreement between the Government and the EAC (Danish *Folketing*).

SECTION B: SCRUTINY OF EU REPORTS AND IMPLEMENTATION OF EU LAW

i. Evaluation of EU legislation in national Parliaments and scrutiny of the government position on the European Commission's reports evaluating existing EU legislation

Regarding the current state of play of parliamentary monitoring of EU law implementation, a vast majority (33 out of 37) of the responding Parliaments/Chambers did not carry out the evaluation of existing EU legislation. Only in the French *Sénat*, the Italian *Senato della Repubblica*, the Romanian *Camera Deputaților* and the Belgian *Chambre des représentants* did evaluation of existing EU legislation take place. According to the information provided by these Parliaments/Chambers, the scrutiny of reports on the implementation of EU law happened either regularly (French *Sénat*) or occasionally (remainder of the above and also Finnish *Eduskunta*).

Over half (22 out of 36) of the responding Parliaments/Chambers did, however, engage in the scrutiny of government positions on the reports of the European Commission evaluating existing legislation. In most of these Parliaments/Chambers, this scrutiny happened on an occasional basis. In the UK *House of Commons* scrutiny was exercised on a regular basis, in the Romanian *Camera Deputaților* and Maltese *Kamra tad-Deputati* this scrutiny was always exercised.

On the question whether the evaluation reports of the European Commission on the implementation of EU law were sufficient tools for national Parliaments to scrutinise their national governments on the implementation of EU law, most responding Parliaments/Chambers (22 out of 34) neither agreed nor disagreed. According to the Slovenian *Državni svet*, the Luxembourg *Chambre des Députés*, the Dutch *Tweede Kamer*, the Belgian *Sénat*, the Italian *Senato della Repubblica*, the Romanian *Camera Deputaţilor* and the Belgian *Chambre des représentants*, these reports were indeed sufficient. On the other hand, the French *Sénat*, the French *Assemblée nationale*, the Czech *Senát*, the Lithuanian *Seimas* and the Maltese *Kamra tad-Deputati* considered that the reports of the European Commission did not sufficiently enable scrutiny of national governments on the implementation of EU law.

The majority of responding Parliaments/Chambers (26 out of 34) neither agreed nor disagreed with the statement as to whether the European Commission evaluation reports went into enough detail on the effects of EU laws in each and every Member State. However, six Parliaments/Chambers agreed that they did. Only the Estonian *Riigikogu* and the Czech *Senát* considered this not to be the case.

Fourteen out of the 34 responding Parliaments/Chambers neither agreed nor disagreed on whether national Parliaments should have access to additional information other than the implementation reports published by the European Commission in relation to the evaluation of implementation of EU law. The remaining either agreed (14) or strongly agreed (five) that access to additional documentation would be of value to national Parliaments. Only one Parliament/Chamber (Hungarian *Országgyűlés*) considered this not necessary.

ii. Tools used by national Parliaments to monitor/scrutinise the government on the implementation of EU law

National Parliaments also had the opportunity to elaborate the ways and particularly the tools available in the respective Parliaments/Chambers in order to monitor or scrutinise national governments on the implementation of EU law. According to the results, the most common option, present in nearly all of the responding Parliaments/Chambers, was the possibility for members to raise this issue in the respective responsible committee (32 out of 35 responding Parliaments/Chambers stated this option was available). Almost equally common (27 of the responding Parliaments/Chambers) was the possibility for members to raise the issue in debate in the plenary. On the other hand, only in a few of the responding Parliaments/Chambers did members have the opportunity to present and compile reports upon their own initiative on this issue, namely in the French *Sénat*, the French *Assemblée nationale*, the Dutch *Tweede Kamer*, the Irish *Houses of the Oireachtas*, and the Swedish *Riksdag*.

Several Parliaments/Chambers also provided additional information on possibilities within their own procedures. In the French *Sénat*, a hearing with the responsible minister could be organised in the relevant committee. In the Czech *Senát*, an annual report from the government on the topic was debated in the EAC and in the plenary. In the UK *House of Commons*, committees could report if they wished and Members could question the government on the issue. In the Luxembourg *Chambre des Députés* the Parliament may adopt a resolution addressed to the Government. In the Belgian *Sénat* there was an annual meeting organised with the Federal Advisory Committee on European Affairs in October-November with the competent minister on the topic. In the Hungarian *Országgyűlés* there are annual hearings of the minister responsible for Justice as well as an annual report on Hungary's EU membership, which included a chapter on the implementation of EU law. There was also an obligation under Hungarian law that the government inform biannually the responsible committees on the implementation of the Directive 2006/123/EC on services in the internal market. Lastly, on an *ad hoc* basis, the Committee also held *in camera* meetings on

infringement procedures or EU Court of Justice cases concerning Hungary. In the Belgian *Chambre des représentants*, the Federal Minister of Foreign Affairs presented and commented once a year to the E AC the state of play regarding the transposition of EU directives into legal texts according to the Belgian institutional landscape. A report of such a meeting was published in the form of a parliamentary document. In the Portuguese *Assembleia da República*, in the first quarter of each year, the government submitted a report to the Parliament that made it possible to monitor Portugal's participation in the process of constructing the EU, in accordance with national law. The EAC drew up an opinion on this document, which made reference to the transposition of Directives and legislative amendments, and that opinion included reports from all standing committees, followed by a draft resolution submitted to be voted on in the plenary. In the Polish *Sejm*, the Act on the cooperation of the Council of Ministers with the *Sejm* and the *Senat* in matters relating to Poland's membership in the EU obliged the Council of Ministers to submit to the *Sejm*, at least once per six months, information on legislative work related to the implementation of the EU law the time limit for which had expired or expired within three months after the date when the information was presented.

In the Swedish *Riksdag*, there were no procedures for regular follow-up of the implementation of EU law, but it was still possible. Firstly, the government submitted a report to the Swedish *Riksdag* every year containing an account of the measures the government had taken in response to the decisions of the Parliament that had been communicated to the government. These decisions could concern the implementation of EU law. The Swedish *Riksdag* then communicated to the Government, by means of a report, whether there was reason to take further measures in order to ensure that a decision was implemented in a satisfactory manner. Finally, in the UK *House of Lords*, the EU Committee did not explicitly examine the Government's implementation of EU law, however, in their scrutiny of EU legislative proposals, the EU committees would come across issues to do with implementation of existing legislation. The committees also conducted in-depth inquiries into different aspects of EU policy, and the Government's involvement in it. As part of these inquiries, the committees could examine the Government's implementation of existing EU law.

iii. Role of national Parliaments in monitoring the implementation and transposition of EU law

Following the questions on the current situation in national Parliaments *vis-à-vis* the monitoring of implementation of EU law and given the results of the 23rd Bi-annual Report of COSAC, which had shown that national Parliaments had a limited role, if any, on the transposition of EU law, Parliaments were then asked to comment on their future role in this matter. Slightly more than half of the respondents (16 out of 29) considered that national Parliaments should have a greater role in better monitoring the implementation and transposition of EU law. A similar number of responding Parliaments/Chambers (13) considered that there was no need for a greater role for national Parliaments in this matter. Nine Parliaments/Chambers did not express any opinion on this question.

When asked to elaborate in what way the national Parliaments could play an increased role in the monitoring of implementation of EU law, several respondents replied that this had not yet been subject to debate and it was therefore impossible to answer this question.

Among those who did reply, the French *Sénat* considered that national Parliaments should play a role in controlling the proportionality of implementation of EU law in order to avoid over-transposition. The Czech *Senát* stated that national Parliaments could already put more effort into monitoring of implementation even now, and that this was a question of political priorities. However, as Parliaments could not influence the political content of the implemented legislation, it was now a top priority. According to the Czech *Senát*, this greater role should be understood as an acknowledgement that Parliaments should do more in this area, but not necessarily as a call for

legislative and institutional changes at EU level. The UK *House of Commons* considered that there might be questions as to what implementation by governments was appropriate, and that a great role could take the form of, for example, mechanisms such as the “green card”, in which Parliaments could raise matters about implementation/change to EU law was envisaged. The Greek *Vouli ton Ellinon* was of the opinion that treaty provisions should strengthen more the responsibilities of the national Parliaments in EU scrutiny procedures. The Luxembourg *Chambre des Députés* considered that the formal notices of the European Commission should be transmitted to national Parliaments. The Estonian *Riigikogu* stated that as national Parliaments are the legislative body, they had to know what kind of legislation had been implemented effectively and where more work must be done. If some gaps in legislation or contradictions existed, national Parliaments should have the opportunity to work on solutions or ask for explanations from the Government concerning the reasons why certain EU laws had not been implemented into domestic legislation. The Italian *Senato della Repubblica* stated that its Committee on European Union Policies had an important role in the transposition activity, due to the fact that it had considered and reported to the Senate on the EU Delegation Bill and the European Bill, which were introduced on an annual basis by the Government in order to fulfil Italy’s European obligations. Under the first Bill, the delegation of power to transpose Directives was conferred on the Government, under parliamentary control exercised by the sectoral Committees. The second one provided for the legislative solution in the case of infringement procedures.

The Maltese *Kamra tad-Deputati* posited that the greater role of national Parliaments should not necessarily come from an EU mandate, but rather that national Parliaments may change their own procedures/practices to obtain a greater role in better monitoring the implementation and transposition of EU law. The Dutch *Eerste Kamer* also considered that the implementation and transposition of EU law was governed by national legislation and that it was up to the Parliaments to decide how they exerted their own role therein. The Romanian *Camera Deputaților* considered that national Parliaments were responsible to electors on the implementation and transposition of EU law, more so, on topics directly affecting citizens and communities. It observed a difficulty in cases of monitoring of complex and technical Directives; national Parliaments did not have the capacity of Government in terms of human resources and expertise. In such cases, national Parliaments relied on a good cooperation with national governments.

The Irish *Houses of the Oireachtas* remarked that post-implementation evaluation was an unspecified function of a committee which was rarely exercised. The Belgian *Chambre des représentants* noted that, due to the Belgian institutional landscape, the Federal Belgian Parliaments were not solely responsible for the transposition of EU law, adding that some EU laws were transposed through executive measures.

CHAPTER 2: THE OUTCOME OF THE UK REFERENDUM AND THE FUTURE OF THE EUROPEAN UNION

Section A of Chapter 2 explores how national Parliaments have dealt with the outcome of the UK referendum and presents information as to the related discussions held in national Parliaments. Furthermore, it presents national Parliaments’ views on their role with respect to the negotiating process once Article 50 of the Lisbon Treaty is triggered².

² The UK Government triggered Article 50 of the Lisbon Treaty, which provides that “Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements”, by notifying the European Council of its intention on 29 March 2017.

Section B of Chapter 2 looks into the work done or planned by national Parliaments in the European context and their role in the unfolding of the Union's future focussing on issues like the four freedoms, the Commission Work Programme (CWP) and the promotion of the European project.

SECTION A: THE UK REFERENDUM AND NATIONAL PARLIAMENTS

i. Discussion within national Parliaments of the effects of the UK referendum on national policies

A vast majority of Parliaments/Chambers had to one degree or another discussed the effects of the UK referendum on national policies. Of these, ten had held a debate in plenary, 21 said that the debate was carried out in the committee responsible for European Affairs; and four had set up a special committee for this purpose. Eight respondents expressed their intention to hold the debate once Article 50 TEU was triggered.

Subsequently, 16 respondents qualified their answers. Among these, a few Parliaments/Chambers, such as the Dutch *Tweede Kamer*, the Belgian *Chambre des représentants* and the Czech *Poslanecká sněmovna*, had discussed the matter at length during both plenary sessions, as well as committee meetings.

In addition to the debate having been carried out in plenary and in the committee responsible for European Affairs, the Irish *Houses of the Oireachtas* also held debates in other sectoral and thematic committees; the Dáil Éireann held a Symposium on EU Affairs in September 2016 and informal meetings were being held with other national Parliaments.

The UK *House of Commons*, the Italian *Camera dei deputati* and the Spanish *Cortes Generales* set up special committees, a fact-finding enquiry and a subcommittee, respectively.

The Swedish *Riksdag* elaborated that matters relating to Brexit had been mentioned in debates within various bodies, but that there had not been a specific debate on the subject. The relevant committees monitored the issue within their areas of responsibility.

The Dutch *Eerste Kamer*, however, pointed out that the effects of the outcome of the UK referendum on national policies were primarily a matter for the Dutch *Tweede Kamer* to discuss.

The Danish *Folketing* said that it was planning to hold a debate on the matter in plenary on 20 April 2017.

ii. Discussion within Parliaments of the effects of the UK referendum on the future of the EU

When asked whether the effects of the outcome of the UK referendum on the future of the European Union had been discussed, the majority of respondents (22 out of 38) answered in the affirmative and referred back to the previous question; only six expressed their intention to hold the debate once Article 50 TEU was triggered.

Among the former, the Portuguese *Assembleia da República* said that with the new scrutiny methodology the EAC had created the position of permanent rapporteur, and that two rapporteurs were assigned to the Brexit topic. The UK *House of Commons* had issued a White Paper on the Future of the EU, which was to be scrutinised in due course. The European Parliament's Committee on Constitutional Affairs (AFCO) mentioned that the European Parliament had adopted a

resolution³ stressing that the will of the majority of UK citizens ought to be respected and that the full involvement of the European Parliament at all stages of the procedure regarding the withdrawal agreement and any future relationship must be ensured. The European Parliament's Conference of Presidents (CoP) had decided to appoint Mr Guy VERHOFSTADT as coordinator of the activities connected to Brexit and as the representative of the European Parliament towards the other institutions in the process, liaising closely with the Chair of AFCO. During the pre-negotiations and negotiations phase, the process would be steered by the CoP, to which the coordinator would regularly report and get input from. According to the information given, the CoP would prepare the Parliament's input for the guidelines to be provided by the European Council, under Article 50 TEU, in the form of a resolution⁴. To this end, Parliament's committees considered the impact of the UK withdrawal on the policy areas and legislation in their respective field of responsibility, and prepared analytical contributions based on their fact-finding work. The AFCO Committee, which was the committee responsible for the consent procedure in the outcome of the negotiations, had been gathering evidence from relevant stakeholders; that initiative would be complemented by a structured dialogue with other committees responsible for key areas at stake during the negotiations process.

When asked if national Parliaments had issued a Resolution on Brexit, only six⁵ respondents out of 38 answered in the affirmative. Four⁶ Parliaments/Chambers answered that they intended to do so at a later stage and one said that it had no intention of doing so.

iii. Discussions within COSAC on the negotiation process concerning the exit of the UK from the EU and information provided to national Parliaments

National Parliaments were also asked whether developments of the negotiating process should be featured in COSAC meetings were the UK to officially trigger Article 50 TEU. The vast majority of Parliaments/Chambers agreed that these developments should be reflected in the work of COSAC (32 out of 38). Of these, 13 expressed their strong agreement. Five said that they neither agreed nor disagreed and one disagreed with the statement entirely.

Regarding the negotiating process concerning the exit of the UK from the European Union, all but two respondents (35 out of 37 respondents) said that national Parliaments should receive regular updates from their governments. Moreover, a majority (28 out of 38) said that national Parliaments should be given the opportunity to ask questions and obtain further clarifications or receive updated reports (25) from the negotiating team on the progress of the negotiations. Twelve Parliaments/Chambers had no opinion on the matter and one said that there was no need for updated reports. Eight had no opinion on the matter and two thought that there was no need to obtain further clarification. Whereas nineteen respondents out of 38 also thought that a contact person from the negotiating team should be appointed to liaise with national Parliaments on issues relating to the negotiating process, four thought there was no need for this and fifteen had no opinion on the matter. On the issue whether national Parliaments and the European Commission should come together and regularly discuss the progress of the negotiation process, the overall stance was affirmative (21 out of 38 respondents). The *Belgian Sénat* specifically called for the negotiations concerning Brexit to be discussed between national Parliaments and the European Commission

³ [European Parliament resolution of 28 June 2016 on the decision to leave the EU resulting from the UK referendum, P8_TA\(2016\)0294](#)

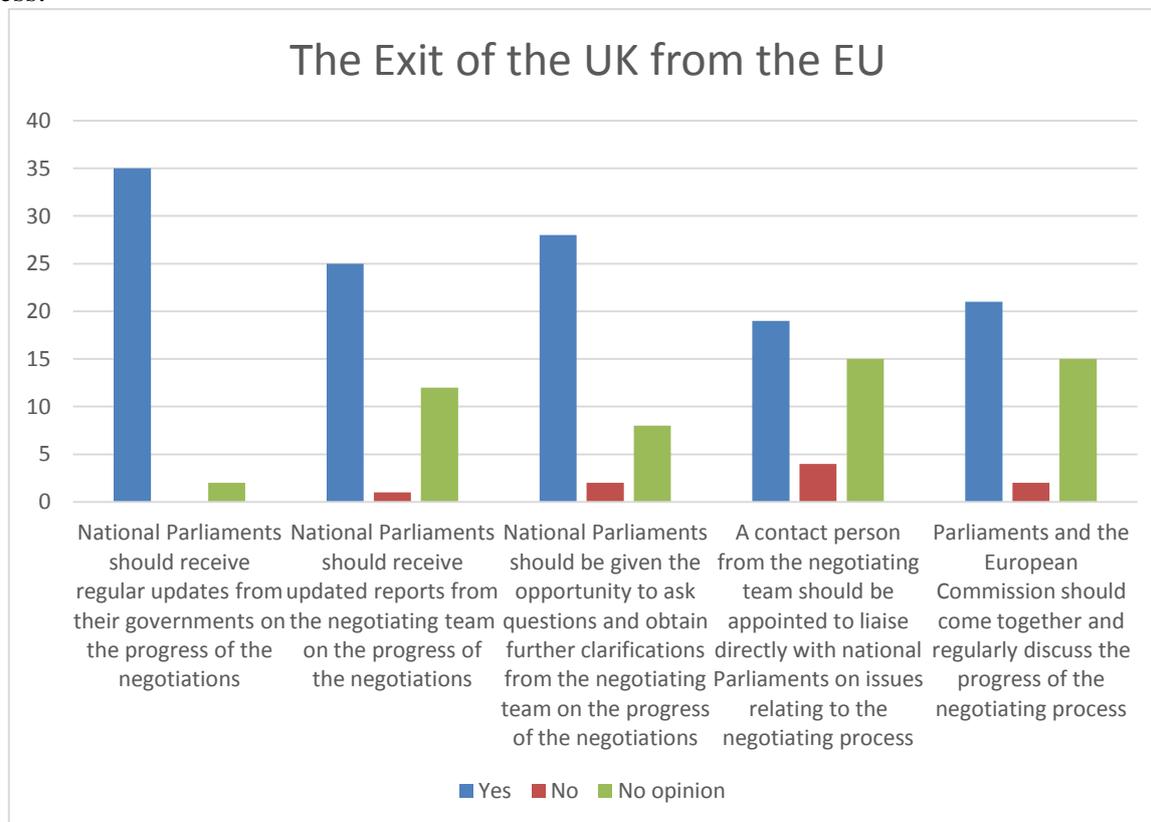
⁴ European Parliament resolution of 5 April 2017 on negotiations with the United Kingdom following its notification that it intends to withdraw from the European Union (2017/2593(RSP))

⁵ UK *House of Commons* and *House of Lords*, Irish *Houses of the Oireachtas*, Czech *Senát*, French *Sénat*, European Parliament

⁶ German *Bundesrat*, Spanish *Cortes Generales*, Italian *Senato della Repubblica*, German *Bundestag*

within the framework of COSAC. On the other hand, two Parliaments/Chambers thought this was not necessary and fifteen had no opinion on the matter.

The following graph illustrates the level of importance that Parliaments/Chambers assigned to the different options given regarding how national Parliaments should be informed on the negotiating process.



iv. The exit of the UK from the EU and the four freedoms

As a follow-up to Mr VERHOFSTADT’s statement that “any future relationship between Britain and the EU cannot infringe on the four freedoms”, the national Parliaments were asked whether discussions had taken place on the possible impact that the deal with the UK could have on the four freedoms. The majority of Parliaments/Chambers (24 out of 38 respondents) had had discussions on this topic. Of these, nine had held discussions in plenary and 19 in committee meetings.

A number of Parliaments/Chambers provided more information on those meetings, as well as on the outcome of the discussions held. The Spanish *Cortes Generales* stated that discussions were being held in the framework of the subcommittee on the consequences of Brexit and that the completion of its work was foreseen for 30 June 2017. The Danish *Folketing* said that a private motion for a resolution on citizens’ rights had been put on the agenda for the April plenary session.

The French *Sénat* had discussed the possible impact on the four freedoms in the group that was set up to follow Brexit, during which the indivisibility of the four freedoms was reaffirmed. In the same vein answered the Portuguese *Assembleia da República*, the Italian *Senato della Repubblica*, the Luxembourg *Chambre des Députés* and the French *Assemblée nationale*. The former stated that most parliamentary groups believed that a decision to remain in the internal market involved accepting all four freedoms and the latter considered the freedom of movement to be a cornerstone of the European project, therefore inseparable from the other three freedoms.

The non-negotiability of and respect for the fundamental freedoms was also stressed by the German *Bundestag* and further elaborated on by the Hungarian *Országgyűlés*. The latter stated that the basic approach by the EAC had been to strive for a free agreement between the EU and the UK, which respected, *inter alia*, the integrity of the basic freedoms, including the acquired rights of EU citizens living or working in the UK. The rights of the EU citizens who had already exercised their free movement rights was also the focus of discussions in the UK *House of Commons*. This was the subject of an amendment to the European Union (Notice of Withdrawal) Bill⁷.

The Irish *Houses of the Oireachtas* had dealt with this question at the Symposium on EU Affairs held in September 2016. It was concluded that solutions were required to complex issues, in particular to the status of the Good Friday Agreement, but that they might be difficult to achieve in the short-term.

On behalf of the European Parliament, five committees responded. The AFCO Committee stated that the outcome of the discussions on the four freedoms would be expressed in a political resolution that the European Parliament should adopt once Article 50 TEU was triggered, putting forward its priorities and possible red lines in view of its consent at the outcome of the procedure. The suggested contribution of the coordinators of the European Parliament's Committee on Internal Market and Consumer Protection (IMCO) to the European Parliament resolution on the UK withdrawal from the EU, one of which stressed that "any agreement between the EU and the UK must fully respect the integrity and the indivisibility of the four fundamental freedoms (...) which are (...) non-negotiable"; it also mentioned the mutual interest to pursue a special relationship pursuant to Article 8 TEU, "which should include arrangements regarding mutual market access in goods and services, including in the area of the recognition of professional qualifications;-". The European Parliament's Committee on Economic and Monetary Affairs (ECON) concluded that the topic had been discussed indirectly with the Commission and the ECB, but that no formal discussion was foreseen before the launch of the negotiations. The European Parliament's Committee on Employment and Social Affairs (EMPL) had established a Brexit Working Party on 20 October 2016, which had decided to focus on three key priorities: freedom of movement, coordination of social security systems and EU Funds related to employment and social policies. The European Parliament's Committee on Transport and Tourism (TRAN) had provided input to the European Parliament resolution on Brexit, which called on the Commission to address the continuing freedom of movement, the unconditional reciprocity requirement in mutual access to the transport markets, the need to ensure full respect for EU passenger rights, and the uninterrupted funding of jointly agreed infrastructure projects.

SECTION B: THE FUTURE OF THE EUROPEAN UNION

Asked how national Parliaments could further strengthen and promote the four freedoms, 20 Parliaments/Chambers and the Green party of the Austrian Parliament proposed that this could be achieved by discussing further the impact of the four freedoms on national economies. Eighteen Parliaments/Chambers said that this could be achieved by discussing ways how national Parliaments could secure and promote the development of the four freedoms during COSAC meetings, and 17 Parliaments/Chambers thought this could be achieved by proposing ways in which the European Commission and other European Institutions could ensure the development of the four freedoms. Only eight Parliaments/Chambers thought that conducting impact assessments on legislative packages, specifically keeping in mind the four freedoms, would help in further strengthening and promoting the latter. A further seven Parliaments/Chambers had no opinion on

⁷ At the time of answering the questionnaire for the 27th Bi-annual Report of COSAC it was not known whether the amendment would be passed.

the matter. The UK *House of Lords* stated that, as a parliamentary Chamber of a Member State that had chosen to leave the EU, it would not be appropriate for it to comment.

With regard to the Commission Work Programme 2017 (CWP), the vast majority of Parliaments/Chambers (30 out of 37 respondents) had discussed it, with most of them (29 Parliaments/Chambers) holding discussions at Committee level, and only a handful (eight Parliaments/Chambers) holding discussions at Plenary level.

The French *Assemblée nationale* pointed out that the programme had been transmitted to the sectoral committees by the EAC. The Dutch *Tweede Kamer* noted that the CWP had also been discussed during a meeting held with Vice-President Frans TIMMERMANS. The Italian *Senato* held discussions on the CWP at Committee level, with the involvement of all its 14 Committees, and ended with the adoption of a resolution by the EAC listing the priorities of the EU Affairs Committee for 2017, which was then transmitted to the Plenary. The Hungarian *Országgyűlés* also held discussions at Committee level, and an opinion on the initiatives was adopted following a meeting with Commissioner Tibor NAVRACSICS on 28 November 2016. The Swedish *Riksdag* had received information regarding the CWP from the Minister for EU Affairs and Trade Ann LINDE, and the Committee on Foreign Affairs was preparing a statement on the Programme, with other committees submitting their opinions. The Swedish Government had consulted the Committee on EU Affairs and had received a mandate reflecting the Swedish standpoint ahead of meetings in the General Affairs Council. The Spanish *Cortes Generales* reported that, whereas the CWP 2017 had indeed been discussed within the extended Bureau of the Joint Committee for EU Affairs, no extensive list of selected priorities had been drawn up, with proposals being selected on an *ad hoc* basis for the subsidiarity check, depending on how important or sensitive they were deemed to be.

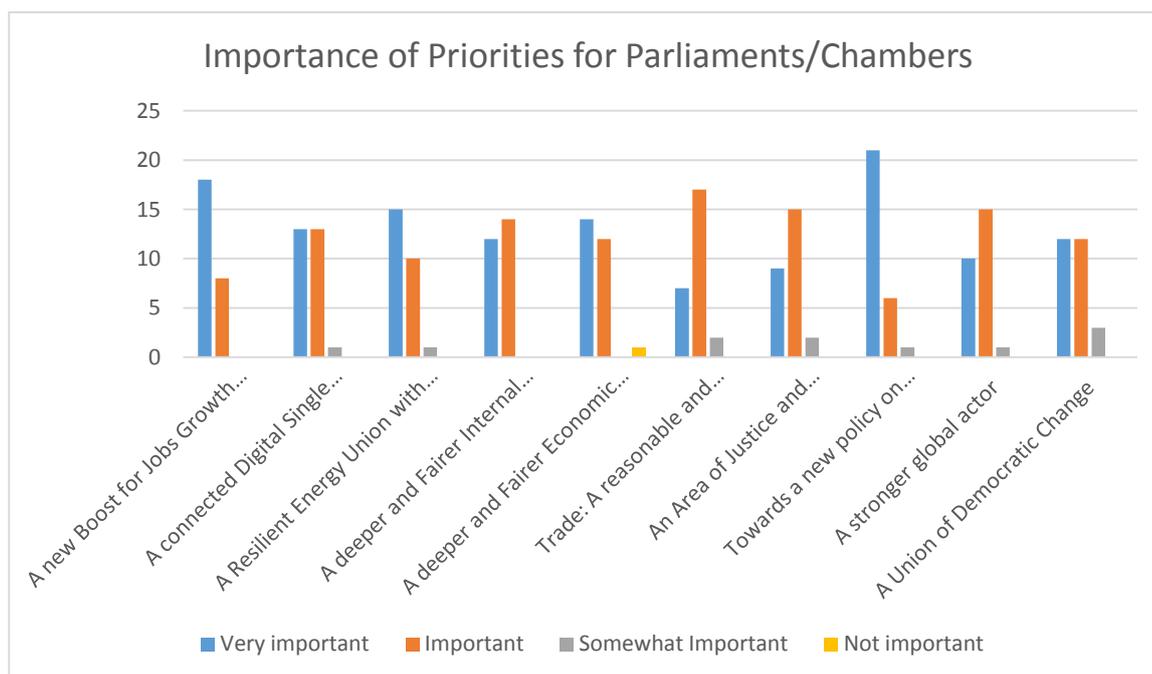
Only two Parliaments/Chambers had not discussed the CWP. A further five Parliaments/Chambers had not discussed it yet, but intended to do so.

Parliaments/Chambers were asked to rate the importance of each of the ten priorities identified by the Commission, namely: A new Boost for Jobs, Growth and Investment; A connected Digital Single Market; A resilient Energy Union with a forward-looking Climate Change Policy; A deeper and Fairer Internal Market with a Strengthened Industrial Base; A Deeper and Fairer Economic and Monetary Union; Trade: A Reasonable and Balanced Free Trade Agreement with the US; An Area of Justice and Fundamental Rights based on Mutual Trust; Towards a new policy on migration; A stronger global actor; A Union of Democratic Change.

Generally, Parliaments/Chambers rated each priority as “Very Important” or “Important”. “Towards a new policy on migration” was the most chosen one considered by the majority of responding Parliaments/Chambers (20 out of 27) as “Very Important”, while “Trade: A Reasonable and Balanced Free Trade Agreement with the US” was rated as “Important” by 17 out of 24 respondents. No Parliament/Chamber considered any of the ten priorities “Not Important”, with the notable exception of the Danish *Folketing*, which considered one priority - A deeper and Fairer Economic and Monetary Union - as such.

The Finnish *Eduskunta* replied that it was not able to make such prioritisations, since, it argued, “either Commission proposals are important or they shouldn’t be made”. The Swedish *Riksdag* noted that its Parliament did not deal with the CWP “in such a way as to clarify any prioritisation among the various topics”.

The following graph illustrates the level of importance that Parliaments/Chambers assigned to the different priorities.⁸



Asked in which ways national Parliaments could further promote the European project, the majority of Parliaments/Chambers (23 respondents) said that this could be promoted through improved cooperation among national Parliaments throughout the legislative process. Twenty-one Parliaments/Chambers responded that the European project could be further promoted through a more effective scrutiny process throughout the legislative process, while 13 Parliaments/Chambers opted for enhanced input from European citizens on EU actions.

Some other Parliaments/Chambers provided alternative answers. The French *Sénat* mentioned a right of initiative or “green card” and a meeting of Parliaments in a reinforced COSAC format, aggregating all existing forms of cooperation and meeting twice per trimester. The Portuguese *Assembleia da República* also proposed a mechanism like the “green card”, created to enhance the role of national Parliaments in the development of European Union policy and legislation, based on interparliamentary cooperation, and noted that Portugal at the time of writing had a proposal for a “green card” on taxation and financial transparency in the European Union. The Hungarian *Országgyűlés* proposed regular and clear communication about the European project towards the EU citizen. The Cyprus *Vouli ton Antiprosopon* proposed promotion through simplified procedures, adding that its AKEL Left New Forces political party stated that the EU should change its current course, and that society, people and the environment should be at the centre of economic and political developments. The Romanian *Camera Deputaților* proposed developing an array of instruments in support of the Union, and to issue political documents in support of the EU or reacting to actions against EU, engaging in debates on this subject at national and EU level, and ensuring access to information for citizens while swiftly responding to fake news or anti-EU actions, and collecting the requests of citizens on EU politics/policies and transposing them into legislation or political action. It also suggested combating anti-EU trends and especially populist movements through parliamentary means. The European Parliament suggested that enhancing the dialogue between national Parliaments and the EP on European issues could also be an important means to promote the European project.

⁸ While the general position of the Austrian Parliament considered “Trade: A reasonable and Balanced Free Trade Agreement” to be “Important”, the Green Party considered this to be only “Somewhat Important”.

The Finnish *Eduskunta*, on the other hand, pointed out that Parliaments are, by definition, neutral in respect of the issues to be decided by their members.

As a general note on the section, the Italian *Senato della Repubblica* also referred to the adoption of the White Paper on the Future of the European Union, stating that this offered a new opportunity for national Parliaments and for COSAC to have frank and genuine discussions on the ways forward when it comes to the European Union's integration process.

CHAPTER 3: MIGRATION: COMBATTING HUMAN SMUGGLING AND TRAFFICKING AND ESTABLISHING A HUMANE AND EFFECTIVE RETURN AND READMISSION POLICY

Section A of Chapter 3 presents the work done, the discussions held and positions in national Parliaments on issues pertaining to migration and human trafficking and analyses the progress of scrutiny carried out by them.

Section B of Chapter 3 explores whether national Parliaments have considered return and readmission policy proposals and whether they are of the opinion that the current framework is effectively reducing illegal migrant smuggling.

SECTION A: ANALYSIS ON THE PROGRESS OF SCRUTINY BY NATIONAL PARLIAMENTS

A vast majority of Parliaments/Chambers (36 out of 38 respondents) had dedicated a debate on the subject of migratory pressures facing Member States close to the Mediterranean and Balkan route, specifically on the unprecedented pressure to provide humanitarian assistance to people in distress, whilst securing external borders against potential criminal and terrorist infiltration. Only two Parliaments/Chambers (the Slovak *Národná Rada* and the Romanian *Camera Deputaților*) had not held such a debate.

Amongst the former, nine Parliaments/Chambers held a debate in Plenary; 15 held Committee debates and 12 held both. The Portuguese *Assembleia da República* also held a Conference entitled "Refugees and migration: conflict prevention and long-lasting solutions". The European Parliament held debates at both plenary and committee level, in addition to regular hearings and exchange of views with key stakeholders; legislative work on related instruments; and the resolution of 12 April 2016 on the situation in the Mediterranean and the need for a holistic EU approach to migration⁹.

Asked which of the main migratory routes needed increased attention at EU level, the vast majority of national Parliaments/Chambers (20 of 35 respondents) plus the European Parliament's LIBE and AFET Committees responded that both needed equal attention. To these may be added the Lithuanian *Seimas* and the Latvian *Saeima*, which however qualified their position. Supporting the need for attention to both routes, the first highlighted also its attention on new possible migratory routes from the North, while the second, as well as the Polish *Sejm*, stressed the need to pay attention also to the Eastern Borders route.

Four Parliaments/Chambers signalled only the Mediterranean route, and only one chose the Balkan route. A small number of Parliaments/Chamber provided other alternatives. The Finnish *Eduskunta* did not choose, stating that such a prioritisation was not possible or even sensible, as "humanitarian and other crises must be addressed whenever and wherever they occur". Both the Swedish *Riksdag* and the Spanish *Cortes Generales* pointed out that their respective Parliaments had not considered the question, and therefore could not express an opinion on the matter. The AFET and DEVE

⁹ [P8_TA\(2016\)0102](#)

committees of the European Parliament underlined that legal, safe routes for migrants and refugees are the best way to combat the smuggling and trafficking of human beings and called for work to continue at EU level on the creation and strengthening of legal routes that would be complementary to resettlement in a joint report on "Addressing refugee and migrant movements: the role of EU external action"¹⁰.

Asked whether they had discussed the EU action plan against migrant smuggling¹¹, 17 out of 20 Parliaments/Chambers responded positively. Eleven Parliaments/Chambers had discussed the reports on assessing the extent to which Member States have taken the necessary measures in order to comply with Directive 2011/36/EU;¹² on assessing the impact of existing national law, establishing as a criminal offence the use of services which are the objects of exploitation of trafficking in human beings;¹³ and on the progress made in the fight against trafficking in human beings.¹⁴

Twelve Parliaments/Chambers had discussed the EU strategy towards the eradication of trafficking in human beings. Finally, only six Parliaments/Chambers had discussed the Europol report on migrant smuggling in the EU.

Asked whether their relevant Committee sustained an open and continuous dialogue with the Minister responsible for human smuggling and trafficking, half the responding Parliaments/Chambers (18 out of 36) said that they did so regularly, whereas the other half (17 out of 36) replied that this dialogue was occasionally sustained. Only one Parliament/Chamber replied that it was never sustained.

With regard to the 10th year anniversary of the EU Anti-Trafficking Date, seven Parliaments/Chambers had organised activities or information sessions directly addressing human trafficking and smuggling, and another seven had held talks with representatives from key national organisations. Four Parliaments/Chambers held meetings with representatives from leading European institutions or agencies. Two Parliaments/Chambers had drawn up a report detailing national initiatives aimed at combating human trafficking and smuggling, while another two had drawn up a report on legislation transposed or enacted nationally. Only one Parliament/Chamber had included the EU Anti-Trafficking date in the Parliamentary calendar and held a discussion in Plenary.

Some other Parliaments/Chambers held other activities or initiatives to commemorate the day. The French *Sénat* had issued a report and held a debate on the subject, while the Dutch *Eerste Kamer* and *Tweede Kamer* held an Interparliamentary Conference on human trafficking in March 2016, during their parliamentary dimension of the EU Presidency. The UK *House of Commons* had not marked the EU Anti-Trafficking Day, but its Home Affairs Committee met the UK Anti-Slavery Commissioner and Government Ministers while also monitoring this area. The Luxembourg *Chambre des Députés* held an exchange of views on the subject in the framework of its Presidency of the Benelux. The Lithuanian *Seimas* reported that, usually once a year, the Committee on

¹⁰ <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&mode=XML&reference=A8-2017-0045&language=EN>

¹¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - EU action plan against migrant smuggling (2015-2020) (COM (2015) 285).

¹² Report from the Commission assessing the extent to which Member States have taken the necessary measures in order to comply with Directive 2011/36/EU (COM (2016) 722).

¹³ Report from the Commission assessing the impact of existing national law, establishing as a criminal offence the use of services which are the objects of exploitation of trafficking in human beings (COM (2016) 719).

¹⁴ Report from the Commission on the progress made in the fight against trafficking in human beings (COM (2016) 267).

Human Rights held a meeting with representatives from the main national institutions and NGOs and discussed the situation of human trafficking in Lithuania, as well as the annual report drawn by the Ministry of the Interior on the implementation of the action plan on human-trafficking.

SECTION B: RETURN AND READMISSION

i. Return and readmission policy proposals

The European Commission has proposed numerous initiatives to tackle and disrupt the business model of migrant smugglers and traffickers in human beings. The EU Action Plan on Return (2015) and the EU readmission agreements negotiated with third countries are important European actions aimed at addressing migration in a systematic way and acting as a deterrent for prospective irregular migrants. In this context, Parliaments/Chambers were asked to provide information on the outcome of their discussions on various relevant documents.

In many of the responding Parliaments/Chambers discussions took place on the Proposal for a Regulation of the European Parliament and of the Council on a European travel document for the return of illegally staying third-country nationals¹⁵ (24 out of 30), and on the Communication from the Commission to the European Parliament and to the Council on the EU Action Plan on Return¹⁶ (22 out of 30). A little over half of the responding Parliaments/Chambers (16 out of 30) had already discussed the 2015 Declaration and Action Plan of the Valletta Summit on migration and the Commission's 2011 Communication on Evaluation of EU Readmission Agreements¹⁷.

The Austrian *Nationalrat* and *Bundesrat* clarified that discussions were held on all the above-mentioned issues on several occasions, but not on those particular documents as such. In the Czech *Senát*, while the documents were not discussed *per se*, they were used as sources of information in other debates. In the Belgian *Sénat* these documents were simply transmitted to the competent committees, and the Federal Advisory Committee on European Affairs held regular discussions on those specific topics.

The Swedish *Riksdag* discussed the documents within the responsible parliamentary committees; it also explained that every time an EU document was up on the Council agenda, it was dealt with at the meeting of the Committee on EU Affairs where the Government sought a mandate from the Committee, regarding the standpoint to be taken in the Council of Ministers.

As the Commission's 2011 Communication on Evaluation of EU Readmission Agreements dates back 5 years, all but one responding Parliaments/Chambers agreed the Commission should conduct a new evaluation process (26 out of 27), but there was no consensus on its frequency: 10 of the responding Parliaments/Chambers expressed a preference for evaluations conducted yearly, while 9 respondents opted for evaluations performed once every three years. Only four respondents opted for a five years span. The Finnish *Eduskunta* was of the opinion that a specific timeframe was unnecessary and that the Commission needed to have an up-to-date assessment at all times. The group of the Greens in the Austrian *Nationalrat* and *Bundesrat* suggested that the evaluation should also include the impact of economic partnership agreements and trade agreements.

¹⁵ COM (2015) 668

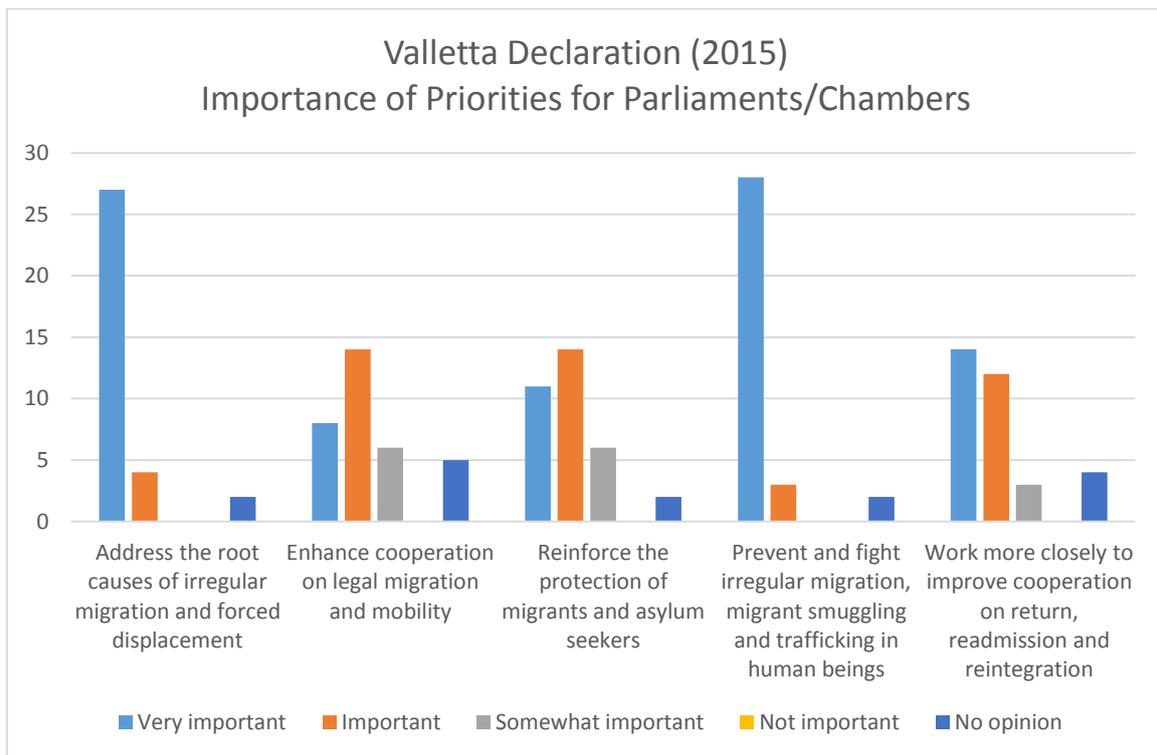
¹⁶ COM (2015) 453

¹⁷ COM (2011) 76

ii. Priority actions based on the Valletta Declaration and Action Plan

The Valletta Summit on migration recognised that migration was a shared responsibility of countries of origin, transit and destination. Mindful of the strategic importance of sustaining an open and mutual dialogue with third countries, the Valletta Declaration (2015) reaffirmed the importance of strengthening cooperation to ensure that the return and sustainable reintegration of irregular migrants is done in full respect of human dignity and of the principle of *non-refoulement*. Leaders participating in the Summit adopted a political declaration and an action plan.

Parliaments/Chambers were asked to rate the proposed actions and indicate to which extent they reflected the national priorities in this field. The following graph illustrates the level of importance that Parliaments/Chambers assigned to the different priorities.



Preventing and fighting irregular migration, migrant smuggling and trafficking in human beings ranked highest, as it was considered to be a very important action by the highest number of the responding Parliaments/Chambers (28 out of 33), and important by three Parliaments/Chambers; two respondents indicated there was no opinion on the issue.

This action was followed closely by the priority of addressing the root causes of irregular migration and forced displacement, with most respondents (27 out of 33) considering it very important, and four as important; two respondents indicated there was no opinion on the issue.

Working more closely to improve cooperation on return, readmission and reintegration was third on the list of priority actions of the responding Parliaments/Chambers: slightly less than half of Parliaments/Chambers were of the view it was a very important action (14 out of 33), about a third that it was important (12 out of 33), while three deemed it to be somewhat important; four respondents indicated there was no opinion on the issue.

Reinforcing the protection of migrants and asylum seekers was considered to be very important by a third of the respondents (11 out of 33), important by almost half of them (14 out of 33) and somewhat important by six; two respondents indicated there was no opinion on the issue.

Enhancing cooperation on legal migration and mobility was the last on the list of priority actions. Eight respondents out of 33 considered it was very important, 14 that it was important and six somewhat important. Five respondents indicated there was no opinion on the issue¹⁸.

On a general note, the Finnish *Eduskunta* argued that prioritisation made no sense, as all measures were needed in different degree in different situations. While the Austrian Parliament indicated that it considered all those actions as very important, the group of the Greens deemed them to be somewhat important and underlined that focus should lie on a common EU asylum system with binding quotas.

iii. Ratification of bilateral readmission agreements with third countries

Only a third of the responding Parliaments/Chambers indicated that they were required to ratify signed bilateral readmission agreements with third countries; the majority of respondents (19 out of 36) pointed out that they had no role and five mentioned they were not aware of any.

The UK *House of Commons* explained that the Government ratified international agreements, but could not do so until they were laid before Parliament for 21 sitting days. Each House of Parliament was able to object to the ratification during this period.

The Dutch *Eerste Kamer* stated that there was no available overview of signed bilateral readmission agreements and that the involvement of the Chamber depended on the on the form of the agreements: parliament was formally involved if the agreement was (part of) a treaty and not directly involved if the agreement was in the form of a memorandum of understanding. The Latvian *Saeima* replied that it had concluded no readmission agreements and mentioned that ratification depended on the type of the agreement – governmental agreement or state agreement.

The Lithuanian *Seimas* pointed out that since 1995 Lithuania had signed 24 readmission agreements with 25 countries, among which Ukraine, Russia, Moldova, Armenia, and Kazakhstan (the latter was last amended in 2012 and the amendments of the agreement were currently in force). In addition, according to the information given, Lithuania had also drafted agreements with Kosovo, Vietnam, Thailand and Uzbekistan.

The Czech *Senát* mentioned that agreements were signed with Croatia, Canada, Moldavia, Vietnam, Switzerland, Armenia, Kosovo, Kazakhstan. The Austrian *Nationalrat* and *Bundesrat* signed readmission agreements with Kosovo, Nigeria, Tunisia. The Cyprus *Vouli ton Antiprosopon* stated that agreements were concluded with Russia and Serbia, while the Slovak *Národná rada* referred to the agreements with Albania, Montenegro, Georgia, FYROM, Moldova, Serbia and Ukraine.

The Luxembourg *Chambre des Députés* answered that within the Benelux framework readmission agreements were concluded with the following countries: France, Austria, Germany, Slovenia, Romania, Bulgaria, Estonia, Lithuania, Latvia, Croatia, Hungary, Slovakia, Serbia, Montenegro, Switzerland, Bosnia-Herzegovina, FYROM, Armenia, Kosovo. The Belgian *Chambre des*

¹⁸ The AKEL Left New Forces political party of the Cyprus *Vouli ton Antiprosopon* differentiated its position; it considered both enhancing cooperation on legal migration and mobility, and reinforcing the protection of migrants and asylum seekers as very important; working more closely to improve cooperation on return, readmission and reintegration was considered not important.

représentants also referred to an agreement concluded with Kosovo in 2013 in the framework of Benelux.

The Hungarian *Országgyűlés* stated that bilateral readmissions agreements were basically ratified by the Parliament before Hungary's EU accession or prior to the EU membership of the given country.

The German *Bundestag* made available a list of the agreements signed and the current situation¹⁹. The Irish *Houses of the Oireachtas* informed that it had ratified no agreement.

iv. The impact of the current framework on illegal migrant smuggling

Parliaments/Chambers were asked to indicate whether return and readmission agreements, on the one hand, and legal migration, on the other hand, could effectively act as deterrents for illegal crossings and therefore contribute to disrupt criminal business models.

Less than half of the responding Parliaments/Chambers (13 out of 31) agreed that return and readmission agreements could effectively act as a deterrent. Around a third of the respondents replied they neither agreed nor disagreed with this view; five Parliaments/Chambers strongly agreed, while two other and the AKEL Left New Forces political party of the Cyprus *Vouli ton Antiprosopon* disagreed.

Half of the 32 respondents agreed with the idea that legal migration could effectively act as a deterrent for illegal crossings, while over a third neither agreed nor disagreed. Only three Parliaments/Chambers disagreed with this point of view, and two strongly agreed with it.

All but two of the responding Parliaments/Chambers agreed with the idea of increased harmonised measures at Union level with regard to human trafficking (25 out of 27) and with regard to migrant smuggling and return and readmission agreements (24 out of 26). Together with other five respondents, the AKEL Left New Forces political party of the Cyprus *Vouli ton Antiprosopon* disagreed. The Czech *Poslanecká sněmovna* mentioned it had no clear opinion on migrant smuggling and human trafficking.

The Czech *Senát* argued that increased harmonised measures could in some cases be counterproductive. It referred to slow negotiations held at EU level with third countries on return and readmission, which in the past have blocked possible bilateral negotiations of the most affected EU Member States.

The Polish *Senat*'s stressed that it focused primarily on measures aimed at counteracting illegal migration and supported the efforts towards a compromise proposal for EU Member States' voluntary participation based on solidarity. It said it had also backed the proposals on the establishment of the European Border and Coast Guard and the measures aimed at controlling persons crossing the EU borders even in situations of a lack of visa requirement. The Senate recognised the necessity to reform the Common European Asylum System, including the establishment of a European Asylum Agency.

¹⁹http://www.bmi.bund.de/SharedDocs/Downloads/DE/Themen/MigrationIntegration/AsylZuwanderung/RueckkehrFluechtlinge.pdf?__blob=publicationFile
<https://www.bmi.bund.de/SharedDocs/Kurzmeldungen/DE/2016/07/factsheet-abschiebungen.html>

The French *Assemblée nationale* contended that the European Border and Coast Guard Agency should devote substantial resources to return operations and to the preparatory phase by facilitating the process of obtaining consular *laissez-passer*. The Greek *Vouli ton Ellinon* stressed that there were no effective mechanisms to monitor and ensure compliance of the readmission agreements by the countries of origin and transit.

The UK *House of Commons* pointed out that given the position of the UK, it did not offer answers on what should be done at EU level, but stressed the continuing importance of international cooperation and referred to the report of the Home Affairs Committee on the migration crisis²⁰.

The Finnish *Eduskunta* informed that the issue of return and readmission agreements, and of legal migration acting as deterrents for illegal crossing, were currently under discussion. Together with the question of harmonised measures on migrant smuggling, human trafficking and return and readmission agreements it was considered contentious. The Belgian *Sénat* chose to express no opinion on the need for harmonised measures on migrant smuggling since it was unclear what the meaning of "migrant smuggling" was.

The Dutch *Eerste Kamer* explained that, while many of the above-mentioned issues were discussed at committee level and with the Government, there were no formal positions of the Senate on those specific questions. The German *Bundestag* answered that there was no formal position with regard to the evaluation of EU readmission agreements, the Valletta Summit Action Plan, the issue of return and readmission agreements and of legal migration acting as possible deterrent for illegal crossings, or on the need for harmonised measures on migrant smuggling, human trafficking, and return and readmission agreements. On the issue of harmonised measures, the Spanish *Cortes Generales* also made clear that no specific debate had been held yet.

²⁰ <https://www.publications.parliament.uk/pa/cm201617/cmselect/cmhaff/24/2402.htm>