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# THE TREATY OF LISBON AND THE NATIONAL PARLIAMENTS





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The Treaty of Lisbon recognizes that the national Parliaments **contribute actively to the good functioning of the EU** (art. 12 TEU) and that **governments are democratically accountable to them** (art. 10 TEU).





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The Treaty of Lisbon **makes a number of changes to the role of the national Parliaments in the EU**, namely in the following areas:

- Scrutiny of the Principle of Subsidiarity;
- Area of Freedom, Security and Justice;
- Treaty Revision;
- Applications to Join the Union;
- Passerelle Clause;
- Flexibility Clause.





## ROLE OF THE NATIONAL PARLIAMENTS IN THE EU PROTOCOL 1

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**Objective:** greater involvement of NPs in the EU, enhancing their ability to express their views on draft legislative acts and other relevant matters.

**Information submitted to the NPs:** they shall directly receive all consultation and planning documents from the Commission, as well as draft legislation issued by any institution or group of Member States;

**NPs** may submit a **reasoned opinion** on the observance of the subsidiarity principle to the Presidents of the EP, Council and Commission;

### **Interparliamentary Cooperation:**

- the EP and the NPs define the terms of their cooperation;
- the role of COSAC in the exchange of information and good practices.





## NATIONAL PARLIAMENTS IN THE EU PROTOCOL 2 – PRINCIPLE OF SUBSIDIARITY

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NPs have **8 weeks** to submit a **reasoned opinion** to EU institutions stating the reasons why any draft legislation fails to comply with the principle of **subsidiarity** (“**Early Warning Mechanism**”).

*Note: Each NP has 2 votes, out of a total of 54.*

- “**Yellow card**”: if  $\frac{1}{3}$  of the NPs (or  $\frac{1}{4}$  on matters relating to the AFSJ) oppose the measure, the European Commission is required to reconsider. ( $\frac{1}{3}$  is equivalent to 18 votes and  $\frac{1}{4}$  to 14.)

⇒ The EC may maintain, withdraw or amend the draft.





## NATIONAL PARLIAMENTS IN THE EU

### PROTOCOL 2 – PRINCIPLE OF SUBSIDIARITY

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- **“Orange card”**: in the course of ordinary legislative proceedings (co-decision), if a simple majority (28 votes) of the NPs opposes the draft, the European Commission is required to review it:

⇒ If it decides to maintain the draft unchanged, the reasoned opinion from the Commission and the opinions of the NPs are forwarded to the legislator (Council and EP) for consideration.

⇒ If the **Council**, by a majority of 55%, or the **EP**, by a simple majority, considers that the **draft does not comply with the subsidiarity principle**, it will be withdrawn.





## NATIONAL PARLIAMENTS IN THE EU PROTOCOL 2 – PRINCIPLE OF SUBSIDIARITY

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“**Red card**”: following the adoption of the legislation, Member States may bring legal action on behalf of their NP on grounds of infringement of the principle of subsidiarity



The EU Court of Justice has powers to pronounce on appeals on grounds of infringement of the principle of subsidiarity





## Area of Freedom, Security and Justice

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The Treaty of Lisbon strengthens **the role of NPs in monitoring EU policies in the AFSJ**, not only in terms of subsidiarity, but in regard to the evaluation of policies:

- **Passerelle Clause** (article 81(3) TFEU) establishes that on issues of **Family Law with cross-border implications**, the Council may decide, unanimously, that a given matter in this field should be decided by ordinary legislative procedure and not by unanimous vote. **The NPs have 6 months to make their opposition known.**
- **The NPs are involved in the methods of control of the activities of Eurojust and Europol** (article 85 and 88(2) TFEU).
- The Council will create a Standing Committee in order to ensure that operational cooperation on **internal security** is promoted and strengthened within the EU. **The NPs will be kept informed of the respective proceedings** (article 71 TFEU).







# Treaty Revision

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➤ **Ordinary revision procedure** (article 48, nos. 2-5 TEU)

-The NPs are notified and participate in the Convention.

➤ **New simplified revision procedures** (article 48, nos. 6-7 TEU)

- Applicable only to the revision of EU policies and internal actions (Part III of TFEU);

- When the TFEU or Title V (CFSP) of the TEU requires a unanimous resolution from the Council on a given matter, **the European Council may decide unanimously that the Council should decide by qualified majority in this area;**

- In addition, when the TFEU establishes that the Council adopts acts through special legislative procedure (unanimous vote), the **European Council may decide that these acts should be adopted through ordinary legislative procedure;**

- The NPs are kept informed of these initiatives. If **one of the NPs makes its opposition known within 6 months**, the decision cannot be adopted.





## Other Provisions

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➤ ***Applications for Membership of the EU*** (article 49 TFEU)

> The NPs will be kept informed of these applications.

➤ ***Flexibility Clause*** (article 352 TFEU)

> If a measure is deemed necessary in order to achieve one of the aims of the Treaties, but the necessary powers have not been provided for, the Council may, on the basis of a proposal from the Commission and with the approval of the EP, unanimously adopt the necessary provisions;

> In relation to monitoring the principle of subsidiarity, the Commission alerts the national Parliaments to drafts based on this article.

