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STRENGTHENING THE ROLE OF NATIONAL PARLIAMENTS IN THE EUROPEAN UNION – WHAT FOR AND HOW?

Abstract. In the debate on the European Union's problems, the concept of "democracy deficit" has been present from its very beginning. This term is applied in a quite vast manner and, apart from the asymmetry of the relation between the European Parliament and the Council, it also concerns the overly limited role of national parliaments in the European Union. In this regard, inadequacy in the national position of individual parliaments is observed. On the other hand, it is necessary to emphasise their uneven activity on their European aspirations. At the time when the European dispute on the rule of law in Poland has polarized attitudes and language in statements on both sides – despite irresponsible trends – it is worth to examine the participation of national parliaments (including the Polish parliament) in the European inter-parliamentary dialogue and, consequently, to determine whether and how its constructive impact on the European Union and its law functions.

Keywords: democracy deficit in the European Union, role of national parliaments in the European Union, intra-EU parliamentary cooperation, Europeanisation of national parliaments, subsidiarity.

Introduction

In 2004, the Republic of Poland became a Member State of the European Union and, although since the event 15 years have passed, the questions of the democracy failure and inadequate role of national parliaments remain valid. "National parliaments must have a greater, more significant role", as "it is the national parliaments that are and will be a real source of true democratic legitimacy and responsibility in the European Union"

(David Cameron, 2013). These words came from the former prime minister of the United Kingdom, in a speech delivered at Bloomberg's headquarters in London. He then called for the introduction of numerous reforms in the European Union, among which the strengthening role of national parliaments was of crucial importance. He also predicted that, without such reform, the future of the United Kingdom as a member state was uncertain. Leaving aside the rights and wrongs of Brexit – perhaps, if his words had been heeded and the role of national parliaments in the European Union had been strengthened, the endless list of problems now arising from Brexit would have been avoided. As rightly pointed out by Francesco Rizutto – “the acknowledgement by the member states in Nice and at Laeken in 2001 that EU's growing accountability deficit threatened to undermine the legitimacy of the whole project has injected greater urgency to the need to clarify the role of national parliaments in the integration project” (Rizutto, 2003).

However, the issue of the role of national parliaments in the European Union is not a new issue. Already in the text of the Declaration to the Maastricht Treaty, it was noted that “it is important to encourage greater involvement of national parliaments in the activities of the European Union.” (Declaration No. 13, 1992). The problem was noticed quite early on by the doctrine of law, as evidenced by studies such as *The Democratic Deficit of the European Union: Towards Closer Cooperation between the European Parliament and the National Parliaments* by Karlheinz Neunreither (1994) or *Jean Monnet and the 'democratic deficit' in the European Union* by Kevin Featherstone (1994).

The task of science is to search for the truth, and therefore, to fully illustrate the state of affairs, it seems useful not only to comment on the validity of arguments presented by the European Union and Poland, but also to analyze issues that, regarding the issue of democracy, contribute to objectifying the view of the dispute between Poland and the European Union on the rule of law and democracy. Currently, within the European Union, there is an ongoing debate on the rule of law and condition of democracy in Poland (see e.g. *Rule of Law in Poland / Article 7 (1) TEU reasoned proposal – European Commission contribution for the hearing of Poland on 11 December 2018*), which attracts interest of the doctrine (see e.g. Ciampi, 2018; Sadurski, 2019). Simultaneously, the European Union is facing problems of its own, intra-institutional democracy. With these assumptions in mind – the authors intend to make a scientific contribution to the issue of the role of national parliaments in the European Union. It leaves no doubt that this is Poland's opportunity to join the EU debate on democracy (and to promote its understanding). It can be

assumed that the considerations made in the article will contribute to a more objective understanding of the EU-Poland dispute on the rule of law and democracy.

To achieve the objective, the institution of the European Union Affairs Committee of the Polish Sejm, its position and activities on the role of national parliaments in the EU (also in comparative terms) are presented, as well as the emphasis is put on the intra-EU inter-parliamentary dialogue and the influence of national parliaments on the European Union. Subsequently, the mechanism of subsidiarity control and enhanced cooperation is considered in the context of the title issues. Finally, the authors derive from the article's findings and ultimately propose recommendations for strengthening the role of national parliaments in the European Union.

The European Union Affairs Committee of the Polish Sejm on the role of national parliaments in the European Union

The starting point for the considerations on legal and political possibilities to strengthen the role of national parliaments in the European Union is *Material informacyjno-tezowy nt. możliwych działań wzmocnienia roli parlamentów narodowych (krajowych) w Unii Europejskiej* [The information and thesis material on possible operations strengthening the role of national parliaments in the European Union] of 31 October 2018 (hereinafter: *Material...*) received from the Secretariat of the European Union Affairs Committee of the Polish Sejm [*Komisja ds. Unii Europejskiej Sejmu Rzeczypospolitej Polski, Komisja SUE*] reflecting the current international situation in the subject area. We considered the content of this document as general information and theses strengthening the role of national parliaments, obtained and elaborated by the European Union Affairs Committee. In the document, the authors rightly notice, like the former prime minister of the United Kingdom, the need to introduce changes in the functioning of the European Union. The changes postulated by David Cameron, as well as these included in *Material...*, have a similar character and the same goal, i.e. “re-democratization” of the European Union and focusing on the foundations of its identity, by which we understand the values and principles underlying the European Communities in the second half of the 20th century. The authors of the *Material...*, disappointed with the pace and quality of solutions developed by the European Union, deem them “not ambitious”, at the same time they present a list of postulates, crystallized during an international discussion, in particular in the

inter-parliamentary discussion, to strengthen the role of national parliaments in the European Union.

**The outline of the position of the European Union
Affairs Committee of the Polish Sejm
on the role of national parliaments in the European Union**

In *Material...*, mainly postulates regarding the law as it should stand, adopted from the national stand of the Republic of Poland, may be specified. They were divided into:¹

- I. proposals for regulatory changes;
- II. proposals for changes to include in political arrangements, regulations or the treaty, depending on the will of the postulators; and
- III. proposals for treaty changes.

However, it seems that this is not an exhaustive catalogue. It lacks amendments at the national and inter-parliamentary level, as well as *de facto* changes. Amendments at the national and inter-parliamentary level can be introduced only by national authorities and through a dialogue with national parliaments, with no need to cooperate with the European Union. *De facto* changes focus on an already existing legal framework, through more reliable and effective actions. In addition, it should be noted that the proposals included in the above-mentioned categories can be divided into:

- I. optimization of already existing solutions, such as increasing the frequency of the Conference of Speakers of the European Union Parliaments; giving efficiency to the “yellow card” procedure or extending time for submitting a reasoned opinion by the national parliament in the procedure; and
- II. proposals for new institutions granting national parliaments with additional powers, such as the “green card” procedure or the “red card” procedure.

The divisions are complementary to each other and they seem to have a significant sense of meaning. Each proposal should first be classified in a group within the two subdivisions in order to better understand its nature, estimate the difficulty of its introduction and its “invasiveness”. It is worth doing, as the immanent feature of an organization of such size and with such a complex decision-making process as the European Union is the resistance to reforming it. Therefore, introducing changes strengthening the role of national parliaments should start from the national level, from the simplest ones in the realization.

**The activity of the European Union Affairs Committee
of the Polish Sejm against the background
of its counterparts from United Kingdom and France**

Undoubtedly, *de facto* changes are the easiest to introduce, but (by no means) no less effective. They have not been proposed in *Material...* (which, in the formal process, is partially justified), however, their value should not be depreciated.

The European Union Affairs Committee (hereinafter: the EAC Committee) is one of the permanent commissions operating in the Polish Sejm. The scope of its operation includes issues related to the membership of the Republic of Poland in the European Union. In terms of the role of national parliaments in the European Union, its competences comes down to auxiliary and advisory tasks, however, to a certain extent, their implementation determines the activity of parliaments in the European sphere.

The EAC Committee may, among other things, express opinions on draft acts of European Union law, on Republic of Poland's positions provided in procedures of adopting European Union law, draft resolutions on recognition of a legislative act as compliant with the principle of subsidiarity; draft resolutions on bringing a complaint regarding violation of the principle of subsidiarity to the Court of Justice of the European Union, provided by Article 5 the limits of the EU competences (para. 3) of the Treaty on European Union (Rules of the Sejm, 2012, Article 148c – Article 148 cf). Therefore, it exercises part of the competences entrusted to parliaments – ensuring compliance with the principle of subsidiarity by the EU institutions (Treaty on European Union, 2016, Article 5), but it also participates in the interaction of national authorities. Through adopted opinions, it has the opportunity to put pressure on the Polish Council of Ministers. It is a means with which the parliament may indirectly, through the Council of Ministers, influence decisions taken in the European Union. Reliable control, accountability and effective influence on national governments are among the most important determinants of the role of national parliaments in the European Union. It should be emphasized that the EAC Committee does not have an obligation to issue an opinion, and the opinion is non-binding on the Council of Ministers. However, a thoroughly prepared and well-argued opinion, despite being a “soft” measure, can have an actual impact on decisions made, as a “hard” measure. The opinion is optional, which means that the EAC Committee can issue it or refrain from issuing it. Failure to express such an opinion within the statutory deadline is considered not submitting comments to the project. It seems that it is worth considering

creating conditions allowing the Polish EAC Committee to operate as fully as possible (preceded by substantive selection based on the priorities of the state and national entities) in this area.

| The European Union Affairs Committee and its counterparts from the House of Lords (United Kingdom) and the Senate (France) in 2018 ² | | | |
|---|---|--|-------------|
| | PL | UK | FR |
| Number of members | 44 | 74 | 36 |
| Sub-committees | <ul style="list-style-type: none"> • Standing Sub-committee for the Trade Agreement of the European Union with the United States of America • Standing Sub-committee for the European Union Funds | <ul style="list-style-type: none"> • Financial Affairs Sub-committee • Internal Market Sub-committee • Foreign Affairs Sub-committee • Environment and Energy Sub-committee • Justice Sub-committee | — |
| Number of published opinions/reports ³ | 12 | 15 | 22 |
| Volume of published opinions/reports | 1–2 pages | 20–94 pages | 26–96 pages |

Authors' study based on the data published on the websites of individual European Union Committees.

Comparing the activity of the Polish EAC Committee to its counterparts from the British House of Lords and the French Senate, the table clearly indicates a lesser dimension of the work of the Polish EAC Committee. The substantive part of the documents published by it is largely limited to the statement: “After [...], the Committee gives a negative/positive opinion to [...]”. Resolutions of the French and British counterparts of the EAC Committee take the form of reports in which conclusions and recommendations are preceded by a comprehensive discussion and an in-depth analysis of a given issue.

The activities of the EAC Committee in individual Member States can vary considerably affecting the effectiveness of the parliament's influence on the government. It should be ensured that good practices of the EAC Committees in the Member States are circulated, so that recognizing and taking into account the voice of national parliaments in the EU sphere, to the greatest possible extent and in a productive manner, is a standard.

The formula adopted by the Polish EAC Committee, although useful and functional, does not contain any substantive contribution able to influence assessed texts in a qualitative way. The communication's objective is to obtain constructive feedback from others. If the reaction is not what is expected, the content or form of the message should be modified to achieve the expected answer (Storey, 1997, p. 83). The explanation why specific solutions are supported and not others and under what conditions other solutions could be approved is necessary to conduct a constructive dialogue. It is counterproductive to express objections without explaining the underlying reasons – similarly, expressing consent if it does not entail proper justification. Then it is a situation in which the parties to the dialogue theoretically cooperate with each other, but actually they conduct a simultaneous monologue. In order to communicate effectively with European decision-makers, national parliaments need to understand how decision-makers process received materials and the specificity of their work environment (Cairney & Kwiatkowski, 2017). To learn about it, apart from the research on the above-mentioned matter, parliaments should observe the activity of all national parliaments and verify which formula fits best in the mode of work of the European decision-makers, thus influencing them in the most effective way.

The inter-parliamentary dialogue to strengthen the role of national parliaments in the European Union

A specific circulation of good practices regarding the activity of national parliaments on the EU forum is currently taking place at the Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC), which convenes biannually. In its forum, Member States' representatives, usually members of EAC Committees' presidia, exchange information on the practical aspects of parliamentary scrutiny on EU affairs, national parliaments of European Union Member States and the European Parliament (Official website of the European Information and Documentation Centre – *Ośrodek Informacji i Dokumentacji Europejskiej*).

It is worth paying more attention to the COSAC formula. The term “conference” in its normal sense can be misleading here. It should be emphasized that in multilateral international relations between the *ad-hoc* level and the organized one, there is an under-defined area. When it takes a relatively constant and repetitive form, it is sometimes referred to as a “conference”. A commonly cited example of institutionalization in this area is the Conference on Security and Cooperation in Europe, the subsequent edi-

tions of which stabilized to the extent that the CSCE was transformed into the OSCE – Organization for Security and Cooperation in Europe (Official website of the Organization for Security and Cooperation in Europe, 1995). Obviously, this is not simply a matter of terminology, but rather a focus on the possible scenario of transforming COSAC into an EU organizational structure of an institutional nature.

It is difficult to assess the reality of this undertaking, but it would certainly be worthwhile to reach beyond the plenary and collegial formula for a functional institutional structure dealing with the ongoing coordination of the process of the intra-EU parliamentary dialogue. In addition, there are no obstacles to pursue institutionalization within more local groups, for example within the Visegrad Group. This could take the form of permanent parliamentary committees for inter-parliamentary cooperation assisted by parallel expert bodies, establishing and improving instruments of cooperation, as well as the subject matter itself. Working with counterpart bodies in other Member States, experts would create a *think tank* of the EAC Committees, shaping solutions positively influencing the role of national parliaments. Such cooperation of states, contributing to a smoother circulation of good practices strengthening the role of parliaments in the European Union, would contribute to a more harmonious activity, and thus, to unification of their significance. This would have a positive impact on the perception of the European Union, reducing to a certain extent the voices of “overrepresentation” of some states’ interests at the expense of others.

The impact of national parliaments on the European Union

Attention should be paid to the potential possessed by properly planned and coordinated inter-parliamentary cooperation. For example, the question of lobbying can be considered. In the Polish law on lobbying activities in the law-making process, lobbying activity is any activity carried out by legally admissible methods aimed at influencing public authorities in the law-making process (*Ustawa o działalności lobbingsowej*, 2017, Article 2, para. 1). The concept of “lobbying” has so far been discussed primarily in the context of influencing national or EU legislation, but mainly by non-governmental organizations, business and trade associations, trade unions or consulting companies (Official website of the European Parliament, 2018). What about national parliaments? Can they lobby solutions beneficial for them and their countries? The answer from the national perspective is ob-

vously positive. However, the institutionalization process of the European Communities and then the European Union is accompanied by a systematically perpetuated assumption of impartiality and universality of all activities on their forum. The European Commission's Code of Conduct requires that both commissioners and Commission staff act objectively and without prejudice in the interest of the Union and the public good (Official Website of the European Commission). In spite of this, in practice, individual countries and individuals, do seek interests that favour their countries. Therefore, it seems that parliaments can, more or less, do the same thing albeit with greater restriction.

Explaining this kind of indirect lobbying, one can assume that it consists in creating an appropriate environment in which politicians/decision-makers will be able to make decisions favourable for a given group of clients (Kaja, 2004). Parliaments, by cooperating with their counterparts in other Member States, could lead to "bottom-up" EU law making. Coordinated by several Member States, the adoption of specific solutions at the national level would lead to establishing a certain uniform legal standard, typical to an agreed number of states. Such an initiative presented to Brussels would have to be taken notice of and acted upon, at the very least, in terms of taking a position on it. The following scenarios can be imagined:

1. The states would introduce a certain standard in this way, exerting pressure to regulate a given issue in a uniform manner throughout the European Union (i.e. – if the matter falls within the competence of the Union). It would constitute a form of lobbying for legal solutions by imposing a legal standard;
2. The introduction of regulations at the level of the European Union, being in opposition to a law passed by the states, would be a highly controversial act and the unquestionable consequence of such an action would stand as a firm criticism of such solutions.

The second way is to present pre-prepared proposals and legal regulations to the EU decision-makers. This form of submission is partially compatible with the above-mentioned comment concerning the EAC Committee. A thoroughly prepared proposal, preceded by a justification of the need to introduce a specific solution and a comprehensive analysis of the consequences it entails, is a constructive contribution to the discussion that cannot be overlooked. In this respect, solutions aimed at strengthening European integration are particularly important, as parliaments seem to be the most competent for this. National parliaments have the final say on the accession of states to the European Union, so deciding on the level of integration between Member States seems a natural consequence.

Another method of lobbying worth noting is publicizing specific actions, addressing issues referring to the common good, to achieve effects desired by a particular national parliament.

The unused potential of this instrument is visible in the example of Poland in the case of Białowieża Forest. In defence to the harsh criticism and procedures initiated against Poland, attention should have been drawn to the flawed way of regulating nature protection, especially within the Nature 2000 area. The actions taken by Poland were an autonomous decision of the Polish authorities, which provoked a strong reaction in the international arena. However, it should be noted that such criticism was not preceded by any actions (for example, contributing to the protection costs involved), which would justify the expectation of a certain behaviour. Making rights to decide about the fate of the Forest dependent on the contribution to its maintenance would be a reasonable solution. Otherwise, there is a situation where states feel entitled to point to alleged irregularities, without being burdened with the duty of justifying it. At the time when such a dispute intensifies, it would be worth focusing on missing regulations and proposing a constructive alternative. Parliament, as a national legislative body, has sufficient authority to propose specific legal regulations, introducing the “green card” procedure without the need to make any treaty or regulation amendments. Taking advantage of such initiatives, for example through the IPEX platform⁴ and thereon publishing details of the project, would have reduced the pressure exerted on Poland and at the same time would have contributed to the likely introduction of new and more beneficial solutions.

Apart from the indirect form of lobbying discussed above, there is also direct lobbying consisting of undertaking lobbying actions based on direct contact with people considered as decision-makers (Tworzydło, 2009). In matters related to the European Union, institutions such as the European Commission, the European Parliament, the European Council, the Council of the European Union or the European Central Bank, as entities and along with the officers of these institutions, should all be considered decision-makers. Considering the institution’s status and work mode, even an individual officer can have a significant impact on entire stages of the legislative process and it is difficult to notice that it can constitute a direct effect of lobbying. Usually, the formal correctness of the process is verified and included in general rules. In this way, EU legal solutions, fraught with consequences for the Member States, may indirectly constitute a realisation of interest of a narrow group of entities. It is also common that from the point of view of a given Member State such solutions are completely unfavourable. Therefore, from the perspective of such a state (also

by assuming prevention), adequate counteraction should be considered. It is certainly one of the concerns of national parliaments. Conversely, constructively approaching lobbying raises the question: can national parliaments directly influence their decisions?

There is no doubt that national parliaments can influence the European Commission. There are two main ways of interacting with the Commission – the subsidiarity control mechanism and the political dialogue consisting in exchanging information and opinions on political issues, legislative and non-legislative initiatives (Official website of the European Commission). A 2018 study shows that the most important objective of political dialogue is influencing the European Commission's activities (Rasmussen & Dionigi, 2018). The involvement of national parliaments in the political dialogue is often denied the intention of influencing EU legislation, but only a small group of national parliaments systematically uses the full range of opportunities to express opinions in an attempt to influence Commission proposals. The fact that the intention to influence European Commission's actions is the most frequent objective of the political dialogue clearly indicates that some parliamentary chambers (those that actively engage in political dialogue) behave like institutional lobbyists in the process of EU policy creation (Rasmussen & Dionigi, 2018).

However, dialogue with the European Commission is facilitated as the Commission itself wants to establish it, all new legislative proposals are forwarded by the Commission to national parliaments encouraging them to express their respective opinions (Treaty on European Union, 2016, Protocol No. 1, Article 1). Similarly, the European Parliament forwards its proposals and its amended draft legislative acts to national parliaments; and in the case of groups of Member States, the Court of Justice, the European Central Bank or the European Investment Bank, the Council does. Developed system solutions allow states to conduct a dialogue with the EU institutions. The problem is that this only takes place on the institutional platform. Regarding the previously mentioned aspect of individual officers, here certain complications arise. EU law does not provide for the control or establishment of a dialogue with individual officers. In order to secure a position within the European Union structures, one must participate in an open competition, from which the most competent candidates are selected. National parliaments have no direct influence on the selection process. In addition, there is no official communication channel through which Member States' parliaments could verify, control or influence the activity of specific EU officials. And this is one of the main reasons for the democracy deficit in the European Union – granting the competence to shape texts binding

on the Member States to a significant number of non-democratically elected officials. Additionally, and more so than collegiate bodies, they are sensitive to the influence of interest groups able to lobby solutions favourable to them in a subtle and very beneficial way.

Undoubtedly, this is an area requiring changes by way of “democratizing” the selection of EU officials. It seems that it will be necessary to introduce the changes in EU law. In view of the above, the issue of the non-democratic system of employment in European Union institutions should be raised, however, after first focusing on strengthening the role of national parliaments in ways that are easier to apply.

The mechanism to control the principle of subsidiarity in strengthening the role of national parliaments

Since 2009, national parliaments have been equipped with new competences allowing them to become more involved in EU affairs. They control observance of the principle of subsidiarity in the European Union by means of a specific procedure. Unofficially, using sports terminology, this is referred to as the “yellow card” procedure and it functions as follows.

The European Commission passes its proposals and its amended draft legislative acts to national parliaments along with their transmission to the Union’s legislator, and the European Parliament forwards its drafts and its amended draft legislative acts to national parliaments (Treaty on European Union, 2016, Protocol No. 2, Art. 4). Subsequently, Any national Parliament or any chamber of a national parliament may, within eight weeks from the date of transmission of a draft legislative act, in the official languages of the Union, send to the Presidents of the European Parliament, the Council and the Commission, a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity (Treaty on European Union, 2016, Protocol No. 2, Article 6). The European Parliament, the Council and the Commission, and, where appropriate, the group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank, if the draft legislative act originates from one or all of them, shall take account of the reasoned opinions issued by national Parliaments or by a chamber of a national parliament. Where reasoned opinions on a draft legislative act’s non-compliance with the principle of subsidiarity represent at least one third⁵ of all the votes allocated to the national parliaments, the draft must be reviewed (Treaty on European Union, 2016, Protocol No. 2, Article 7) – it “gets the yellow card”.

The possibility of submitting reasoned opinions is an important consultative tool to be used. Even if the “yellow card” procedure cannot be initiated due to an insufficient number of actively participating states, there is still a chance that a clear indication of the problem will trigger self-reflection among the decision-makers and achieve the intended goal. However, the table below shows that not all chambers are equally using the potential enshrined within their rights.⁶

| Years | Number of chambers submitting a reasoned opinion in a given year | Number of reasoned opinions submitted | | | | |
|-------|--|---------------------------------------|---------|------------|--------------|---------------------|
| | | Total in a given year | PL Sejm | SE Riksdag | DE Bundesrat | UK House of Commons |
| 2013 | 32 | 88 | 2 | 9 | 3 | 6 |
| 2014 | 15 | 21 | 0 | 2 | 0 | 3 |
| 2015 | 8 | 8 | 0 | 1 | 0 | 0 |
| 2016 | 26 | 65 | 2 | 12 | 4 | 1 |
| 2017 | 19 | 52 | 2 | 4 | 3 | 2 |
| Total | 41 | 234 | 6 | 28 | 10 | 12 |

Authors study based on the annual reports of the European Commission regarding the application of the principles of subsidiarity and proportionality.

There are significant differences in the total number of reasoned opinions reported between individual years. This fact can be explained by the specificity of drafts sent to national parliaments in a given year causing less doubt as to their compliance with the principle of subsidiarity. However, this fact cannot justify the disproportion in the number of reasoned opinions expressed in the chambers. In 2016, the Swedish Riksdag submitted 12 reasoned opinions, while the House of Commons in the United Kingdom submitted only one. In total, in the period 2013–2017, the Swedish Riksdag returned a total of 28 opinions, while the Polish Sejm returned 6. The undeniable consequence of this disparity reflects in the varying degree of influence chambers have on EU affairs, i.e. a large degree of influence in the case of chambers frequently submitting opinions and much less influence among those reporting them infrequently.

The Swedish Riksdag should be taken as an example in the use of the possibility of parliaments to submit reasoned opinions to increase visibility of individual national parliaments at the EU level. In addition, it is worth analysing the submitted opinions in terms of quality, by answering the following questions:

- I. Which of the submitted opinions had a deliberate impact on activities within the EU institutions?
- II. Why were these opinions more effective than others?

This will allow to formulate opinions in a more effective way to better achieve future objectives. However, reasoned opinions are not currently being written in a uniform manner. Depending on the chamber, they differ in terms of form, content and manner of argumentation, subsequently affecting EU matters to a different extent. In this regard, the most efficient chamber should be identified and their method of formulating reasoned opinions should be drawn upon to serve as an example of how it should be done.

It is also worth noting that in its latest resolution of 18 April 2018, the European Parliament noted a considerable increase in the overall number of reasoned opinions submitted by national parliaments. This reveals their growing commitment to the decision-making process in the Union (Panizza, 2018). This is undoubtedly a positive phenomenon, strengthening the position of national parliaments in the European Union which augurs well for the future.

Using institutions of enhanced cooperation for technological support of the role of parliaments in the European Union and inter-parliamentary cooperation

The institution of enhanced cooperation was introduced into the EU *acquis* by the Treaty of Amsterdam, although the states had taken initiatives based on a substantially similar idea to it before. Enhanced cooperation shall aim to further the objectives of the Union, protect its interests and reinforce its integration process (Treaty on European Union, 2016, Article 20). According to Article 20 of the Treaty on European Union, Member States which wish to establish enhanced cooperation between themselves within the framework of the Union's non-exclusive competences may make use of its institutions and exercise those competences by applying the relevant provisions of the Treaties. At this moment, the institution of enhanced cooperation has been used four times:

1. in the field of law applicable to divorce and legal separation (Rome III);
2. creating the European Patent;
3. the rules regarding international property of married couples or registered partnerships;
4. creating the European Public Prosecutor's Office.

A common feature of these manifestations of enhanced cooperation is that all four of the regulations mentioned were to be introduced in a binding manner for all Member States, but this failed. These are the products of cooperation within the European Union which did not succeed as intended. Nevertheless, they all fulfil their role. However, what should be considered is what would happen if the institution of enhanced cooperation was initiated in a planned and purposeful way? Member States of the European Union differ from each other. It is natural, then that some countries cooperate in a better way with each other than with others. It results, *inter alia*, from cultural, linguistic or territorial closeness which should be taken advantage of. The consequence of ignoring the differences between individual Member States may be wasting of the potential resulting from the diversity of the European Union. This involves not treating enhanced cooperation as a failure, but as a deliberate and planned action aimed at strengthening European integration. Such enhanced cooperation may also take place *de facto*, i.e. by legally permissive intensification of cooperation and continuous inter-parliamentary dialogue.

In the context of enhanced cooperation, we should also point out the unused potential emerging in the application of new technologies such as teleconferencing:

- International teleconferences of parliamentary committees – such use of technology would enable constant and efficient cooperation of the committees (for example, the EAC Committee). During teleconferencing, EAC committees, which are more closely associated, could set a strategy for action to achieve intended goals, harmonize further actions of national parliaments on the EU forum, thus strengthening their impact on the European Union.
- Inter-parliamentary teleconferences – a joint meeting of more than one parliamentary chamber and from more than one state. During such a meeting, for example, previously elected parliamentarians could make alternate statements on issues of importance at a given time. This would be an important element of inter-parliamentary dialogue, clarifying positions of parliaments on specific issues and strengthening the sense of solidarity between cooperating countries.

These are just two examples of the application of technology as a means to strengthen the role of national parliaments in the European Union. There are many more such ways available and it seems that now is the time for inter-parliamentary communications to “catch up” with the 21st century.

In addition, with regard to the ways to strengthen the role of national parliaments in the European Union, it is worth considering a solution which,

while being more difficult to accomplish, is undoubtedly a righteous one. National parliaments are an important source of democracy in the legitimacy of the European Union, so it is best to allow them to present their opinion on the direction of European Union policy. And if this was found acceptable, why not do it better and more efficiently? For example, by examining the opinions of national parliaments on specific topics and having parliamentarians vote on them in real time. Chambers of various parliaments could periodically convene meetings on the same day and simultaneously vote online on questions asked by the European Commission. This would speed up the process of issuing opinions on European Commission's initiatives, and un-bureaucratise the system giving a clear signal from national parliaments about further work on the initiatives.

Recommendations on strengthening the role of national parliaments in the European Union:

- I. Member States' governments are equipped with broad competences, and their influence on the European Union is definitely greater than the one of national parliaments (Grzeszczak, 2011). However, within the framework of the tri-division of power, national parliaments are entitled to control, influence and hold the government accountable to some extent (desiderata, interpellations, queries, motions of no-confidence). National parliaments should increase their activity using the abovementioned opportunities to make their voice heard more effectively at the European Union level.
- II. It is necessary to improve the quality of the activities of the national parliaments and, if possible, create expert bodies to support it. EAC Committees are one of the most important instruments of national parliaments on EU matters. It is important, therefore, that their activities be the most reliable and constructive. Without proper financial, personnel and scientific resources, they will not be able to perform their duties. Laconic positions, without a deeper analysis of a discussed issue are a contribution to discussions; however, it may not be effective enough to actually influence decisions taken in the EU institutions.
- III. Intensifying inter-parliamentary cooperation is key to strengthening the role of national parliaments in the European Union. It can take place especially through:
 - a. Ensuring circulation of good practices, i.e. inter-parliamentary exchange of information, the use of which may positively affect the significance of national parliaments in the European Union;

Strengthening the role of national parliaments in the European Union...

- b. Making of laws by lawmakers in different Member States to create, from the bottom up, certain uniform standards that could be “lobbied” to encourage EU law development to follow a more effective and less discordant path;
 - c. Continuously coordinating and conducting dialogue on EU matters, allowing harmonization of the activity of national parliaments at the European Union level;
 - d. Modernizing the methodology of inter-parliamentary communication. Modern technology offers a wide spectrum of opportunities to accelerate the exchange of information and views, agree positions, and present opinions and analyses.
- IV. It is worth paying attention to the issue of the role of EU officials within its structures and their democratization. This requires careful consideration and joint discussion by the Member States, which can take many months or years. Consequently, the dialogue on this matter should be initiated as soon as possible and appropriate solutions should be developed.
- V. It is important to properly use the national parliaments’ right to submit reasoned opinions on drafts sent to them. The degree of activity of individual chambers of parliament differs. So too does the form, content and manner of constructing reasoned opinions. Identify the most effective chambers and follow their example on how, through reasoned opinions, they effectively influence the EU institutions. National parliaments should be more involved in conducting political dialogue with the EU institutions. Continuous exchange of information and opinions on political issues, legislative and non-legislative initiatives will allow for a better understanding of the position of other parties, and enhances influence. Even if the EU institutions do not act as intended, better understanding can make opposite positions of another party easier to accept not causing frustration.

Final remarks

It should be recognized that there are already instruments available for national parliaments allowing them to strengthen their role in the European Union. Some of them may seem expensive/difficult to implement, although treaty changes do not seem to us currently necessary to strengthen the role of national parliaments in the European Union. Systemic changes should only be made when the potential of existing opportunities is fully

exploited. In 2014, a similar position in the report *The Role of National Parliaments in the European Union* was taken by the European Union Committee in the House of Lords, and time has not outdated the theses contained therein. At this moment, we should consider a stronger commitment to dialogue with other national parliaments and the EU institutions, as well as to increase spending on strengthening the role of national parliaments, by implementing the actions indicated in the sub-section *Recommendations for strengthening the role of national parliaments in the European Union* of this study.

N O T E S

¹ The sequence and title of the postulates correspond to the content of the received *Material...*

² The parliaments were selected randomly.

³ The EAC Commission operating in the Sejm of the Republic of Poland publishes its positions in the form of an opinion, while its counterparts from the British House of Lords and the French Senate mainly prepare reports.

⁴ See more at the IPEX platform official website: <http://www.ipex.eu/IPEXL-WEB/about/aboutIpexl.do> (05.04.2019).

⁵ This threshold shall be a quarter in the case of a draft legislative act submitted on the basis of Article 76 of the Treaty on the Functioning of the European Union on the area of freedom, security and justice.

⁶ The chambers were selected randomly.

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