



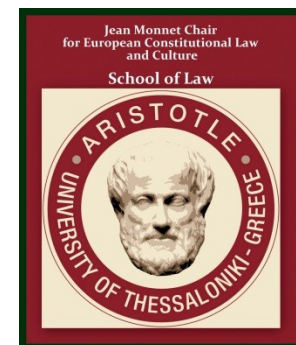
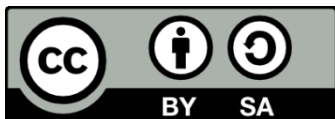
European Constitutional Law

Unit 09: The contribution of National Parliaments to the good functioning of the EU

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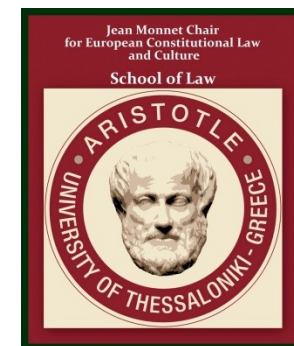
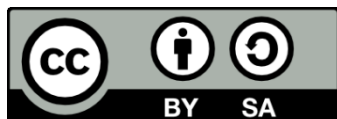


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The role of National Parliaments (article 12 of The Treaty of EU and Protocol 1)



Περιεχόμενα ενότητας

1. Article 12 of The Treaty of EU.
2. Protocol 1 on the role of National Parliaments.
3. Protocol 2 on the application of the principle of subsidiarity and proportionality.
4. Yellow and orange card procedure.



Σκοποί ενότητας

- EU and National Parliaments: legal provisions and procedures for the purposes of good functioning of EU.

What are the ways which help to improve the role of national parliaments among EU?

- Each European country has:
 - European Affairs Committee (EAC),
 - sectoral standing policies and
 - a system to scrutinize European documents and policies.
- COSAC (the Conference of Community and European Affairs Committees).
- IPEX.
- Barroso Initiative from 2006.

Main regulation related to the role of National Parliaments

- Article 12 of the Treaty of EU,
- Protocol 1 on the role of National Parliaments,
- Protocol 2 on the application of the principle of subsidiarity and proportionality.

Article 12 of the Treaty of the European Union

- ❖ Applies directly to the role of National Parliaments.
- ❖ Sets out that National Parliaments contribute actively to the good functioning of the Union.



Article 12- details

(1 out of 2)

- ❑ European institutions are obliged to inform about and forward draft legislative act of the Union directly to the National Parliaments.
- ❑ National Parliaments have to take care if the principle of subsidiarity is respected in accordance with the procedures provided for in the Protocol on the application of the principles of subsidiarity and proportionality.
- ❑ National Parliaments are allowed to take part in the evaluation mechanisms for the implementation of the Union policies in the area of freedom, security and justice.

Article 12- details

(2 out of 2)

- National assemblies are involved in political monitoring of Europol and are also able to envisage Eurojust activities.
- NPs have right to take part in conventions which purpose is to formulate recommendations for future Treaty revisions.
- Envisages notification to national parliaments of applications made by European States for Union membership.

Protocol 1 on the role of National Parliaments

- This protocol is divided into 2 titles:
 - 1) information for National Parliaments,
 - 2) Inter-parliamentary cooperation.

Title 1

- Defines catalogue of documents which shall be send to National Parliaments by Commission.
- National assemblies examine these draft legislatives if they are in compliance with the principle of subsidiarity and proportionality.
- National Legislatures may send their conclusion in form of reasoned opinion to the Presidents of the European Parliament, the Council and the Commission.

Article 4 of Protocol

- “An **eight-week** period shall elapse between a draft legislative act being made available to national Parliaments in the official languages of the Union and the date when it is placed on a provisional agenda for the Council for its adoption or for adoption of a position under a legislative procedure. Exceptions shall be possible in cases of urgency, the reasons for which shall be stated in the act or position of the Council. Save in urgent cases for which due reasons have been given, no agreement may be reached on a draft legislative act during those eight weeks. Save in urgent cases for which due reasons have been given, a ten-day period shall elapse between the placing of a draft legislative act on the provisional agenda for the Council and the adoption of a position”.

Interparliamentary cooperation according to Protocol: double-track mechanism of this cooperation

- It lays down that European Parliament and National Parliaments are both responsible for the organization and promotion of effective and regular inter-parliamentary cooperation within the Union.
- Article 10 of protocol 1 broadens “prerogatives” of COSAC.

A new scrutiny system

- Title 1 of the Protocol 1 in cooperation with Protocol 2 create new scrutiny system, the so-called early warning mechanism of orange and yellow cards.

The yellow card procedure

- The ‘yellow card’ procedure entails that: at least $\frac{1}{3}$ of the available votes are cast against the draft legislative act because of non-compliance with the subsidiarity principle (For draft legislative acts concerning the area of freedom, security and justice, the threshold is $\frac{1}{4}$ of the votes (i.e. 14 out of 54)).
- Following such a „yellow card” the initiating institution (usually the EC) must review its proposal and may decide to maintain, amend or withdraw the draft but must justify its decision.

Orange card procedure (1 of 3)

- This procedure applies only to the ordinary legislative procedure (co-decision).
- If the reasoned opinions regarding non-compliance with the principle of subsidiarity represent at least a simple majority of the votes allocated to national parliaments (i.e. 28 out of 54), the proposal for the legislative act must be reviewed.



Orange card procedure (2 of 3)

- Again the European Commission may maintain, amend, or withdraw its proposal.
- If it decides to maintain its proposal, it must provide justification.
- If the option is to maintain the proposal, the reasoned opinions of the national parliaments and the Commission are transmitted to the Union legislator, who must consider the subsidiarity issues before the end of the first reading stage.

Orange card procedure (3 of 3)

- If, by a majority of 55% of the members of the Council or a majority of the votes cast in the European Parliament, the legislator considers the proposal incompatible with the subsidiarity principle, the proposal will fail and will not receive further consideration.



Bibliography

- Hermann-Josef Blanke, Stelio Mangiameli (eds), The European Union after Lisbon - Constitutional Basis, Economic Order and External Action, 2012.

Σημείωμα Αναφοράς

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