



# Spotlight on Parliaments in Europe

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## Quality of legislation stemming from the EU

**On 19 September 2016, the Italian Senate submitted a request to the ECPRD network concerning the quality of legislation stemming from the EU. This request was an opportunity for National Parliaments to exchange best practices on how to ensure the quality of legislation with specific regard to transposition, implementation and enforcement of EU law. From the 21 answers provided by National Parliaments it is clear that transposition and implementation of EU Law is highly unlikely to require special attention. While almost all of them are using legislative guidelines and procedures for guaranteeing high standard of general law-making, only a few have felt the need to establish special mechanisms to ensure the quality of legislation stemming from the EU.**

**The use of legislative guidelines and procedures; the main way to ensure the quality of legislation stemming from the EU.**

The use of legislative guidelines and procedures appears to be the most common way for National Parliaments to ensure the quality of legislation, also the legislation stemming from the EU. It allows for good linguistic coherence in the national languages while enhancing the standardization of the law. For example, in the case of Austria, the Federal Chancellery has published specific “Legistische Richtlinien”. In Spain, the instrument used is the Regulation Guidelines adopted in the Agreement of the Council of Ministers of 22 July 2005. Both Italian Chambers use Joint Guidelines on drafting of national legislation. The Act on Regulatory Impact Assessment, adopted by the Croatian Parliament on 15 July 2011, is the reference for the quality of legislation in terms of adequacy and efficiency. The Finnish, French, German, Lithuanian and Spanish Parliaments use guidelines to ensure the quality of legislation as well. Moreover, the Slovenian Parliament has adopted a Resolution on Legislative Regulation. The Slovak Parliament refers to its Rules of Procedure Act. The German Bundesrat follow the guidance of the “Handbuch des Rechtsförmlichkeit”. It has to be stated that the vast majority of National Parliaments limit their efforts to the use of legislative guidelines. We can therefore conclude that transposing and implementing EU Law is not a real issue, even though some National Parliaments have shared innovative and efficient ideas to ensure the quality of the EU Law.

### **Creation of legislative bodies within National Parliaments**

Some have decided to create an *ad hoc* legislative body to ensure the quality of legislation. For example, since 2006, the Italian Senate has been working with a special service for the quality of legislation, responsible for the quality of the bills discussed by the Parliament, and assessing their homogeneity, simplicity, clarity and consistency, as well as their compatibility with existing legislation. The Scientific Service of the Hellenic Parliament manages the same kind of tasks, as well as the Hungarian Committee on Legislation or the Legislative and Legal Service of the Slovenian Parliament. In the Polish Sejm, the Bureau of Research and the Legislative Bureau are responsible, while in the French Senate, a specific service within the Directorate for the Plenary is in charge of ensuring the quality of EU Law.

## Parliaments relying upon the expertise of their government

For many reasons, several National Parliaments prefer to work closely with the government and rely upon their expertise. In Spain, this service is ensured by the Directorate General of the Government Secretariat with the possibility for the specific General Secretariats of the Ministries to offer support. In Austria, expertise in the field of legislation is provided by a special constitutional service set up at the Federal Chancellery, while it is the Ministry of Justice that provides assistance to the Parliament in Estonia, Finland and Lithuania. The French and Polish Parliaments benefit from the expertise provided by the services of their government too.

## Other or mixed ways to ensure the quality of legislation stemming from the EU

Some of the National Parliaments pointed out innovative ways to ensure the quality of legislation stemming from the EU. For instance, the French Parliament organises hearings with members of the Government, European decision-makers and various stakeholders to correctly implement EU Law. The Swedish Riksdag does not refer to the services of any specific Directorate or Unit, but the legislative process relies on a process of “preparatory work” containing several different “control stations”<sup>1</sup> ensuring the quality of legislation. The Government cannot start drafting legislation before the end of this process nor in spite of the outcome of it.

The Legislation Committee of the Croatian Parliament reviews the proposals of law with regard to their compliance with the Constitution and with the EU legal system. It also considers the issues of a uniform legislative methodology, the single legal technique and terminological compliance. The assessment of the regulatory impact is done by the Government Office for Legislation in accordance with an annual plan of normative activities.

Slovakia has a dual approach of verification relying on the Legislative Council of the Government and on the Department of Legislation and Approximation of Law within the structure of the Chancellery of the National Council (Slovakian Parliament). In practice, this allows a dual control of EU Law from the government and from the Parliament. The Slovak Republic also applies measures to improve the transposition and implementation of EU Law, which includes *inter alia* a *Clause of Compatibility* and *Table of Concordance*.

In the case of the Germany, there is no specific organ or body exclusively responsible for the quality of legislation. A National Regulatory Control Council carries out a process of impact assessment with the aim of achieving better regulation. Within the Bundestag and the Bundesrat, the competent parliamentary committees consider the bill’s political impact as well as its formal and linguistic quality. Another approach consists of intervening directly during the negotiation of EU legislation. If it contains inconsistencies or ambiguities, the German Bundestag, through the committee involved, tries to improve the provisions in question during the negotiations in the Council or by pointing out the inconsistency or ambiguity to the Commission.

According to Art. 39 of the French Constitution, the legal advice of the Council of State is required before the Council of Ministers can decide on some legislative proposals.

Directorate for Relations with National Parliaments - Institutional Co-operation  
[www.europarl.europa.eu/relnatparl](http://www.europarl.europa.eu/relnatparl)

Author: Aurelio VOLLE, [aurelio.volle@europarl.europa.eu](mailto:aurelio.volle@europarl.europa.eu)

Contact: Paolo Atzori, [paolo.atzori@ep.europa.eu](mailto:paolo.atzori@ep.europa.eu)



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<sup>1</sup> The process includes the following phases: an inquiry stage, a referral process, the Council on Legislation and the Government bills and finally the parliamentary process.