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PARTICIPATION OF THE NATIONAL PARLIAMENTS AND THE CRISIS OF DEMOCRATIC LEGITIMACY OF THE EUROPEAN UNION

ABSTRACT

The aim of the research is to explore various forms of participation of the EU Member States Parliaments in the political processes of the European Union. The assessment of the intensity of the analyzed participation will be made by applying the concept of classification of the distinguished participation, which includes passive and active participation. This study has a significant impact in the context of participation of citizens, whose direct representatives are elected members of the national Parliaments (NP). The article verifies the hypothesis that the variety of forms of participation of NP in the political processes in the EU strengthens the democratic legitimacy by increasing transparency and accountability of the EU institutions and by improving cross-level communication lines between the EU institutions and national authorities. Active forms of participation increase influence of NP on the EU political processes. However, a wide range of informal participation increases the effectiveness of supranational decision-making processes, in particular, reducing the technocratic nature of the decisions.

Key words

National Parliaments, 'Yellow Card, 'Red Card, 'Green Card', participation, democratic deficit in the EU

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The issue of participation of the Parliaments of the Member States of the European Union (EU) in the processes of law making and shaping directly the EU policies determines the process of European integration. Recent changes in Treaty regulations after the Treaty of Lisbon (Treaty 2007) changed significantly the scope of the interactions between the national Parliaments (NP) and the European Parliament (EP), the Council and the European Commission (EC) and their possible impact on the political processes of the EU. A form of direct influence of national Parliaments was created. This is an important issue in the context of participation. EU citizens participate in political life through their parliamentary representatives. However, bearing in mind compounds voter – member of the Parliament, are in turn, the opportunity to increase the impact of citizens of the EU Member States in the political life of the EU.

The aim of the research is to present various forms of participation of the EU Member States Parliaments in the political processes of the European Union. From the formal legal perspective its scope is governed by the content of Article 12 of the Treaty on European Union (TEU: art. 12) and the accompanying Protocols No 1 and 2 (Protocol no 1 and 2). Its summary is placed annually in two separate statements of the European Commission. One concerns the relations with the NP, the second is about monitoring of application of the principles of subsidiarity and proportionality (the latest are: European Commission COM /2016/469 final and COM (2016) 471 final). The inclusion of national Parliaments into the political process of the EU is assessed in public opinion as a reinforcing agent, especially in terms of improvement of the European Union's democratic legitimacy.

The discussion about the position of the national Parliaments after the recent modifications of the Treaty is heavily exploited. The first group of studies mainly concerned changes in legislation; it was focused on developed participation procedures of national Parliaments in the EU and on the issue of strengthening the democratic character of the Union. Currently, the literature shows the strong trend in practical functioning analysis of the national Parliaments in the European Union (for example: Borońska-Hryniewiecka, 2013; Fryźlewicz & Olejniczak, 2016; Popławska, 2015; Grzeszczak, 2015). The derived conclusions can express, for example, the belief that the new procedural solutions extend the decision-making process, or that the Early Warning System (EWS) poses a risk of blocking the decision-making process, which may result in weakening the effectiveness of the EU (Paradowski, 2014; Kiivera, 2011).

The main aim of this article is to evaluate the use of the mechanisms and instruments of participation of national Parliaments in the context of their impact occurring within the EU political process and the effects that this activity has on the functioning of the EU system.

The main research problem is to evaluate the intensity of the analyzed participation of NP in the political processes of the European Union and the scope of this participation. The author of the article verifies the hypothesis that the variety of forms of participation of NP in the political processes in the EU strengthens the democratic legitimacy by increasing transparency and accountability of the EU institutions and by improving cross-level communication lines between the EU institutions, citizens and national authorities. Therefore, active forms of participation increase the influence of the national Parliaments on the political processes. A wide range of informal participation increases the effectiveness of supranational decision-making processes, in particular, reducing the technocratic nature of the decisions.

Due to the availability of data analysis time frame is set for 2010–2016. Data for the study was obtained by the author from the information contained in the archives and databases, directories and registries available on the official documentation portals of the national Parliaments and the EU institutions (IPEX website, European Commission website, the European Parliament website). The study describes the selected examples of the functioning of the various forms of participation of the national Parliaments.

1. Theoretical and methodological frames of the study

The intensity of the participation of the national Parliaments in the EU will be examined using the concept of Werner Tegtmeier (Tegtmeier 1973). He grouped the existing forms of participation into two types: passive and active participation. According to this concept, the expression of passive participation is the following forms: information, hearing and consultation. Among the active forms W. Tegtmeier distinguished: the right of objection, the right of consent, joint or separate settlement (after Mendel 2001). This concept will be adapted for the analysis of participation in the European Union by indicating the forms of passive and active participation actually occurring in decision-making process in the EU.

The scope of participation of NP in the EU's political processes will be evaluated using the criteria of formalization. The author distinguishes formal and informal participation. Formal participation means mandatory, regulated by law

participation in the decision-making processes, while informal participation is considered a voluntary activity, often appearing in mutual relations concerning management processes (Stankiewicz & Moczulska, 2011, p. 623).

2. The scope of influence and participation of the national Parliaments in the political processes of the European Union

The NP up to the middle of the first decade of the 21st century expressed negative assessment of the practical aspect of communication with EU institutions (after Paradowski 2014: p. 197). The lack of partnerships and non-equivalent role in decision-making processes was mainly underlined (House of Lords 2014). At the same time, from the beginning of this century the position and participation of NP in the EU's political processes are successively being strengthened. The first regulations relating to the role of national Parliaments in EU decision-making process are related to the signing of the Maastricht Treaty (Treaty 1992). They developed the formula for strengthening the role of NP of the EU and cooperation with the European Parliament (EP) in the accompanying Declarations (Declaration no 13 and 14). The Treaty of Amsterdam (Treaty 1997) has raised the profile of these statements to the form of protocols. Following the adoption of the Treaty of Lisbon involvement of NP in the political process in the European Union was indicated in the text of the Treaty in Article 12 TUE. The development and formal legal content of the above mentioned articles are in the other regulations of the Treaty and in the modified Protocols No 1 and 2 annexed to the Treaties.

In Article 12 paragraph (a) TEU, the EU institutions are obliged to provide NP more complete information and documents listed in Protocol No 1 annexed to the Treaties. In paragraph (b) of the same Article of the TEU in accordance with the procedures provided in Article 6 of Protocol No 2 the national Parliaments are granted the right to propose reasoned opinions and to send them to the EC. In these opinions NP speak about the compatibility of draft legislative acts with the principle of subsidiarity and proportionality. In the following paragraph (c) of this Article TUE granted the NP, among others, the right to participate in the evaluation mechanisms for the implementation of the EU policies in the area of freedom, security and justice and political control under Europol and the evaluation of the Eurojust's activities. Paragraph (d) of the same Article mentions the right to participate in the revision procedures of the Treaties, in accordance with Article 48 TUE. The penultimate paragraph (e) obliges the EU institutions to

provide the NP with the information on applications for accession to the EU. The last paragraph (d) relates to the interparliamentary cooperation between the NP and the EP, which is controlled by the Protocol No 1.

These changes have had a wide resonance and influence not only on the same position of the bodies of the national legislative authorities in the process of creating laws and policies in the EU, but also on their position in relation to the executive in national authorities' structures. These regulations are the basis to perform the control functions by national Parliaments towards the new legislation and policies in the EU; they are the way to enable the representation of citizens in the process of consultations by the national public authorities, as well as to affect mechanisms for implementing EU legislation into national legislation (Witkowska 2015, p. 137).

Participation of NP in the political processes taking place in the EU is characterized by varied intensity. According to the adopted classification of forms of participation in terms of intensity, the analysis will be subject to examples of participation of NP in an order reflecting their increasing degree. Firstly, the passive forms will be described; secondly, the active forms of participation will be presented.

3. Passive forms of participation of the national Parliaments in the political processes of the EU

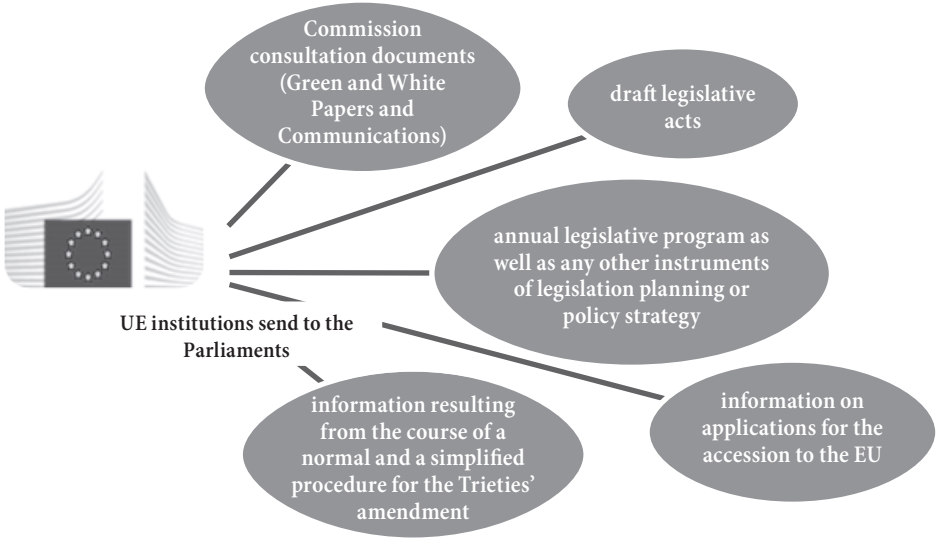
3.1. Informing

The forms of the lowest intensity of participation of national Parliaments are described as passive forms, among them, informing. This level of participation was introduced to the Treaty regulations after the Treaty of Lisbon. The EU institutions are obliged to provide information and documents of the EU, introduced in Article 12 TEU and by the Protocol No 1. For this reason, this type of participation is considered as formal.

The following information and documents are submitted to NP: Commission consultation documents (Green and White Papers and Communications), the annual legislative program as well as any other instruments of legislative planning or policy strategy, draft legislative acts, agendas and results of the Council meetings, including minutes of meetings where the Council is deliberating on draft legislative acts, the annual report of the Court of Auditors and the information about the content and outcomes of the assessment of the implementation by the authorities of the Member States policies in the area of freedom, security and

justice, as well as information on the monitoring of Europol and the evaluation of Eurojust's activities. Moreover, the national Parliaments shall be notified according to the course of a normal and a simplified procedure about the Treaties' amendment, as well as about the applications for the accession to the EU.

Diagram 1. The scope of participation of the national Parliaments based on informing



Source: Own elaboration based on the standards of the Treaty on European Union and Protocol No 1. on the role of National Parliaments in the European Union, annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, signed on 13 December 2007, OJ C 326, 26.10.2012

3.2. Hearing

The second level of participation, in line with the study of the concept of classification of forms of participation in terms of intensity, is hearing. It is an institution known since ancient Athens. The right of every adult citizen interested in the state affairs to speak out when the Assemblies of People were held was called hearing (Wróblewska, 2012, p. 91). Public hearing as an institution is known in the internal legal systems of the EU Member States; it enables citizens to express their opinions on the proposed legislation. Nowadays, hearing is to admit in an orderly manner to the fore during the legislation creation of those who feel addressed the proposed legal solutions or believe that their voices will raise the level of the debate. On the one hand, the mechanism to involve the

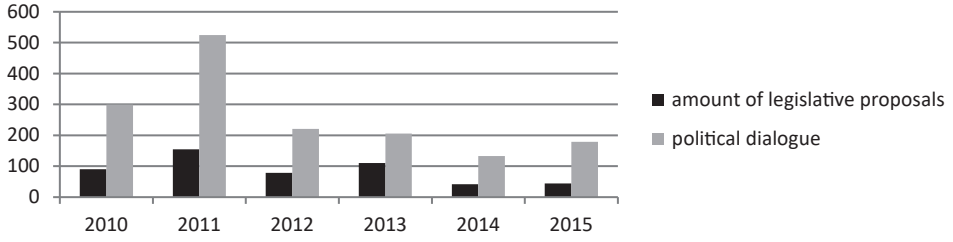
citizens to participate actively in public life, including articulation and defense of their interests, and, on the other hand, publicity of the law-making process (Dobrowolski & Gorywoda, 2004, p. 5 et seq.). The hearing provides the legislator arguments and opinions of different stakeholders, as well as balances the conflicting interests of the parties (Makowski, 2010). The duty of the legislator to respond to the arguments of the participants is what constitutes the heart of hearings.

Mechanism of hearing at the EU level should seek out by analogy in all aspects of reporting of their views, opinions and exchange of views between the national Parliaments and the EU institutions. A typical sign of hearing is the right of NP to send to the EC an opinion on the draft legislation and on the other documents concerning policy planning in the EU. In the EU documents this form of participation is called political dialogue. It was introduced in 2006, and its principles were formulated in the Communication of the EC (European Commission COM (2006) 211 final). In the framework of the political dialogue, national Parliaments may send their opinions to the EC, which is trying to give its reply within three months. Opinions can relate to any of the documents of the EC or policy areas within the competences of the EC. Those opinions take various forms and names, such as: opinion, position, resolution. In these documents the NP report their comments, objections and doubts in relation to the draft texts of the EU proposals or of the discussed documents (Paradowski, 2014, p. 208 et seq.).

Political dialogue has not been formally regulated, and the only legal regulations concern the transfer of information and documents to the national legislative bodies. For this reason, this form of participation should be described as informal. Political dialogue increases the involvement of NP in the European policy and highlights the implementation of the demands of parliamentarization for the European integration process and eliminating deficits of democracy in the EU (European Commission COM (2006) 211 final). Meetings and contacts at the administrative level could be a supplement for the political dialogue being conducted through the exchange of letters.

Due to the availability of data activities analysis within the framework of the political dialogue will be made over the years 2010–2015. This period includes the 7-year term and the beginning of the eighth parliamentary term, changing the composition of the EC and modification of political priorities.

Figure 1. Number of documents to be discussed within the framework of the political dialogue on the background of the number of legislative proposals in 2010–2015



Source: own elaboration based on the European Commission's database: http://ec.europa.eu/dgs/secretariat_general/relations/relations_other/npo/ (30.09.2016).

The chart above indicates a significant part of the political dialogue in the political process of the EU. In the early years of the dialogue, the number of comments sent by national legislative chambers increased, and the year 2011 is the year of culmination. From 2012 activity in the transmission of the opinions is much weaker. The largest decrease in the number of opinions of NP took place in 2014. This confirms the assumption that at the beginning and end of the term of the EC there is a legislative stagnation.

Analyzing the type of the discussed documents it must be noted that until 2014 National Chambers transmit to the EC opinions on mainly legislative documents. In subsequent years it has seen a growing interest on the part of national Parliaments' consultative documents and other non-legislative documents such as Communications or Green Papers. This means increase of involvement of national Parliaments in the political processes during the preparation of legislative acts (European Commission COM (2016) 469 final, p. 3).

Activity within the framework of the political dialogue, as measured by the number of comments sent to the EC, is uneven if divided between individual Chambers. Detailed reports of all the Chambers of NP of the EU institutions are presented as a database at the EP (European Parliament website). For instance, in 2014 year 80% of all comments came from the 10 most active Chambers. Other Parliamentary Chambers showed a unit activity or lack of it thereof (European Commission COM (2015) 316 final, p. 2). Similarly, the present data for 2015 year 70% of all opinions have been sent by the 10 most active Chambers (European Commission COM (2016) 469 final, p. 3).

3.3. Consultation

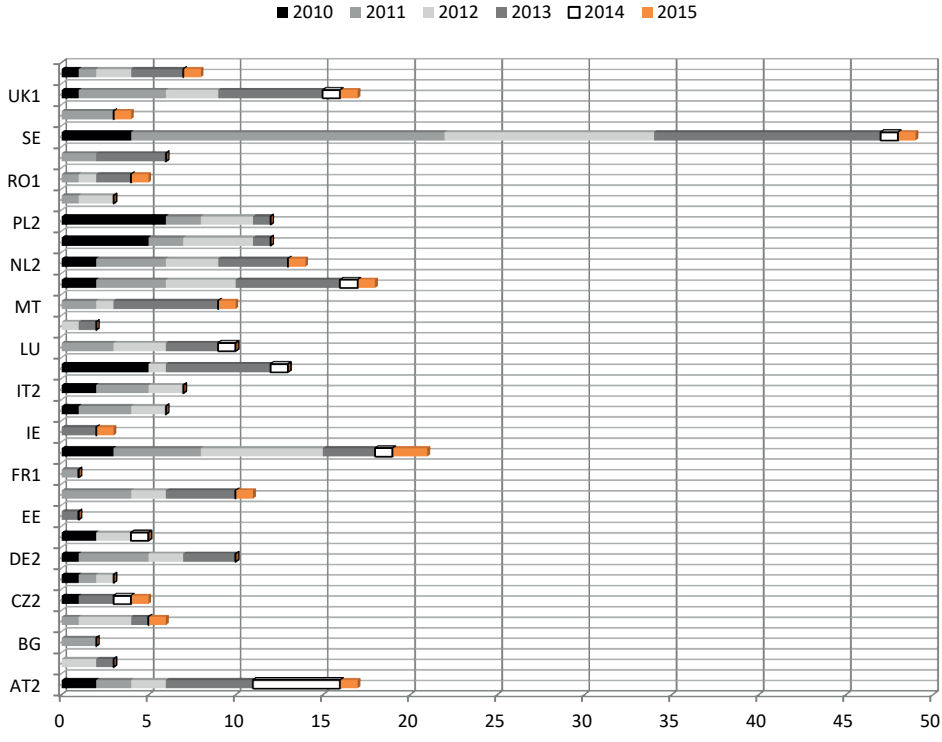
The highest degree of passive participation is consultation. It is a process in which representatives of the authorities present their plans for new legislation or changes in existing legislation and other planned activities. Presentation of these plans is complemented by hearing of the opinions, modification of them and informing about the final decision. An example of a form of consultation with NP is an Early Warning Mechanism (EWM) (e.g. Yellow or Orange Card). It is used in areas in which the EU shares competence with the Member States. National Parliaments send the chairman of the EP, the Council and the EC their reasoned opinions on the compatibility of the principle of subsidiarity in the draft legislative act. This mechanism will be activated in case of a specified number of reasoned opinions. Protocol No 2 provides thresholds – the required number of votes to run the Yellow or Orange Card. For the purpose of calculating these thresholds each NP has two votes, provided that in the bi-Chamber Parliaments, each Chamber has one vote. Therefore, there are 56 of those votes.

Orange Card procedure is used in case of giving opinions on project submitted under the ordinary legislative procedure. To start it the threshold of a simple majority of the votes allocated to the national Parliaments should be reached. In the procedure of giving opinions on the project enacted under special legislative procedure it is enough to collect reasoned opinions from one third of the Legislative Chambers or one-fourth, when the project concerns an area of freedom, security and justice. This mechanism is called a Yellow Card.

The practical arrangements for the application of the subsidiarity control mechanism and proportionality annexed to the letter from the President of the EC José Manuel Barroso and Vice-President Margot Wallström sent out to speakers of the Parliaments of the EU Member States (Barroso & Wallström, 2009). It is underlined that the EC recognizes this mechanism as part of its broader political relations with NP. The Commission has undertaken to examine all the negative opinions submitted before the deadline of eight weeks and to present a political assessment of the documents, in which the threshold of the Yellow or Orange Card is met. The EC in this procedure draws attention to the reasons for which the NP consider that the draft legislative act does not comply with the principle of subsidiarity. The statement by a majority of 55% of the members of the Council or a majority of the votes cast in the EP application does not comply with the subsidiarity principle results in the end of the legislative procedure (Protocol no 2: art. 7, paragraph 3).

Chart 2 illustrates the dynamics of the activity of NP. The data was provided by the EC and the EP. The names of the Parliamentary Chambers were coded according to the symbols used in conformity with the EU institutions in their reports and published data.

Figure 2. Activity of the national Parliaments in sending reasoned opinions to the European Commission in 2010–2015



Source: own elaboration based on the data available on the page 'Statistics on Subsidiarity checks', http://www.europarl.europa.eu/relnatparl/en/publications/statistics-on-subsidiarity-checks.html.

In the last analyzed period, e.g. in year 2015 the national Parliaments sent 9 reasoned opinions on 32 submitted legislative proposals to EC. In year 2014 the Commission received 21 reasoned opinions from NP on the 15 Commission proposals (European Commission COM (2015) 315 final, p. 4). In year 2013 there were 88 reasoned opinions, which concerned 36 different documents of EC. A year earlier, in 2012, there were 70 reasoned opinions. In contrast, in year

2011 national Parliaments sent 64 reasoned opinions. They concerned at least 23 Commission proposals (European Commission COM (2013) 566 final). The number of reasoned opinions in relation to the total number of comments received by EC in a given year in the framework of the political dialogue is always much lower and ranges from 4% to 14%.

The highest number of the reasoned opinions was sent by NP in 2011–2013. In periods of the beginning and the end of the term legislative works are stopping. There has been a significant decline in the documents sent to NP for their opinions. The degree of activity of the individual Parliaments is different. The most often reasoned opinions we sent by: Swedish Riksdag, the French National Assembly, the Dutch Tweede Kamer, the Austrian Federal Council, and the British House of Lords.

In 2012 national Parliaments for the first time launched a Yellow Card procedure in response to the Commission's proposal for a regulation on the exercise of the right to take collective action in the context of freedom of establishment and freedom to provide services, the so-called Monti II Regulation (European Commission COM (2012) 130 final). National Parliaments have issued 12 reasoned opinions, which accounted 19 votes (the threshold ratio of 18 votes) (European Commission COM (2013) 566 final, p. 7). After evaluating the arguments put forward by NP in the reasoned opinions, the Commission considered that there was no breach of the principle of subsidiarity. After considering the submissions and the status of the discussions on the draft regulation conducted among the interested parties, the Commission informed the EP, the Council and NP of its intention to withdraw its application.

In 2013 the second time in the history when NP have launched a Yellow Card procedure on the Commission's proposal for a Council regulation on the establishment of a European Public Prosecutor (European Commission COM (2013) 534 final). The Commission attracted 13 reasoned opinions, which represented 18 votes out of 56 possible (European Commission COM (2014) 506 final). As a result, the Commission confirmed the launch of EWS. The Commission carried out a review of the application, and then issued a Communication (European Commission COM (2013) 851 final). After examining the reasoned opinions submitted by NP, EC decided not to withdraw the application, stating that it would probably – as consistent with the principle of subsidiarity – be implemented through enhanced cooperation.

The third 'Yellow Card' was shown by 14 Chambers from 11 Member States in May 2016 in objection to the proposal on the revision of the Directive on the delegated employees in the framework of the provision of services (European

Commission COM (2016) 128 final). Also in this case, EC decided not to withdraw the application, stating that it does not violate the principle of subsidiarity, because the question of the delegated employees is by definition a cross-border (Raffaelli, 2016).

4. Forms of active participation of the national Parliaments in the political processes of the EU

Using the assumptions of the concept of intensity of participation by Werner Tegtmeier the signs of active participation of NP in the EU's political processes will be characterized in the ascending order from the lowest to the highest intensity.

4.1. The right of objection

The weakest form of active participation is the right of objection. In relation to the participation of NP in the political processes of the EU it is expressed by the following: pausing decision-making process by adopting a 'Red Card' inference to submit a complaint to the European Court of Justice and the opposition to make changes to the Treaties in the simplified procedure of changes.

The procedure tentatively called a 'Red Card' was introduced in the framework of the political processes of the EU in 2016. It is a formula initiated by the decision of the Heads of State or the Government after meeting in the European Council (European Council EUCO 1/16). The 'Red Card' procedure refers to the principle of subsidiarity and it will be applied in cases where reasoned opinions on the incompatibility of the draft legislative act of the Union with the principle of subsidiarity, submitted within 12 weeks of the submission of such a project will represent more than 55% of the votes allocated to NP. Then: "The Presidency of the Council will include the item on the agenda of the Council to conduct a comprehensive discussion of these opinions and the consequences that flow from them. As a result of these discussions and in compliance with procedural requirements under the Treaties, Member State representatives acting as members of the Council will not consider the draft legislative act further (…)." (European Council EUCO 1/16, p. 17 et seq.).

Votes of NP are counted as they are counted in the Early Warning Mechanism, e.g. every Parliament received two votes. This new procedure is not an act of the EU law, but it remains under the power of international law. Moreover, it stands out from the earlier described procedures of the 'Yellow Card' or the 'Orange

Card' in three aspects (Fryźlewicz & Olejniczak 2016, p. 118). Firstly, in the 'Red Card' procedure time for the formulation and transmission by NP its reasoned opinion was extended up to 12 weeks. The extended time should encourage better exchange of information, the positions and opinions with the other NP in relation to the compliance of the draft legislative act with the principle of subsidiarity (Fryźlewicz & Olejniczak 2016, p. 120). Secondly, the threshold required to start the procedure is higher and it equals to over 55% of the votes allocated to NP. Thirdly, it is not EC who decides on further progress in the legislative process, but the European Council. The European Council promised not to take further legislative work, "unless the draft is amended in a manner that takes into account the concerns expressed in the reasoned opinions." (European Council EUCO 1/16, p. 17 et seq.).

Another form of expression of objection is the right granted to NP in a simplified procedure for amending the Treaties under Article 48 paragraph 7 TEU. European Council's decision authorizes the adoption of legal acts in accordance with the ordinary legislative procedure, and will not be accepted if NP within six months of notification of this decision expresses its opposition[1].

NP were also granted the opportunity to take control of *ex-post*, e.g. after the adoption of a legislative act by challenging it before the Court of Justice of the European Union. Protocol No 2 provides authorization of a representative of the executive branch of a Member State to bring it in action on behalf of the legislative body. The subject of the complaint may be prosecuted for violation by the Union legislation principle of subsidiarity.

4.2. The right of consent

Stronger participation according to the introduced concept of intensity of participation is to have the right to express consent. NP are involved in national procedures for the ratification of the EU Treaties revision, accession agreements, as well as all international agreements and other intergovernmental agreements that complement the EU law. Specifically to the respective constitutional requirements of the Member States refers Article 48 TEU paragraph 4 on the

[1] Art. 48 paragraph. 7, paragraph 1 and 2: "Where the Treaty on the Functioning of the European Union provides for legislative acts to be adopted by the Council in accordance with a special legislative procedure, the European Council may adopt a decision allowing for the adoption of such acts in accordance with the ordinary legislative procedure.

Any initiative taken by the European Council on the basis of the first paragraph or second are forwarded to national Parliaments. (…)".

ordinary revision procedure of the Treaties, Article 48 TEU Paragraph 6 regulates a simplified procedure for changes (referred to as an ad hoc procedure for a footbridge subject to 'approval' by the Member States)[2] and Article 49 relates to the procedure for ratification of the agreement between the Member States and the applicant for membership.

4.3. The possibility of a joint or independent dispute

The highest level of active participation is the possibility of a joint or independent dispute. This group should be classified as the so-called 'Green Cards'. This is the proposal made during the meeting of the Working Group on COSAC for deepening of the political dialogue and improving the reasoned opinion at the meeting in 2015. It has been proposed as a non-binding form of the enhanced and coordinated political dialogue (COSAC 2016 / C 29/01, p. 4). It is an expression of the search for new ways to play a more positive and active role for NP in the European affairs. Conducted in-depth dialogue results in a call to EC to present proposals for new or revised legislation (European Commission COM (2015) 316 final). Its legal nature brings it to the 'citizens' initiative' (folk initiative), e.g. indirect legislative initiative in the EU (Grzeszczak, 2015, p. 3).

The first Green Card was reported in 2015 on the initiative of the House of Lords of the United Kingdom. 16 Parliamentary Chambers jointly signed a pilot "Green Card" (European Commission COM (2015) 316 final, p. 4). This called on the Commission – when tabling its revised Circular Economy package – to adopt a strategic approach to the reduction of food waste within the European Union. Some of the suggestions on food donation, data collection and monitoring were subsequently reflected in the Circular Economy package adopted in December 2015 (European Commission COM (2015a) 614 final).

Conclusion

The subject of analysis in the article were varied forms of participation of NP in the EU's political processes. The aim of the analysis was to evaluate the use of the mechanisms and instruments for the study of participation in the context of its impact on the political processes in the EU. To determine the effect of

[2] Art. 48 TEU paragraph. 6: "The European Council may adopt a decision amending all or part of the provisions of Part Three of the Treaty on the Functioning of the European Union".

participation of NP to create law and policies we applied the concept of classification of the participation according to its intensity. The study shows that in this respect there is a number of forms of active and passive participation in the European Union.

Table 1. Systematic forms of participation of the national Parliaments in the political processes of the EU from the weakest to the most intense

Level of intensity of participation	Signs, mechanisms, institutions	Formal/informal nature of participation
co-decision	'Grean Card'	informal
the right of consent	ratification of changes to the Treaties and the other agreements and intergovernmental agreements	formal
right of objection	use of the decision-making process by adopting a 'Red Card'	informal
	– the right to raise objection through the national government before the Court of Justice for breach of EU law to act by the principle of subsidiarity; – the right of objection to the modification of the Treaties in the simplified procedure of changes	formal
active		
consultation	Early Warning Mechanism ('Yellow or Orange Card')	formal
hearing	political dialogue between NP and the European Commission	informal
informing	the right to receive information and documents of the EU, including consultation documents of EC on annual legislative program, draft legislative acts, agendas and results of the Council meetings, information on applications for accession and from the course of a normal and a simplified procedure for amending the Treaties	formal
passive		

Source: own elaboration.

Investigated forms of passive and active participation in this range have both formal and informal nature. This means that NP can influence on the political processes of the EU not only in an institutionalized way, adjustable to the Treaties, but also in a non-institutionalized way, formed by the spontaneous activity of NP and the EU institutions. This confirms the involvement of the NP in the political processes. The deliberation and discussion platform on the proposed legislation was created, which goes beyond the Treaties adjustable to the scope of the examination for compliance with the principle of subsidiarity. There are signs of participation partly levelling the democratic deficit in the EU, which was created as a result of the transfer of competences of the national legislative bodies to the EU level.

This fact confirms the influence of NP on the political processes while reporting three ''Yellow Cards' and inhibition of EU decision-making as a result of the political dialogue. The effective exercise by NP of existing mechanisms can contribute into increasing the attention of the EU legislator to suggestions raised in the opinions of National Chambers to the proposals of legislative acts, pushing away the risk of the final launch of the control procedures (Witkowski & Serowaniec, 2014, p. 1006).

The impact of the participation of the national Parliaments on the political processes of the EU appears in several ways. Firstly, the activity of the National Chambers of Legislation takes the form of a platform for public discussion on the proposed legislation. In the foreign literature this form has been determined as a *Public forum* (Rozenberg & Hefftler, 2015, p. 33). Secondly, national Parliaments can, among others, influence the content of the policy at its early stage by taking contacts with the representatives of the decision-making institutions. In the literature, this type of activity was called: a *European player* (Rozenberg & Hefftler, 2015, p. 34). Thirdly, participation of NP is jointly connected with the cycle of the EU policy. The activity of NP is at the moment preceding the adoption of binding arrangements at both national and transnational levels. Specialized committees on European Union affairs at the national Parliaments watch over the scope of the negotiating mandate granted to their governments and approve national positions on all EU documents (Rozenberg & Hefftler, 2015, p. 31). This type of activity is called *policy sharper*.

The last aspect of the impact of the participation of NP in the political processes of the EU concerns the impact on the decisions made in the form of a 'Green Card'. It is a non-Treaty, informal mechanism of parliamentary interaction into the decision-making process in the EU. As a result of the first pilot Green Card application, the European Commission has taken a number

of legislative measures thus meet the demand submitted to the national Parliaments. This activity model is called *EU expert* (Rosenberg & Hefftler, 2015, p. 33). It should be noted that the very idea of a Green Card raises a number of controversies. The EU institutions see the need to change the Treaty to legalize the operation of the institution. Swedish, Finnish and German Parliaments in the earned consensus are appealing to national Parliaments for a greater focus on effective control of their own governments in matters related to the process of the European integration (Grzeszczak, 2015, p. 5).

These findings indicate a positive verification of the hypothesis of the article. Participation of the national Parliaments has an impact on the political processes of the EU. It also increases the transparency of these processes and the responsibility of the EU institutions. Moreover, as a result of the increased involvement of NP in the decision-making process, especially at its early stages, cross-level communication lines between the EU institutions, citizens and national authorities had improved. The smooth functioning of informal participation indicates a high degree of involvement of NP, which reduces the technocratic nature of the decisions. The examined activity of NP demonstrates that raised in the literature concerns and doubts about the effectiveness and efficiency of the analyzed mechanisms are unreasonable (like Witkowski & Serowaniec, 2014, p. 1007). Both passive and active participation of NP in the political processes removes the existing democratic deficit of the EU. It will not be possible to fully eliminate this phenomenon, as it is an inherent design feature of the European Union. Among other things, it is also seen by the fact that the interests of the Member States are represented by the governments (cf. Jaskiernia, 2013, p. 73 et seq.).

This form of involvement of NP in the European affairs goes beyond the national level. It is not limited to the control of the executive branch and is an active form of participation of citizens and their representatives in the process of decision-making at the EU level. There are authors who propose even more far-reaching suggestions for the participation of NP in the EU. They postulate addition of the right of informing about the application for membership in the EU and the right to respond to the complaint submitted to the Member State of severe exposure of the EU values and the possible application of sanctions provided by the Article 7 TEU, or at least the right of information reported by the Member State of its intention to withdraw membership from the EU. This suggestion is based on the analogy of the scope of participation of the Parliaments in the procedures related to the change of the Treaties (Popławska, 2010, p. 167 et seq.).

REFERENCES

Barroso, J. M., & Wallström, M. (2009). *Letter President of the European Commission José Manuel Barroso and Vice-President of the European Commission Margot Wallström*. Retrieved from http://ec.europa.eu/dgs/secretariat_general/relations/relations_other/npo/docs/letter_en.pdf

Borońska-Hryniewiecka, K. (2013). Wielopoziomowy wymiar zasady subsydiarności po traktacie lizbońskim. Rola partnerów instytucjonalnych w monitorowaniu europejskiego procesu legislacyjnego. *Wrocławskie Studia Politologiczne*, 14.

COSAC (2016/C 29/01): Contribution of the LIV COSAC, Luxembourg 2015. Retrieved from http://eur-lex.europa.eu/legal- content/EN/TXT/PDF/?uri=CELEX:52016XP0126(01)&qid=1459325991605&from=PL.

Declaration no 13 on the role of national Parliaments in the European Union, annexed to Treaty of European Union and to the Treaties establishing the European Communities, Maastricht, 7.02.1992, Dz.Urz. WE 1992 C 191

Declaration no 14 on the Conference of the Parliaments, annexed to Treaty of European Union and to the Treaties establishing the European Communities, Maastricht, 7.02.1992, Dz.Urz. WE 1992 C 191

Dobrowolski, P., & Gorywoda Ł. (2004). Publiczne wysłuchanie: Kontrola stanowienia prawa przez obywateli. *Raport Instytutu Sobieskiego*, 9.

European Commission (COM (2006) 211 final). *Communication from the Commission to the European Council – A citizens' agenda – Delivering results for Europe*. Retrieved from,http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52006DC0211&from=EN (4.09.2016)

European Commission (COM (2012) 130 final). *Proposal for a Council Regulation on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services*. Brussels, 21.3.2012

European Commission (COM (2013) 534 final). *Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office*. Brussels, 17.7.2013

European Commission (COM (2013) 566 final). *Report from the Commission – Annual Report 2012 on Subsidiarity and Proportionality*. Brussels 30.7.2013

European Commission (COM (2013) 851 final). *Communication from the Commission to the European Parliament, the Council and the National Parliaments on the review of the proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office with regard to the principle of subsidiarity, in accordance with Protocol No 2*. Brussels, 27.11.2013

European Commission (COM (2014) 506 final). *Report from the Commission – Annual Report 2013 on Subsidiarity and Proportionality*. Brussels, 5.8.2014

European Commission (COM (2015) 315 final). *Report from the Commission – Annual Report 2014 on Subsidiarity and Proportionality*. Brussels 2.7.2015

European Commission (COM (2015) 316 final). *Report from the Commission Annual Report 2014 on relations between the European Commission and national parliaments*. Brussels 2.7.2015

European Commission (COM (2015a) 614 final). *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 2.12.2015 Closing the loop – An EU action plan for the Circular Economy*.

European Commission (COM(2016) 128 final), *Proposal for a Directive of the European Parliament and of the Council amending Directive 96/71/EC of The European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services*. Strasbourg, 8.3.2016

European Commission (COM (2016) 469 final). *Report from the Commission – Annual Report 2015 on relations between the European Commission and national parliaments*. Brussels, 15.7.2016

European Commission (COM (2016) 471 final). *Report from the Commission – Annual Report 2015 on Subsidiarity and Proportionality.* Brussels, 15.7.2016

European Commission. S*ecretariat-General, National Parliament opinions and Commission replies*. Retrieved from http://ec.europa.eu/dgs/secretariat_general/relations/relations_other/npo/index_pl.htm

European Council (EUCO 1/16). *Decision of the Heads of State or Government, Meeting within the European Council, concerning a new settlement for the United Kingdom within the European Union, Annex I to Conclusions European Council meeting (18 and 19 February 2016)*. Brussels, 19.02.2016

European Parliament. *Relations with National Parliaments, Statistics on subsidiarity checks*. Retrieved from http://www.epgenpro.europarl.europa.eu/static/relnatparl/en/publications/statistics-on-subsidiarity-checks.html#

Fryźlewicz, M., & Olejniczak, D. (2016). Opinia na temat procedury „czerwonej kartki" oraz udziału Sejmu we współpracy parlamentów narodowych państw członkowskich Unii Europejskiej w ramach tej procedury. *Zeszyty Prawnicze Biura Analiz Sejmowy Kancelarii Sejmu*, 2(50), pp. 116–120.

Grzeszczak, R. (2015). Uprawnienia Senatu a procedura „zielonej kartki". Analiza możliwości włączenia się Senatu RP w procedurę wzmocnionego dialogu politycznego, w świetle obowiązującego w Polsce prawa. *Opinie i Ekspertyzy*, 232.

House Of Lords (2014). The role of national parliaments in the EU. 9th Report of Session 2013–14. *European Union Committee*. http://doi.org/10.1080/03932720108456944

IPEX (WWW). Retrieved from http://www.ipex.eu/IPEXL-WEB/home/home.do

Jaskiernia, J. (2013). Rola parlamentów narodowych w procesie integracji europejskiej po Traktacie z Lizbony i konieczne zmiany w prawie parlamentarnym. *Toruńskie Studia Polsko-Włoskie*, IX.

Kiiver, P. (2011). The Early-Warning System for the Principle of Subsidiary: The National Parliament as a Conseil d'Etat for Europe. *European Law Review*, 98.

Mendel, T. (2001). *Partycypacja pracowników w zarządzaniu współczesnymi organizacjami*. Poznań: AE Poznań.

Paradowski, P. (2014). Wzmocnienie rzeczywiste czy iluzoryczne? Parlamenty narodowe w systemie wczesnego ostrzegania po traktacie lizbońskim. In Z. W. Puślecki (ed.), *Unia Europejska w procesie zmian na początku XX wieku* (pp. 197–219). Toruń.

Popławska, E. (2010). Rola parlamentów narodowych w świetle Traktatu z Lizbony. *Przegląd Sejmowy*, 5, pp. 157–175.

Popławska, E. (2015). Uprawnienia Senatu a procedura „zielonej kartki". Analiza możliwości włączenia się Senatu RP w procedurę wzmocnionego dialogu politycznego, w świetle obowiązującego w Polsce. *Opinie i Ekspertyzy*, 232.

Protocol No 1 on the role of National Parliaments in the European Union, annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, signed on 13 December 2007, OJ C 326, 26.10.2012

Protocol No 2 on the application of the principles of subsidiarity and proportionality, annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, signed on 13 December 2007, OJ C 326, 26.10.2012

Raffaelli, R. (2016). Zasada pomocniczości. *Parlament Europejski*, 10/2016. Retrieved from http://www.europarl.europa.eu/atyourservice/pl/displayFtu.html?ftuId=FTU-_1.2.2.html

Rozenberg O., & Hefftler, C. (2015). Introduction. In C. Hefftler, Ch. Neuhold, O. Rezenberg & J. Smith (eds.), *The Palgrave Handbook of National Parliaments and the European Unio.* Basingstoke

Stankiewicz, J. & Moczulska, M. (2011). Konsekwencje społeczne bezpośredniej partycypacji pracowników w świetle wyników badań. In S. Banaszak & K. Doktór (ed.), *Socjologiczne, pedagogiczne i psychologiczne problemy organizacji i zarządzania*. Poznań.

TEU (2002): Treaty on European Union, OJ C 326 of 26.10.2012

Tegtmeier, W. (1973). *Wirkungen der Mitbestimmung der Arbeitnehmer*. Göttingen: Vandenhoeck und Ruprecht.

TREATY (1992): Treaty of European Union, Maastricht, OJ C 191 of 7.02.1992

TREATY (1997): Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts – Final Act, OJ C 340 of 10.11.1997, p. 115

TREATY (2007): Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007, OJ C 306 of 17.12.2007, p. 1–271

Witkowska, M. (2015). Kryzys modelu demokracji w Unii Europejskiej – przyczyny, uwarunkowania, scenariusze rozwoju sytuacji. In J. Nadolska Jadwiga, K. A. Wojtaszczyk (eds.), *Kryzysy w Unii Europejskiej i sposoby ich przezwyciężania* (pp. 119–160). Warszawa.

Witkowski, Z., & Serowaniec M. (2014). Przesłanki naruszenia zasady pomocniczości przez akty ustawodawcze Unii Europejskiej w świetle uzasadnionych opinii przyjętych przez Sejm i Senat RP. *Gdańskie Studia Prawnicze*, XXXI.

Wróblewska, I. (2012). Wysłuchanie publiczne w Polsce. Analiza rozwiązań normatywnych na tle praktyki ich stosowania. *Przegląd Sejmowy*, 3(110).