

THE INFLUENCE OF UPPER CHAMBERS ON THE
DEVELOPMENT OF DEMOCRACY AND THE
ROLE OF CIVIL SOCIETY

Meeting of the Association of European Senates

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INTRODUCTION

The National Council of the Republic of Slovenia is the presiding institution of the Association of European Senates for 2002, an association that connects the upper parliamentary chambers of EU member states and EU candidates with the aim of studying and promoting bicameralism. The National Council has therefore organised the Ljubljana meeting of the Association of European Senates which will feature a debate entitled *Bicameralism – Democracy and the Role of Civil Society*.

Chairing the Association of European Senates is of great importance to the National Council given the prestige of the role and the chance to promote Slovenia on the one hand and on the other, the opportunity to strengthen the concept of bicameralism in Slovenia and in Europe in general. This is very important to the National Council as we have found from our analysis of press reports that members of the Slovenian press are not well informed of the role and competences of the National Council and the concepts and importance of bicameralism. The National Council otherwise enjoys the support of experts in constitutional law and of politicians, who turned down an opportunity to abolish the National Council.

The aim of the material we have prepared at the National Council is to objectively demonstrate the relations and attitudes to bicameralism in Europe. We have gathered material on some of the interesting features of European upper chambers, the issues they face and the advantages they offer. The material should serve as a guide for participants to familiarise themselves with the current status and future development of bicameralism.

The National Council wanted the material to emphasise the role of senates in relations with civil society. At the National Council we feel that the future of parliaments lies in strengthening relations with civil society. We researched how European senates cooperate with civil society. It is also important that we transfer the ideas and meaning of bicameralism to the European Union level. We must establish good relations with the institutions of the European Union and cooperate in constructing Europe's future.

The material is divided into several sections with an opening article by Professor Ivan Kristan, the first President of the National Council. His article presented a theoretical overview of the concept of bicameralism and its development and meaning.

The second section covers the work and competences of upper chambers. Compiled on the basis of responses to a questionnaire sent by the Slovenian National Council to representatives of all European senates and ECPRD correspondents of other chambers. This material covers support for bicameralism among politicians, experts and the general public in individual states, the development vision for the upper chamber, cooperation between the two parliamentary chambers, the exclusive competences of the upper house in comparison to the first, the success of the bicameral parliamentary system and the most significant problems faced by the representatives of upper chambers. At the National Council we emphasised our problems with the constitutional organisation and practical functioning. We also discussed ways to solve these problems.

The third section covers the role of civil society in European parliaments. This section is based on responses to questions the National Council sent in March to representatives of

European senates and the ECPRD correspondents of all European unicameral and bicameral parliaments. It covers the organisational system of parliaments – and their relations with civil society – from all over Europe and not only Association of European Senates member countries. A comparison is made of different definitions of civil society, relations between parliament and civil society, the organisation of civil society and how civil society contributes the legislative process.

This is followed by a contribution from National Councillor Dr Franc Vodopivec who provides a critical overview of the role of civil society in Slovenia. The National Council is well aware of the problems of civil society in Slovenia and is attempting to remove them by promoting cooperation with civil society.

The last section of the publication covers the cooperation of upper chambers with the European Union and its institutions with particular emphasis on cooperation between upper houses and the European Parliament. The role and future of bicameralism with the European Union is also presented. This contribution is also based on responses obtained from senate representatives and ECPRD correspondents.

This research into the influence of upper chambers on the development of democracy and the role of civil society is intended for the representatives of upper chambers that will participate in the discussion on *Bicameralism – Democracy and the Role of Civil Society*. It is also intended for the interested public who would like to find out about the operations of the Association and the state of bicameralism around Europe.

You can read more about the Association of European Senates and the Ljubljana meeting on the internet site of the National Council of the Republic of Slovenia (http://www.ds-rs.si/novice/vabila/srecanje27-6-02_img.htm) and on the official internet site for upper houses SENATE EUROPE (<http://www.senateurope.org/>). This site also has information and material on the AES's founding meeting and subsequent gatherings. There is also a great deal of information on the activities of upper parliamentary chambers on the official internet site of the French Senate at the addresses www.senat.fr/europe/dossiers/senats_europe/index.html and www.senat.fr/senatsdumonde/index.html.

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1. BICAMERALISM AND DEMOCRACY

Professor dr. Ivan Kristan

Notwithstanding certain problems in practice in individual countries, I believe that global trends give a basis for optimism on the part of the proponents of bicameralism.

Earlier forecasts of the decline of bicameralism have not been realised. Developments have not confirmed the prediction of English theorist Harold Laski¹ that the era of bicameralism has passed and that a unicameral parliament is most suited to meeting the challenges of the modern state. In fact, quite the opposite.

Despite the abolition of second chambers in certain north European countries (Finland in 1906, Denmark in 1953 and Sweden in 1970) it is fair to say that bicameralism is the predominant characteristic of European parliamentary systems, as Hans W. Blom² argued some time ago – even taking into account the aforementioned abolition of second chambers. And this assessment is not altered by the recent abolition of the Senate of the German federal state of Bavaria (1999) and the Croatian Chamber of Counties (2001).

In Europe bicameralism prevails over unicameralism. Around 75 per cent of Europe's population live in countries with a bicameral parliament.

In the European Union two-thirds of the countries (eleven members) have a bicameral parliament and one-third (four members) have a unicameral parliament. The information compiled by the National Council includes Luxembourg among the countries with a bicameral parliament.³

In my opinion the question of democracy needs to be placed at the centre of the arguments in defence of bicameralism.

Theoretical aspects of bicameralism

There are no straightforward answers to the question of whether a bicameral parliament is better than a unicameral parliament, which of them has more advantages than disadvantages. It is not a question we can give a definitive answer to. Different social and political circumstances give rise to different practices and provide a basis for different responses.

I believe that the **basic criterion** for deciding between a unicameral and a bicameral parliament needs to be sought above all in the **sphere of democracy**, in the sphere of

¹ Harold J. Laski, *A Grammar of Politics*, Yale U., London 1929.

² Hans W. Blom, *Bicameralism - history - theory - problems*, in: *Bicameralisme, Twekamerstelsel vroeger en nu*, H.W. Blom, W.P. Blockmans, H. de Shepper (Red.), Sdu Uitgeverij Koninginnegracht, 's-Gravenhage 1992.

³ National Council of the Republic of Slovenia, *Drugi domovi evropskih držav, Avstralije, držav severne amerike in azijskih držav* ("Second Chambers of European Countries, Australia, the Countries of North America and the Asian Countries"), Ljubljana 2001.

democratic forms of political decision-making, and particularly in modern parliamentarianism as one of the meeting points of political decision-making.

At the same time as Harold Laski was rejecting bicameralism, arguing that it was obsolete, Leonid **Pitamic**, the doyen of Slovenian law professors, in his basic work on the modern state⁴ was producing cogent arguments in defence of bicameralism and asserting that a bicameral system had been introduced in almost all modern states. In an English version⁵ of this work published six years later Pitamic maintained his argument in favour of bicameralism, showing that he considered it to be well-founded in an international context too.

Pitamic stresses that the upper or second chamber is indispensable in federal states. But even in the majority of "unique" (unitary) states we find "in addition to a people's chamber another chamber composed according to different principles". In unitary states the upper chamber is established on different principles than the lower chamber. In the formation of a lower chamber special attention is devoted to certain groups which are important to the state from a social, economic or cultural point of view or to local interests or even individuals who can be useful in legislative work by reason of their profession or knowledge. The argument against bicameralism was on the one hand Rousseau's idea of indivisible national sovereignty and on the other hand the belief that a lower house representing the entire nation must not be checked by a more conservative upper house. But this argument was also used in favour of bicameralism. The "conservative" upper house prevents the adoption of hasty, poorly considered decisions by the lower house. The division of parliament into two houses, with an equilibrium between them, prevents parliament becoming omnipotent and jeopardising the independence of the administration and the judiciary.

According to Herman **Finer**⁶ there are two broad and distinct reasons for a bicameral parliament: as a part of federalism and as a result of the desire to check the popular principle in the constitution. Finer states that in the history of government two basic motives have contributed to the introduction of bicameral systems: firstly, the desire for a multitude of counsellors, and secondly, the defence of possessions.

J. Blondel⁷ argues that second chambers were of limited importance in the terms traditionally set and asks whether we can consider second chambers to be a "brake" on the first chamber or a brake on the functioning of government.

Arendt **Lijphart**,⁸ discussing the question of majoritarian and consensus democracy, sees the sense of bicameralism in plural societies (sharply divided along religious, ideological, linguistic or racial lines into virtually separate subsocieties) which the model of consensus democracy is suited to.

The oldest federation in which a bicameral system operates on a federal basis is the United States of America. As the second chamber, the US Senate protects the interests of the member-states of the federation.

⁴ Leonid Pitamic, *Država*, Ljubljana 1927.

⁵ Leonidas Pitamic, *A Treatise on the State*, J.H. Furst Company, Baltimore 1933.

⁶ Herman Finer, *The Theory and Practice of Modern Government*, Methuen & Co, London 1970.

⁷ J. Blondel, *An Introduction to Comparative Government*, London 1969.

⁸ Arendt Lijphart, *DEMOCRACIES*, Yale University Press, 1984.

Although the real foundation of the specific bicameralism of the United States, with two separate and independent chambers, is the "great compromise" between the big states and the small states, Richard A. **Watson**⁹ points to two other elements that contributed to the decision of the Constitutional Convention of 1787: the British legacy (the bicameral British parliament) and the bicameralism of the legislative bodies in the former British colonies that had united.

America's Founding Fathers established the Senate for two reasons: firstly, in order to protect the interests of the sovereign states, and in addition for the Senate to protect property interests.

In the later phase of the American revolution the constitutions of the colonial states influenced the introduction of bicameralism in the United States Constitution of 1787. Bicameralism in the colonies was initially based on the British theory of mixed government, and was modified in the 1780s by the principle of separation of powers and the principle of checks and balances. The bicameralism of the colonial legislatures was conditioned by the distinction between "property and number", as shown by the example of the Massachusetts constitution of 1780: the population ("number") was represented in the lower chamber and "property" in the upper chamber.¹⁰

However, besides the "great compromise" that was achieved between the big states and the small states (former colonies), which enabled the introduction of a bicameral Congress, **the most popular consideration behind the decision of the Constitutional Convention in favour of bicameralism** was the idea of a second chamber as a safety valve to protect against precipitate action, in other words **the second chamber playing the role of "cooling legislation"**. When George Washington¹¹ discussed the role of the Senate with Thomas Jefferson he famously said "we pour legislation into the senatorial saucer to cool it".

Democracy as a starting point

Considerations about bicameralism and unicameralism therefore have their place within the complex process of building and maintaining **democracy**. I personally believe that the bicameral system is, in principle, more democratic and more suitable for adopting important decisions in a given society than the unicameral system. And because important decisions generally take the form of laws, it is normal that parliament should be bicameral.

Lijphart, too, in his deliberation of bicameralism takes democracy as the starting point. His position is that the majoritarian principle used in a unicameral system is undemocratic for plural societies because minorities, who are often prevented from gaining access to power, will feel excluded and discriminated against. The pure majoritarian model tends towards concentration of legislative power in one chamber, while the consensus model is characteristic of bicameral legislatures.¹²

⁹ Richard A. Watson with Michael Fitzgerald, *Promise and Performance of American Democracy*, 3rd ed., New York 1978.

¹⁰ A. H. Kelly, W. A. Harbison and H. Belz, *THE AMERICAN CONSTITUTION, its Origins and Development*, 6th ed., New York 1983.

¹¹ James L. Sundquist, *Constitutional Reform and Effective Government*, Washington, D.C. 1986.

¹² A. Lijphart, *Democracies, Patterns of Majoritarian and Consensus Government in Twenty-One Countries*, Yale U. Press 1984.

From the theoretical point of view the **principle of bicameralism is originally connected with the principle of separation of powers.**¹³ Karl Loewenstein¹⁴ describes the bicameral system as a subsystem of the horizontal separation of powers, where the focus is on mutual checks and balances between the two houses of parliament. And separation of powers is one of the basic principles of the democratic organisation of parliament.

Two essential aspects of bicameralism

In terms of bicameralism as a means for a democratic parliamentary system there are **two essential aspects**:

- a different institutional basis and a different "political makeup"¹⁵
- the inclusion of institutionally organised special interest groups that are of vital importance in a given society.

The different institutional basis or arrangement of the second chamber of parliament compared to the first chamber is of fundamental importance because otherwise bicameralism would be superfluous as the second chamber would not be able to carry out its envisaged role and would merely be a redundant duplicate of the first chamber. This is the case if the first and second chambers are organised along the same party lines and within the same institutional framework. Therefore in the debates concerning the preparation of the German Constitution – the Basic Law for the Federal Republic of Germany (*Grundgesetz*) – one of the arguments made against a senate was that in a modern party state the senate merely replicates the party makeup of the first chamber (Bundestag).¹⁶

Even in the circumstances that existed some eighty years ago, and with the level of analytical experience of that time, **Pitamic** explicitly highlighted this distinction when he asserted that in the majority of "unique" (unitary) states we find in addition to a "people's chamber another chamber composed according to different principles".¹⁷

In short, the different institutional arrangement of the first and second chambers is an indispensable starting point for the modern concept of bicameralism. **The relationship between the second chamber and the political parties** is particularly important. If the same system of general elections applies to the second chamber, if the political parties have the same institutional relationship with the two chambers, if the deputies of both chambers even have joint party clubs, and so on then the second chamber loses its sense because as a duplication of the first house it is of no interest.

In this regard Slovenia's National Council is quite notable. It has its own organisational foundation. Even its relationship with the political parties is different. A direct consequence

¹³ Schwarz-Liebermann v. Wahlendorf, Struktur und Funktion der sogenannten zweiten Kammer, Tübingen 1958.

¹⁴ Karl Loewenstein (Verfassungslehre, Tübingen 1969) describes the bicameral system as a sort of horizontal intra-organ control, taking into account the presumption of mutual checks and balances between the two houses.

¹⁵ The term "political makeup" covers the party identity of the representatives and chambers, used by: George Tsebelis and B. E. Rasch, Patterns of Bicameralism, in: Parliaments and Majority Rule in Western Europe, Frankfurt, New York, 1995, 368.

¹⁶ H. Laufer, Das föderative System der Bundesrepublik Deutschland, 1991, 99: "Gegen die Senatslösung wurde vorgebracht, daß sie im modernen Parteienstaat nur eine Verdopplung des parteipolitisch zusammengesetzten Bundestages bedeuten würde."

¹⁷ Leonid Pitamic, Država, op.cit., 298.

of the different relationship towards political parties is the fact that the parties do not have clubs organised within the National Council.

The second requirement (inclusion of institutionally organised **interest groups**) is actually a consequence of the first requirement, i.e. the different institutional basis. In my opinion, based on the experience in Slovenia to date, this aspect of bicameralism is **essential for its continued development**.

In almost all the debates and reflections on the subject of bicameralism there is an element of social groups present. This characteristic of a second chamber is highlighted by Leonid **Pitamic** when he says that, in its composition, attempts are made to take account of "specific social, economic or culturally important groups for the state or local interests or even individuals who can be useful in legislative work by reason of their profession or knowledge".¹⁸ **Blondel**¹⁹ too mentions the "question of representation of economic and social groups", and **Lijphart's** concept of "plural societies that are sharply divided along religious, ideological, linguistic, cultural, ethnic or racial lines"²⁰ pursues the same goal in rejecting the majority principle connected with a unicameral parliament and favouring consensus democracy in connection with a bicameral parliament, which ensures the representation of the important groups of a plural society in the second chamber.

Before Slovenia's National Council was established the idea of representation of special interest groups (corporative, professional, etc.) was already being applied in the Irish Senate and the Bavarian Senate. George **Brunner**²¹ mentions the Irish Senate as an exception, based on the professional principle (berufsständisches Prinzip), which applies equally to the Bavarian Senate.

In France different social groups are represented in the Economic and Social Council. This, however, only has a consultative role; the second chamber is the Senate. **De Gaulle** intended to include the Economic and Social Council within the Senate and to reduce the Senate's position from second chamber to a merely consultative role, but this proposal was rejected in a 1969 referendum.

The idea of bicameralism is based on the recognition that **society (the state) is plural** and that numerous interests exist within it. Modern democracies try to take this recognition into account in various forms of political decision-making, but it is not possible to give effect to all the various individual and group interests. It is not easy to decide which of the numerous interests should be institutionally represented and in what form. As regards the legislature, which is where the idea of bicameralism belongs, efforts have been made to achieve progress in the traditional forms of bicameral parliamentarianism.

The recognition that society has a plural structure is more or less explicitly accepted in the debate on bicameralism. **Couwenberg** believes that in a proportional representation system the voters play a minor role in the policy-making process and that citizens can more effectively give expression to their interests through interest groups.²²

¹⁸ L. Pitamic, *ibid.*

¹⁹ J. Blondel, *op.cit.*, 373.

²⁰ A. Lijphart, *op.cit.*, 22.

²¹ Georg Brunner, *Vergleichende Regierungslehre*, Band 1, Paderborn, München, Wien, Zürich, 1979, 229.

²² S.W. Couwenberg, *Bicameralism - historical background, alternative conceptions and current relevance*, in: *Bicameralisme. Twekamerstelsel vroeger en nu*, *op.cit.*, 142.

Finer's idea of a "**multitude of counsellors**" can never become obsolete because the essence of bicameralism in deliberation before a final decision is taken on important political and other matters lies in ensuring as many "counsellors", or as many reflectors from different angles of the problem in question, as possible. The desire for an exhaustive deliberation is substantiated both in federal and in unitary states.

Also in a **federation** a second chamber is essentially founded on a pluralism of interests, but what these interests have in common in the second chamber is that they come together to protect the interests of the member-states of the federation. The general assumption is that the representatives in the second chamber – irrespective of how they are elected or appointed – represent the population of the member-states appropriately. But this is only an assumption and academics have highlighted a number of unresolved problems. **Finer**²³ noted the problem of a strongly disproportionate representation of the economic and social groups of the larger states in the US Senate resulting from the parity principle in the representation of the states in the Senate.

Because the second chamber protects the interests of the member-states, these states generally determine the method of electing their representatives themselves, and in the majority of cases they opt for indirect elections, or to delegate representatives to the second chamber of the federation. An exception is the US Senate, where in 1913 (with the 17th Amendment to the Constitution) the indirect election of members of the Senate was replaced by direct elections.

In view of the two aforementioned aspects of bicameralism we can therefore **conclude** that the existence of a second chamber makes sense if it has a different institutional basis and a different arrangement to that which applies to the first chamber. In this regard a different relationship with the political parties is especially important. From the other side, for the second chamber it is of decisive importance that represented within in it, in a special institutional form, are the specific interests that are of vital importance for society. In the multitude of these social interests some individual interests can be more strongly weighted than others, and represented by a greater number of representatives, as is the case with the local interests group in the National Council, which has a greater number of National Councillors than the other four interest groups together.

The second chamber must have a different internal organisation to the first chamber in order to be able to deliberate problems concerning laws in the legislative process from different angles. The second chamber must have different and additional reflectors to illuminate laws. Political parties should not have clubs organised within the second chamber. Instead the second chamber should have various forms of interest organisation which ensure a working connection with the electorate and not with the political parties; thus the second chamber is not dependent on the will formulated by the political party elites but on the will deriving from its plurally organised electoral base. This is the case with the organisation of the National Council because it has interest groups organised within it rather than political party clubs.

Only in this way is the second chamber not forced by virtue of its organisation into the same logic of reflection as the political parties and the deputy clubs in the first chamber. By using different levers the second chamber can bring problems and interests to the fore that are different from those that are given prominence in the first chamber, which is elected at general elections and organised along party lines.

²³ H. Finer, op. cit., 421.

In this way the second chamber can complement rather than compete with the first chamber. This type of bicameralism makes sense because in it the general political representation, founded on the functioning of political parties,²⁴ is complemented by representation of interests, founded on institutionally organised social interests. In this type of bicameralism the two houses of parliament do not have a relationship of mutual competition and confrontation, but rather one of complementariness and cooperation.

In favour of bicameralism

If I return to the initial question of what to do with the idea of bicameralism, and try to respond to it, my answer is quite firm: **I accept the idea of bicameralism and I support it.**

I am convinced that the arguments in favour of bicameralism – even the model of incomplete bicameralism that has been established in Slovenia since 1992 – are stronger than the arguments against it. Therefore I do not agree with the assertion of those who say that second chambers are either unnecessary or dangerous because of the potential for deadlock.

When the English theorist Walter **Bagehot**²⁵ criticised the American and Swiss model of complete bicameralism he asserted that it could cause the maximum disturbance – deadlock. He also did not accept the principle of federalism (he called it "a peculiar doctrine with which I have nothing to do now") because of the dangerous division into two equal houses. Even if theoretically a serious disturbance or deadlock could occur in relations between two equal houses, i.e. in a complete bicameralism model, this could not happen in the model of incomplete bicameralism. However, it is clear that the practice of the American and Swiss models of complete bicameralism disprove Bagehot's argument about a deadlock in the functioning of parliament.

Discussing French bicameralism **Sieyes** posed the classic dilemma: "If the two assemblies agree the second chamber is unnecessary; if they disagree it is obnoxious".²⁶ This dilemma was rejected with the response: "If the two assemblies agree, so much the better for our belief in the wisdom and justice of the law; if they disagree it is time for the people to reconsider their attitude."

Sieyes' dilemma is in fact obsolete because as far as bicameralism is concerned the important question was never whether the two chambers would agree or disagree but whether all the relevant social groups in the broadest sense would be included in the decision-making process: whether the people and all the social groups would be adequately represented in the legislature.

²⁴ Pitamic wrote about "the more experienced and prudent senate that cannot be led along party lines, which are often decisive in the people's chamber". Pitamic, *Država*, 301.

²⁵ Walter Bagehot, *The English Constitution*, Collins 1965.

²⁶ H. Finer, *op. cit.*, 403.

Structure and role of the second chamber

We can conclude this reflection on the problem of bicameralism with two assertions: one with regard to the **structure** of the second chamber and the other with regard to the possible **role** of the second chamber.

Taking account of the different angles to the question of bicameralism it is clear that the second chamber must have a structure that reflects the basic structural elements of a given society. But also the second chamber must be capable of playing one of the expected roles in modern bicameralism:

- the role of an equal chamber,
- the role of a corrective factor in relations with the first chamber.

The second chamber has an equal position in the model of complete bicameralism, while in the model of incomplete bicameralism the second chamber plays a corrective role.

In view of these two concluding assertions, where can we classify Slovenia's bicameralism, which was established with the setting up of the National Council? In terms of the structure of the National Council we can say that as a second chamber it conforms essentially to the requirement that the basic structural elements of society must be represented within it. But whether all the basic structural elements are represented, and whether they are satisfactorily represented, is another question.

As far as the role of the National Council is concerned we have to accept that in Slovenia a model of incomplete bicameralism has been established, meaning that the National Council does not have equal status with the National Assembly but plays the role of a corrective factor in relations with the National Assembly.

Classification of bicameral systems

Existing bicameral parliaments differ from each other. They can be classified into related groups, with various approaches being possible.

Differences can arise primarily from two aspects: firstly, with regard to terminology, and secondly, with regard to the criteria for classifying parliaments into the appropriate groups.

I prefer the terminology which has become established in Slovenia: **complete and incomplete bicameralism**.²⁷

I believe that this terminology is more appropriate than the terms **symmetrical and asymmetrical** bicameralism,²⁸ which could unintentionally place the focus on the structural element, i.e. the requirement for a symmetrical or asymmetrical basis, which is not the decisive factor because it is the competences that are decisive.

²⁷ Kristan-Ribičič-Grad-Kaučič: Državna ureditev Slovenije, Ljubljana 1994, 108.

²⁸ Lijphart, op.cit., 99.

The **criteria** for classifying individual parliaments either as complete bicameralism or incomplete bicameralism are the competences exercised by the two houses of parliament, and I consider the legislative function to be the decisive criterion.

It would be a simple matter if it was only a question of the two main models without taking their internal structure into account. In that case I would classify in the model of **complete bicameralism** all those parliaments in which the two houses have the same competences, or exercise the competences of parliament as an equal working area, i.e. bicamerally. And in the **incomplete bicameralism** model I would classify all the other bicameral parliaments where the two houses are not equal.

But this classification on its own would not be sufficient. Clearly differences exist between parliaments within the complete bicameralism model as well as (or even more so) within the incomplete bicameralism model. Therefore we have to provide scope for a division within each of the two models, or each of the two main groups, into subgroups. In this way we arrive at a classification where parliaments whose second chambers have a similar position as far as the details are concerned are combined into smaller groups.

The classification contained in **Table 1** and **Table 2** allows us to form several subgroups within the main groups, depending on the requirements (or the effort put into producing detailed criteria for individual subgroups and naming them, which renders the whole matter quite difficult). The proposed classification presents two models, or two main groups, and within each main group a further two subgroups.

Table 1 shows the status of each of the two houses of parliament in the complete bicameralism model and the incomplete bicameralism model.

Whereas in the complete bicameralism model the two houses of parliament are equal, in the incomplete bicameralism model the first chamber (the lower house) is stronger than the second chamber, whose competences are reduced and which is in a weaker position than the first chamber.

Table 2 shows the division of each of the main groups into **two subgroups**.

The "**complete bicameralism**" group is divided into the subgroups "highest degree of complete bicameralism" and "lowest degree of complete bicameralism". The criterion for classification in the first subgroup is that the two houses have the same competences or that they have an equal position with respect to the exercise of all the competences of parliament. In the second subgroup the two houses are not equal: the first house is stronger than the second house but the decisive criterion for classification in the second subgroup is the equal position of the second house with respect to the implementation of the legislative function.

The "**incomplete bicameralism**" group is divided into the subgroups "highest degree of incomplete bicameralism" and "lowest degree of incomplete bicameralism". In the incomplete bicameralism group the position of the second house is subordinate to the first house in all respects: it has lesser competences and less decision-making power. The condition for classification in the first subgroup ("highest degree of incomplete bicameralism") is participation in the legislative process with the right of absolute veto over certain laws. In the second subgroup the position of the second house from the point of view of the institutional

levers of power is maximally weakened. Ultimately it retains the right to give its opinion to the first house on a particular question if it is called on to do so.

For the classification shown in Table 2 it would make sense to add a **third subgroup** to each of the main groups, which would be the subgroups "medium degree of complete bicameralism" and "medium degree of incomplete bicameralism". Therefore there would be two main groups (the complete bicameralism model and the incomplete bicameralism model), and six subgroups, three for each model.

We can illustrate this classification in the form of a **range** beginning with the complete bicameralism model and ending with the incomplete bicameralism model. The range would contain six subgroups in the following order: "highest degree of complete bicameralism", "medium degree of complete bicameralism", "lowest degree of complete bicameralism", "highest degree of incomplete bicameralism", "medium degree of incomplete bicameralism" and finally "lowest degree of incomplete bicameralism".

Without going into an analysis here of the competences and positions of the second chambers in bicameral systems I believe that as examples of the complete bicameralism model we can mention the USA, Switzerland and Italy.

Examples of the incomplete bicameralism model would be the United Kingdom, Austria, France, the Federal Republic of Germany, Canada and Slovenia.

Table 1 **BICAMERALISM**

	First chamber (lower house)	Second chamber (upper house)
1.1.1.1. I. COMPLETE bicameralism		
General status	equal	equal
Legislation	Identical wording of bills	Identical wording of bills
Harmonisation	no priority	no priority
II. INCOMPLETE bicameralism		
General status	superior	inferior
Legislation	predominant role	participation
Harmonisation	decisive will overrides suspensive veto	proposes, objects uses veto

Table 2 **BICAMERALISM**

COMPLETE BICAMERALISM		INCOMPLETE BICAMERALISM	
Highest degree of complete bicameralism	Lowest degree of complete bicameralism	Highest degree of incomplete bicameralism	Lowest degree of incomplete bicameralism
Both houses of parliament have equal competences in all spheres	The first house has the predominant role while the second house has reduced competences, but in the legislative process both houses are equal (laws must be adopted with the identical wording, after harmonisation where required; the first house cannot override the second house).	The first house prevails with competences in all spheres; the second house participates at least in the legislative process, where its most powerful tool is an absolute veto.	The first house prevails with competences in all spheres; the second house has reduced competences: if these are maximally reduced it does not participate in the legislative process and has no formal initiative powers but only the right to give an opinion when it is asked to do so.

Conclusions

We can draw a number of conclusions on this subject:

1. The theoretical arguments and the practice of modern democracies speak in favour of bicameralism. Taking into account all the dimensions of political decision-making, a bicameral parliament is more democratic than a unicameral parliament.
2. In practice there are two models of bicameralism: complete and incomplete bicameralism. The decision to opt for one or other of these two models depends on the specific social circumstances, and in particular on historical tradition.
3. Bicameralism makes sense if the first and second chambers have a different institutional basis and their functioning is organised differently. The second chamber loses its sense if it is merely a copy of the first chamber, in particular with regard to the position of political parties.
4. In the second chamber a different position needs to be secured for the political parties compared to their position in the first chamber. In the second chamber there should be no political party clubs and the deputies should not be institutionally subject to party discipline in the same way as the deputies in the first chamber. A radical possibility would be for

- deputies' membership of a political party to be frozen for the duration of their term of office in the second chamber.
5. Unlike the general political representation in the first chamber, which has its basis in the activities of the political parties, in the second chamber expression should be given to the various social interests which are of vital importance for a given society (state) and which are not appropriately represented in the first chamber. In this way a second chamber which operates on an interest basis will become a useful complement, and a corrective, to a first chamber which operates on a party basis.
 6. The second chamber does not compete with or confront the first chamber, rather it is a complement and a corrective to it.
 7. In the Republic of Slovenia the Constitution lays down an incomplete bicameralism model. This is a model that Slovenia should retain in the future.
 8. In the way it has functioned so far the National Council of the Republic of Slovenia has acted as a second chamber in an incomplete bicameralism model. In practice the National Council has successfully linked the activities of the five institutionalised interest groups with civil society initiatives and translated all these interests, as required, into the appropriate form of political initiative in the legislative process.
 9. The incomplete bicameralism model established with the National Council is also interesting from a comparative law point of view.
 10. The bicameral principle should also be applied in the European Parliament because it is bicameral parliaments that prevail in the EU member-states.

2. THE WORK AND COMPETENCES OF SENATES

Edited by Dušan Štrus

This analysis is based on the responses given to the questionnaire sent by the National Council of the Republic of Slovenia to the senates and correspondents of bicameral parliaments in European countries.

2.1. Support for bicameralism among politicians, experts and general public opinion in individual countries

In **Belgium** the correspondents wrote that the majority of politicians, legal experts and public opinion is in favour of bicameralism. The public is well-informed on the characteristics, strengths and weaknesses of bicameralism.

Bicameralism has a very long tradition in **France**. Since the French Revolution in 1789, there has only been a unicameral parliament during two periods: 1790–1795 and 1848–1851. During those two periods the political system functioned very poorly. Public opinion is largely in favour of the Senate. Public support for bicameralism has been demonstrated in two referenda, in 1946 and 1969. The result of both was in favour of bicameralism which was introduced to France to protect against the danger of too large a concentration of power. Despite this, a section of the public opposed the method of election to the Senate as they adjudged the rural sections of France to be better represented in the Senate than the urban areas. A debate is currently underway on the length of a senator's term in office (nine years).

The **Czech Senate** does not belong to popular institutions. It has been caused by lengthy delays of its real constitution and negative campaign of some political groups interested in centralisation of political power. Statistic figures say that 25% of deputies consider themselves to be against the existence of the Senate. Popularity of the Senate with citizens is usually slightly above 20%. The Senate is more appreciated by experts, though such appreciation is hard to quantify. Yet, there is a group of loud critics but not a group of loud supporters.

In **Italy** the majority view is that two chambers are essential in a completely bicameral system such as Italy's. Most people are in favour of the senate, which functions as a cooling house. Considerable discussion is currently dedicated to transforming the senate into a chamber of the regions.

The Bundesrat's position within the constitutional framework of the **Federal Republic of Germany** is undisputed. However criticism is levelled at the Bundesrat's influence on legislation; critics consider that the proportion of legislation (c. 60%) that requires Bundesrat approval is too high.

In the **Netherlands**, the public and legal experts are in favour of the Senate (*Eerste Kamer der Staten Generaal*), given the high level of respect for members of the chamber, who carry out important work in the adoption of new legislation.

Political opinion on the **Polish Senate** is divided. The SLD (Democratic Left Alliance) and the UP (Union of Labour) parties within the governing coalition are in favour of a unicameral parliament. The leader of the SLD and current prime minister announced the abolition of the Senate in his election manifesto. In its manifesto, the PSL (Polish Peasant Party), a third party in the ruling coalition, came out in favour of changing the Senate from a political chamber

into a chamber representing the interests of local government. As the other parties want to retain the current status of the Senate there is not a large enough majority in the present Sejm (the lower chamber of the Polish parliament) to change legislation in this area. The experts, who previously rejected the Senate, now largely hold the position that it plays an important role in the legislative process, having seen how it operates. At the same time Polish constitutional experts claim that a unicameral chamber is enough to satisfy the principle of representation. Public opinion is critical of both parliamentary chambers. The current system is heavily criticised for the large number of representatives in both chambers (560). It is of interest that public opinion gives more support to the work of the Senate than to the Sejm.

In **Romania** politicians largely express the opinion of the party they belong to and in general the political parties support the senate's existence. Constitutional experts maintain that Romania's bicameral system is appropriate for Romania. The results of a survey into public opinion last year demonstrated, however, that the majority of Romanian citizens were in favour of a unicameral system.

In **Slovenia** support for bicameralism varies widely among politicians; some favour abolishing the upper chamber and increasing the number of members in the lower chamber, others support the bicameral system and the role of non-political representatives in the legislative process. A process of constitutional change is currently underway in Slovenia. The proposed constitutional amendments even included abolishing the National Council (*Državni Svet*) but that not have enough support even during the collection of signatures within the National Assembly (*Državni Zbor* – the lower house) needed to propose the measure. Bicameralism enjoys more support at the expert level, particularly from constitutional law experts as well as representatives of other social sciences, especially political science and sociology. Public opinion in Slovenia reveals that the public is not very familiar with the role and work of the National Council. An analysis of press reports demonstrates that journalists are not well enough informed on the National Council's role and competences and in their reports often confuse it with the National Assembly.

Spain is in favour of its senate (*Senado*) though it is criticised by experts and politicians alike. The experts are pressing for urgent reforms to strengthen its territorial dimension. Public opinion is critical of the senate.

In **Switzerland** politicians, experts and the public are all basically in favour of the Council of States (*Ständerat, Conseil des Etats*). The new constitution in 1999 did not fundamentally change the rules governing the Council of States that were originally established in 1848.

The House of Peoples (*Dom Narodov*) in **Bosnia–Herzegovina** is an essential institution and for that reason is well-accepted especially in connection to its role in the multi-national community of Bosnia–Herzegovina.

Politicians in **Ireland** are in favour of its senate, known as the Seanad. Experts are also in favour and would like to see some changes in its structure. Public opinion on the Seanad has not been tested.

In **Yugoslavia** politicians, experts and the public are all in favour of the second chamber, the Chamber of Republics.

In **Russia** almost all politicians and experts are in favour of the Council of the Federation. However there is a lack of agreement of the role of the Council of the Federation within the system of state institutions and its formation. Public opinion see the Federation Council as a political factor that stabilises relations between different branches of power and their regional levels.

2.2. The future development of the senates

On 26 April 2002 in **Belgium** representatives of the governing coalition drew up an agreement on the future of the senate, which will become a senate of the regions and communities to be composed of representatives from the executive and legislative authorities of the regions and communities. The number of representatives from the Walloon community will be equal to those from the Flemish community. These reforms will be carried out for the next term in office given two conditions: if the current parliament proposes changes to certain articles of the constitution and if these constitutional changes are approved by a two-thirds majority in both parliamentary chambers.

From time to time, especially during election campaigns there appear deliberations about dissolution of the **Czech Senate** or about its reform. Most frequently, those proposals lie in interconnecting of the Senate and self-administrative units. However, they are not clearly outlined and they do not have support of the majority of senators. A possible linkage with the more variedly structured civic society is limited by absence of an umbrella organisation. The Chamber of Deputies of the **Czech republic** recently rejected an extensive amendment to the Constitution tabled by the Senate. The amendment assumed more thorough balance of powers and a strengthened role of the Senate. A number of bills implicitly requiring Senate's consent was supposed to be increased and at the same time a system of shuttle (navette) enabling both chambers to find an optimal solution and a broader consensus. Furthermore the Senate was supposed to be involved in voting about bills vetoed by the president, besides a simple rejection of a bill that can be overridden by an absolute majority (101 out of 200) a qualified rejection requiring a majority of 3/5 should have been introduced etc. An optional extension of the 30-day period for discussing bills to 60 days was also believed to be very important. New negotiations about possible changes in the Constitution should start in the autumn this year.

In the **French Senate** a special working group has been formed to study this issue. The group will publish its finding by the end of June. An institutional change often proposed in the French Senate is the reduction of a senator's term in office (from nine to six years), but no decision has yet been adopted on this matter.

In **Italy** discussions and proposals arise on constitutional changes (a one chamber parliament, reductions in the number of members or differences between the two chambers) which are dealt with in ad hoc committees. The federal reform of the state – based on the principles of autonomy and subsidiarity – was adopted in the previous term in the parliament and some executive competences were devolved to the regions. A debate is currently underway on changing the senate into a chamber of the regions.

In **Germany** the federal government and the premiers of the federal states are currently involved in committees to consider changes to Germany's federal system. These are primarily involved with reviewing the division of competences between the federal and state levels and with the distribution of the available funds from tax revenues. In this context the Bundesrat's right to participate in the legislative process will also be critically reviewed as some politicians and academics believe the proportion of laws requiring mandatory approval from the Bundesrat to be too high (60 percent).

The **Senate** in the **Netherlands** will continue to function as it has to date, but will pay more attention to European regulations and the quality of legislation.

In **Poland** the SLD party from the governing coalition has proposed the abolition of the senate, so a discussion on its existence can be expected in the near future. However changes to the senate's functions are more likely to occur than outright abolition. The rules of the senate are currently under review.

In **Romania**, parliamentary parties are debating proposed constitutional changes that would give the Senate (*Senat*) and the Chamber of Deputies (*Camera Deputaţilor*) different legislative competences and a new method of electing members to both chambers. They would also introduce a new method of voting within both chambers. Romania is also changing its Rules of Procedure to achieve a faster and more efficient method of decision-making that would retain the high quality of legislation adopted.

The main vision of the **National Council of Slovenia** is to remain a key link between the legislature and civil society. The National Council continually attempts to transfer the interests of civil society to the legislature which, from the range of non-governmental organisations, is most often represented by various societies. Over the National Council's decade of existence it has organised 130 consultations, over 30 different public debates and more than 50 lectures by foreign experts. Over 100 associations, professional societies, organisations, institutes and state bodies have collaborated with the National Council in organising consultations. In this manner, the National Council attempts to invite a wider section of civil society into debates on a range of social issues. The purpose of the consultations is not only to raise public awareness but also to obtain feedback and opinions from civil society.

The future of the **Spanish senate** is conceived as a territorial representative body with increased participation for self-governing communities. There is however no political consensus for change at the moment.

The Council of States in **Switzerland** will continue as it stands today. It is one of two parliamentary chambers with equal competences and is distinguished from the National Council by its size and political composition, with the smaller cantons having a much stronger position in the Council of States; it is easier to place cantonal interests on the agenda in this chamber. The Council of States plays a role in incorporating regional interests into Switzerland's national interests. This is a development that will constantly gain momentum as part of the process of globalisation and European integration.

Belarus' Council of the Republic (*Soviet Respubliki*) plans to adopt new legislation on the National Assembly (the representative body that comprises the House of Representatives and the Council of the Republic) that was drafted in April and provides for the expansion of the parliamentary competences for both chambers within constitutional limits.

Bosnia–Herzegovina's House of Peoples will in the future contain representatives of other nationalities (not only the three constitutionally recognised nationalities that it represents today). The existing rules of the House of Peoples are to be amended.

In **Ireland** the idea of reform has been mentioned, but that will be addressed by a newly elected Seanad as elections are now due.

Representatives of **Yugoslavia's Chamber of Republics** link the future development of the second chamber to changes in the Yugoslav constitution.

Changes to the formation of **Russia's Council of the Federation** are possible in the future. Since January 2002 the Council of the Federation's composition has been based on a new federal law and its Rules of Procedure have also been revised. However, as this law only defines the method of nominating and electing the Council's members and nothing about their recall, the further amendments required are already in preparation.

2.3. Cooperation between the upper and lower chambers of representative bodies

In **Austria** cooperation between the two chambers takes place via regular meetings between the offices of each chamber.

Belgium also feature a level of cooperation between the two chambers.

The **Czech Constitution** assumes a bill on relations between the two chambers to be passed. The bill has not been passed yet. Therefore proceedings follow the Constitution refined by parliamentary habits. Among those habits is for example delegating Senate's rapporteurs justifying at the Chamber of Deputies why the bill has been rejected or amended. The initial tension between the chambers has gradually lost intensity but the Chamber of Deputies still behaves as an older and more experienced partner. Some senators are involved in specialised commissions and sub-committees of the Chamber of Deputies. Permanent delegations to interparliamentary organisations are the only common stable platform. Other exceptions are joint sessions and business trips. Parliamentary factions have richer relations.

In **France** the quality of cooperation also depends on whether the majorities in the National Assembly and the Senate have been formed by the same political groupings. If one political grouping has a majority in both chambers then more laws are adopted in both chambers with the same wording. If there is no consensus then a joint committee nearly always achieves agreement. If the majorities in the two chambers are different then results are obviously less successful.

Cooperation between the upper and lower chambers is also assessed positively in **Italy**.

Germany's Bundestag (the lower chamber) and **Bundesrat** are the legislative bodies of the federation and cooperate in the legislative procedure. All laws must also pass through the Bundesrat. For most legislation the Bundesrat can raise a veto to a draft law, which the Bundestag may then reject. There are also "consent laws" requiring the express approval of the Bundesrat.

In the **Netherlands** the two chambers cooperate well, although not to the extent that is typical in many of Europe's bicameral systems. There is no requirement to reach agreement if there is a lack of consensus between the chambers. The decision to introduce a piece of legislation and the introduction itself falls within the competence of the lower chamber, the final decision to accept or reject a law lies with the senate.

Cooperation between the lower and upper chambers of the **Polish** parliament are governed by the constitution. The Sejm makes the decision on amendments to legislation proposed by the Senate. There is no need for coordinating commissions between the two chambers. Matters of dispute between the chambers are settled by the presidents of both chambers. Cooperation between committees from both of Poland's representative bodies is seen when for example senators explain Senate amendments at Sejm committee sittings.

Relations between the Senate and the Chamber of Deputies in **Romania** are organised at various levels. Positive cooperation between the two chambers takes place at joint sessions regulated by special rules as well as at separate sessions. The chambers work together on the legislative process, in supervising institutions and in appointments to a range of positions. Representatives of both chambers also harmonise their positions on a mediation committee.

The **National Council of Slovenia** and its working bodies cooperate with the working bodies of the National Assembly and communicate their opinions on matters within their competence. National Assembly working bodies deliberate on opinions sent to them by the National Council and its working bodies. National Council representatives can attend sessions of the National Assembly's working bodies. The chairperson of a National Assembly

committee must inform the President of the National Council – or the chairperson of a National Council committee – of any position it adopts (para. 2 of Article 255 of the National Assembly's Rules of Procedure).

The National Council, by adopting opinions on all matters under the National Assembly's competence and making them known to the Assembly, thus communicates and asserts within the National Assembly the interests of all the groups represented on the National Council. National Council commissions also form opinions, positions and proposals on the deliberation of laws and other legislation within their area of competence and these are included in draft legislation from the very start of the legislative process.

The National Council also has the constitution authority to require an inquiry into matters of public importance. To this end the National Assembly forms a joint commission that has the same authority to investigate and examine as a judicial body.

Spain functions similarly to Austria in that cooperation between the chambers takes place via regular meetings between offices of each chamber.

In **Switzerland** both representative chambers are equal and have equal competences in accordance with the constitution. All decisions made by the Federal Assembly must be the result of the joint agreement of both chambers. Divergences between the chambers are settled in a special procedure whereby the decision of one chamber is passed to the other until agreement is reached. If after three attempts no consensus is reached then a special "conciliation" conference is called. Thirteen members from the preparatory committees of each chamber are appointed to find a consensual solution. If no agreement is possible the draft law is rejected and removed from the parliamentary agenda.

In **Belarus** cooperation between the two chambers takes places via joint sessions of both chambers of the representative body and via joint sessions of the presidencies of both chambers: the Council of the House of Representatives and the Presidium of the Council of the Republic. Cooperation also occurs in the sessions of conciliatory commissions.

The two chambers of **Bosnia–Herzegovina's** representative body cooperate well. Their commissions work together, particularly in adopting legislation as well as in other areas of joint responsibility. Sometimes joint sessions of the chamber collegia are organised and joint sessions of both chambers.

Ireland's two chambers work together on joint committees.

In **Yugoslavia** cooperation between the two chambers takes place via

- the general parliament enactment procedures (both chambers follow the same procedure for adopting laws),
- the work of joint standing committees,
- joint sessions of both chambers,
- consultations between the presidents of both chambers
- other forms of mutual information sharing.

In accordance with **Russia's** constitution, the chambers of the Russian parliament function autonomously and hold joint sessions only to hear an address from the President, the Constitutional Court or foreign leaders. After each of the three readings of a law the State Duma (the lower chamber) directs the draft law to the Council of the Federation and takes into account its remarks and proposals. If the Council of the Federation opposes the adoption of a federal law a conciliation commission is called, composed of an equal number of members from both chambers. Federation Council members and the Council as a whole have the right to make a legislative initiative. Furthermore the members of both chambers meet on a regular basis at parliamentary hearings and round tables. Plans for closer cooperation between the two chambers are currently being discussed. The committees and permanent commissions of the Federation Council study draft laws proposed in the State Duma and

prepare conclusions on laws already approved in the Duma and for federal laws submitted for consideration by the Federation Council. The committees and commissions of the Council of the Federation can, in coordination with the State Duma, send representatives to cooperate in legislative work of the Duma's committees, working groups and so on. Deputies from the State Duma can take part both in the open meetings and meeting closed to the public of the Council of the Federation's committees, plenary sessions and other meetings within the Council's competence.

2.4. Exclusive competences of the senate in comparison to the lower chamber

In comparison to the Chamber of Representatives, the **Belgian senate** has only a small number of exclusive competences that are not of a legislative nature. The senate expresses its opinion on conflicts between the Chamber of Representatives and the parliaments of the federal communities or disputes between the community parliaments. The senate also has the exclusive right to prepare its own budget and perform its prescribed competences (autonomy at the level of senate organisation).

There are some exclusive competencies of the **Senate of the Czech republic**: when the Chamber of deputies is dissolve, the Senate is entitled to pass legal measure that must be confirmed by the Chamber of Deputies during its first session after the elections; the Senate approves judges of the Constitutional Court appointed by the President; decides in immunity matters of the Constitutional Court; the senate may sue the President at the Constitutional Court for high treason.

The exclusive competence of the **French Senate** is that the President of the Senate is deputy to the President of the Republic. Furthermore, unlike the National Assembly, the Senate cannot be dissolved.

The **Italian Senate** (*Senato*) has no exclusive competences as both chambers have completely equal competences.

In comparison with the Bundestag, **Germany's Bundesrat** has more influence on the formation and content of legal ordinances (to implement laws). The Bundesrat also has a wide-ranging right to cooperate in matters pertaining to the European Union.

In the **Netherlands the Senate** has no exclusive rights.

The only exclusive competence of the **Polish Senate** is giving approval to a presidential call for a referendum (Article 125 of the Polish Constitution).

In accordance with the **Romanian** constitution the Senate and the Chamber of Deputies have the same competences with one exception: only the Senate can appoint the Romanian Human Rights Ombudsman.

The **National Council of Slovenia** can require the National Assembly to decide again on a law before its proclamation (suspensory veto). The National Council has no other exclusive competences, but it works very hard at maintaining direct links with civil society organisations.

In **Spain** the Senate has one exclusive competence: to pass a measure forcing a self-governing government to respect the rule of law (Article 155 of the Spanish Constitution). The Senate also has two prior competences (matters that must pass through the senate before congress): adopting cooperative agreements between self-governing governments (Article 145 of the Spanish Constitution) and receiving draft laws on economic funding for territorial compensation (Article 158 of the Spanish Constitution).

In **Switzerland** the two chambers have the same competences.

Belarus' Council of the Republic has several competences not held by the House of Representatives, including the following:

- it approves presidential nominations (the president and members of the constitution court, president and members of the supreme court, etc),
- elects six members of the Constitutional Court,
- elects six members of the Central Electoral Committee,
- cancels decisions taken by local representative bodies that are not in compliance with legislation,
- dissolves any local representative body that seriously and systematically violates the law (it also dissolves them in other cases set out by law),
- decides on presidential edicts on a state of emergency or martial law and complete or partial mobilisation.

The two chambers in **Bosnia–Herzegovina** do not share the same competences, as defined in the constitution and their rules of procedure. The House of Representatives has exclusive competences in appointing members of the government, while the House of Peoples has important competences relating to the protection of vital national interests.

In **Ireland** the Seanad can request that the president sign legislation sooner than laid down in the constitution. Members of the European Parliament have a right of audience in the Seanad under a set procedure.

The **Yugoslav Chamber of the Republics** has no exclusive competences. According to the constitution both chambers have the same competences.

Russia's Council of the Federation has a large number of exclusive competences: approving the change of borders between territories of the Russian Federation; approving decrees by the President of the Russian Federation on the introduction of martial law and on the declaration of a state of emergency; deciding on the use of the Armed Forces of the Russian Federation outside Federation territory; calling the election of the President of the Federation; impeaching the President of the Federation; appointing judges to the Constitutional Court, the Supreme Court and the High Arbitration Court of the Russian Federation; appointing and relieving the Attorney General of his duties; appointing and relieving the Deputy Chairman of the Court of Auditors and half of its auditors of their duties.

2.5. The success of the bicameral system within representative bodies

The greatest strength of the **Belgian bicameral system** is that it increases the quality of legislation and allows the senate to focus on more complicated legislation. The weakness of the system is the incomplete nature of parliamentary supervision, which does not give the senate any power to make political sanctions.

Even if the **Czech bicameral system** is somehow unorthodox with its absence of a specific representative title of the second chamber, it is basically functional and justifiable. A certain weakness is that the Chamber of Deputies dominates in the area where it should not dominate; i.e. in formulating rules of governance. Those rules are not included only in the Constitution but also in many other acts. The amendment to the Constitution tabled by the Senate attempted to group those acts into a category of organic acts. In addition to that, it is necessary to develop practically the functional shaping of both chambers. It is a prerequisite of a spontaneous division of labour based on ranked authority of the chambers in certain areas.

Representatives of the **French Senate** stressed the importance of the Senate's cooperation in creating a balance between institutions. Bicameralism prevents institutions ending up in

insoluble conflicts, too large a concentration of powers and an unpredictable decision-making process. This objective, defined in the constitution, is the common thread in the senate's different areas of function. The role of the senate in revising the constitution, where the senate's approval is obligatory, is the primary example of this. This solution contributes to the stability of adopted legislation.

It is a matter of great importance to the French that reviewing the wording of a law in both chambers ensures that different interests are included within the legislative process and protects against badly thought out and poor legislation. This double reading of the wording of a law also contributes to balanced representative democracy and allows public opinion to be expressed on matters during the process of passing legislation between the two chambers. The French bicameral system is therefore an element contributing to balance between institutions.

The advantage at the heart of the **Italian bicameralism system** is that it enables multiple consultations on draft legislation. On the other hand this means that the time taken to adopt legislation is lengthened.

According to representatives from the **German Bundesrat** the bicameral system strengthens the interplay of checks and balances. The second chamber is an additional safeguard against radical changes. On the other hand, the greater pressure to reach a consensus is felt to be a limiting factor.

In the **Netherlands**, the senators' experience and knowledge contributes to more balanced scrutiny during the legislative process.

The senate plays an important role in the legislative process in **Poland**. The strength of Poland's bicameral system is that the senate does not cause a constitutional crisis if it rejects a proposed law. The senate cannot prolong the legislative process because it has just 30 days to making its decisions. The weakness is that the Senate has only few competences, which is the reason it is considered to be of little importance to the country.

The strengths of the **Romanian** bicameral system are that it offers the possibility of a more detailed examination of draft legislation. Indeed, it often happens that a draft law adopted by one chamber is amended by the other. The weaknesses of the bicameral system are that both houses have the same competences and that this causes delay in the legislative process.

In **Slovenia** the suspensory veto is a problematic process. All laws passed by the National Assembly are sent to the National Council for a decision after which the Council can file a suspensory veto. According to the constitution, the President of the National Assembly must send every law to the President of the National Council before sending it to the President of the Republic for signing. A suspensory veto must be filed within seven days of a law being adopted by the National Assembly. Seven days is a very short time as the National Council is a collegiate body that has to compose and adopt any decision on a veto according to a prescribed procedure. The seven day period included non-working days so it can easily happen that the National Council has only four days for the whole procedure: calling the session, deliberating and decision-making. One must also take into account the fact that National Councillors do not carry out their office professionally and are employed elsewhere. The seven day deadline for studying a proposed law is the shortest in comparison with other European upper chambers.

Another problem with the National Council's veto is that the procedure for approving the veto is defined within the Rules of Procedure of the National Assembly. The constitutional status of the National Council's veto is not adequately defined in the constitution and should therefore be more clearly defined in other legislation. The National Council proposed an amendment to the National Council Act that would define the method of deliberation within the National Assembly on a law for which the National Council has proposed a suspensory veto. The National Assembly did not adopt this proposal. It is problematic for relations

between the two chambers that such an important common issue is defined in the Rules of Procedure of one chamber, with the other having no influence on its content.

A further difficulty with the veto is its rigidity. The National Council does not usually oppose an entire law, but rather individual solutions within it. After reconsidering a law the National Assembly can either adopt or not adopt a law. It cannot amend the law according to the National Council's proposals. Members of the National Assembly are therefore often left with two poor choices: to adopt a law that contains an obvious weakness or reject it due to one inappropriate solution. Constitutionally there is nothing to prevent the National Assembly using the Rules of Procedure to change the provisions by which a veto may be filed. A majority in the parliament have to date opposed this on the grounds that it would introduce a fourth phase to the legislative process. This phase would only entail decision-making on issues in dispute and not on the whole law. Furthermore it would be possible with one vote to decide in favour of amending a law or rejecting a veto and hence readopting a law. The National Council could not then refile a veto on an amended law. A change of this nature has been on the agenda of the National Assembly's Procedural Committee many times. Sometimes a large minority has voted in favour, sometimes even a majority of members of parliament but there has never been the two-thirds majority required to change the Assembly's Rules of Procedure.

The advantages, however, of Slovenia's bicameral system are twofold: the first advantage of the National Council's work lies in the fact that it is an institutionalised form of representation for various social interests, organised into five interest groups (employers, employees, farmers, the self-employed and local interest groups), which adds to its weight and legitimacy as a representative of social interests. The institutionalised electoral base of the five interest groups is then in practice widened to include most sectors of civil society.

The second advantage of the operations of the National Council lies in the fact that numerous civil initiatives have entered the mechanisms of parliamentary democracy and the political sphere through the National Council, which were not covered or otherwise set out within the institutionalised mechanisms of the five interest groups. Through numerous lectures and debates (including unpopular subjects) the interests of different social groups and strata have been expressed that would otherwise have been prevented or restricted from expressing themselves as legitimate interest groups, let alone that they would have been able to implement their demands. The cooperation of civil society in the legislative process undoubtedly gives the adopted legislation greater legitimacy.

The effectiveness of the **Spanish Senate** is the result of expanding its opportunities to reach consensus.

The **Swiss bicameral system** is a deeply rooted component of the political system as a whole. It remained unaltered during the total revision of the constitution in 1999. Its strengths include raising the quality of parliamentary work, improving the representation of the cantons, regions and minorities and guaranteeing political stability. The weaknesses of Switzerland's bicameral system, according to legal doctrine and some left-wing and environmentally concerned politicians, include the slowdown of political decision-making and the over-representation of liberal and conservative parties and rural and small cantons.

Since 1996, when **Belarus' Council of the Republic** was created, the bicameral parliamentary system has demonstrated its advantages. The most important is that it has improved the quality of the legislative process. The Council of the Republic enables the expert study of draft laws submitted by the House of Representatives. The Council also improves representation of the citizens within state institutions.

Representatives from the House of Peoples in **Bosnia-Herzegovina** stressed that the procedure for adopting law would be easier in a unicameral representative system. However, a

bicameral system is the only possible constitutional solution in Bosnia–Herzegovina, given the need to protect vital national interests.

The most obvious advantage of the **Irish senate** is that it can act as a check on the lower chamber.

The **Yugoslav bicameral system** is not the most efficient bicameral system. The only advantage it provides is making both federal units equal as they are otherwise quite different in terms of economic development and size of the population and territory. A weak point of Yugoslav bicameralism is that both chambers discuss the same matters and that the Chamber of Republics does not deal only with matters at the federal level.

In **Russia** the bicameral system is seen as being much more effective than a unicameral system as it provides stability to parliament and the whole state system, a matter of great importance in as vast and multinational a country as Russia. It also brings the interests and problems of the regions closer to the federal centre.

2.6. The biggest problems for senate representatives in their work and their methods of resolving them

Despite the fact that the constitution defines an important role for the **Austrian Bundesrat** in the legislative procedure, its institutional status is politically and constitutionally weak. The Bundesrat has a rather poor tradition of representing provincial interests at the federal level. The federal government and the Nationalrat (the lower chamber) tend to consider the Bundesrat as a less important body in the legislative process and the provinces have found other methods of cooperation at the federal level.

However, the Bundesrat does have an important role in the Austrian political system. The Bundesrat is one element of Austria's federal state. It provides an important stage for politicians to learn their craft. The Bundesrat can operate as a powerful opposition when using its competences to initiate laws and or veto them. In summation, the Bundesrat has changed from a body supplementing the legislative process to an additional arena for inter-party struggles.

The **Belgian Senate's** greatest weakness is the too limited number of members and the relatively complex appointment system (the *système d'évocation*).

Presentation of the results of its work before the public as a response to the criticism of the **Czech Senate**. A very limited room for finding consensus between the chambers.

Criticism is levelled at the **German Bundesrat** when party political interests gain the upper hand over specific federal state interests. In such a case the Bundesrat is felt to be a restrictive or disruptive factor. This does relate to the Bundesrat's understanding of its own role, but is not caused by a lack of legitimacy. Ultimately all members of the Bundesrat are legitimately elected, although indirectly, and are accountable to their state parliaments.

The problems faced by the **Senate** in the **Netherlands** are primarily the large workload and the fact that membership in the chamber is not a full time occupation (part time politicians).

The biggest problems in the **Polish senate** arise from the fact that constitutional court passed a rather narrow interpretation of its competences. This limits the senate's opportunities to successfully amend legislation.

Given the equal competences of the two chambers, the legislative process in **Romania** is in somewhat of a cul-de-sac. With amendments to the Rules of Procedure for both chambers in 2001 most of the senate's work was changed from plenary sessions to committees, which improved the legislative activities of the senate.

More than half of the **National Council of Slovenia's** requests for a ruling on constitutionality and legality are filed after a veto has been voted against in the National

Assembly. Between 1993 and 2000, thirteen out of twenty-four of the National Council's requests to the Constitutional Court for a ruling on the constitutionality of a law have come after the National Assembly adopted a law with an absolute majority on a second vote. In two cases the veto did not achieve sufficient support within the National Council and was not approved. Nevertheless, the National Council decided to ask the Constitutional Court for a constitutional ruling on specific articles.

In 54 percent of cases the Constitutional Court has found that provisions in the section of laws for which the National Council requested a ruling were unconstitutional. In one case the National Council's request was partially upheld. The results show the high level of justification for the National Council to file its suspensory vetoes and to lodge constitutional challenges. As the National Council cannot make amendments to a law, the suspensory veto is its only opportunity to express disagreement with the National Assembly. This means that the filing of suspensory vetoes and requests for constitutional rulings arise from the fundamental interests of the National Council and are not politically motivated. The National Council communicates the interests of non-political society within the legislative process and proceeds from the need of wider social groups to regulate their own position: local interests, the interests of the economy and non-economic activities.

Attempts to invoke the constitutionally defined competences of the National Council in order to claim that the Council should not participate in submitting amendments during the deliberation of a law are ungrounded. The Constitutional Court has clearly stated in its decisions that the National Assembly autonomously regulates which parties may submit the amendments that comprise legislative proposals. It is not therefore unconstitutional if the National Council submits amendments nor is it related to its constitutionally defined competences.

Furthermore, the National Assembly invokes the separate nature of a legislative initiative and the submission of an amendment within the legislative process. If these two activities were so clearly separated then by analogy the National Assembly could exclude the Government from making amendments and vice versa: it could prevent the National Council from making amendments to legislative proposals that the Council itself has submitted into the legislative procedure, which is an argument *ad absurdum* and hence untenable.

The opinions the National Council provides on laws demonstrate its direct participation in the legislation process. Given the procedural regime, the National Assembly is also clearly in favour of National Council participation, as the Assembly itself requests the opinion of the National Council.

If the National Assembly supports the adoption of the National Council's proposals and making those proposals its own, then if the National Council also submits amendments that should not change the work of the National Assembly's working bodies or render that work more difficult. The possibility of making amendments would be a sign of the entire parliament's constructive desire to adopt quality and consistent legislation.

The National Council has an important role in balancing the interests that can influence the wording of a law. National Council amendments would in the first place undoubtedly increase the opportunity for different interests to be included in the legislative process and reduce the number of suspensory vetoes, which are often the result of a lack of agreement with one contentious provision in a law rather than its entire content. Secondly, this would reduce the number of requests for rulings on the constitutionality or legality of laws. This would reduce the workload of the Constitutional Court, the National Assembly and the Government, as harmonising laws with constitutional decrees entails a comprehensive procedural and content based legislative process for the Government and the National Assembly. For this reason the National Council is making efforts to ensure that the National Assembly adds this option to its Rules of Procedure.

The biggest problem for the **Spanish Senate** is defining and implementing its territorial profile in order to develop cooperation between the self-governing communities.

The **Swiss Council of States** often has to discuss extremely complex and demanding laws such as laws on bio-engineering, electrical power market, redistribution of funds, hospital funding). Every member of the Council belongs to several preparatory committees. All must attend preparation meetings and participate in committee sessions and plenary sessions in parallel to their normal work or other activities (the parliamentary function is carried out by non-professionals) which gives them a very demanding and time-consuming workload. To assist the deputies with their work a new scheme has been worked out by which each member will be able to receive an allowance of 40,000 Swiss francs to hire a personal assistant. The Council of States will finalise its decision this June.

An additional challenge for the Council are the ever faster changes in legislation: as soon as a law is enacted or amended then there is a need to modify it again within a very brief time. The Council has to combine two requirements: making an immediate response while retaining a high quality of legislation.

Finally, mention should be made of international involvement. Switzerland is compelled to bring its own legislation into harmony with EU regulations, even though not being an EU member it is only bound by bilateral agreements.

The House of Peoples in **Bosnia–Herzegovina** does not have any problems in its operations, except those of a technical nature (premises, computer equipment, recording the chamber's sessions) and those relating to personnel.

The problem for the **Yugoslav Chamber of Republics** is the time limit on the legislative process, which gives little time to review draft laws.

One of the main problems for the **Russian Council of the Federation** is the periodic return to the issue of its actual composition. The everyday problems of the Council include above all the time allowed to review draft laws submitted by the State Duma, which is strictly limited by the constitution. More attention must be paid to relations between the Council of the Federation and the legislative bodies of the Russian Federation territories, including relations within the legislative process.

3. THE ROLE OF CIVIL SOCIETY IN EUROPEAN PARLIAMENTS

Edited by Maja Franko

This analysis is based on the responses given to the questionnaire sent by the National Council of the Republic of Slovenia to the senates and parliamentary correspondents of every European country.

3.1. The definition of civil society

Most countries do not have a standard definition of civil society. They define civil society as the space between the state and the market or private sector. Civil society is a precondition for democracy or indeed a guarantee of democracy. Most countries define civil society as an umbrella term for the non-governmental, non-profit sector which brings together various non-governmental organisations, associations, societies, trade unions, interest groups, informal groups and citizens and their collective activities aimed at addressing and solving the social challenges and problems.

In **Austria** a range of different definitions of civil society exist.

Belgium does not have a law defining civil society. They undoubtedly agree that in today's usage the term "nation" ("civil society" is close to the constitutional concept of nation) means equality for the representatives of civil society. Within the representative system, the members of both **Belgian parliamentary chambers (the Senate and the Chamber of Representatives)** represent the interests of civil society.

The **Czech Republic** also has no official definition of civil society, which is usually defined as an open society.

The expression "civil society" is not defined within **French** legal terminology and is not used; in its place appears the term "citizens".

Nor is "civil society" the subject of **Greek** legislation. It is not a technical legal term although lawyers make free use of it. It is not therefore possible to give a precise definition of it.

Slovakia does not have a legal definition for civil society, although implementing regulations exist that refer to certain sections of people, who are considered as a part of civil society (civil societies, religious groups, the interest groups of legal entities, legally registered associations – societies and chambers).

In the **Ukrainian** constitution of 1996 and within national legislation currently in force there is no formal standardisation of issues relating to civil society, that could be said to be largely grounded on a logical unity and a reciprocal relation with the constitutionally defined terms "state based on the rule of law" and "civil society".

3.2. Relations between parliament and civil society

In all countries the parliament is a representative body holding legislative authority and open to all citizens.

The most basic relation between parliament and civil society arise from elections to the parliament. Next, citizens have the opportunity to contact members of parliament (in the lower chamber or in the senate). They have the opportunity to receive material and information on the work of the representative bodies from their information offices or their websites (presenting basic information on how the parliament and its bodies function, drafted and proposed laws, research and such like).

Non-governmental organisations may be invited to sessions of parliamentary commissions where they have the opportunity to express their positions on draft laws that affect their rights. The government can then take their positions into consideration in the further planning of a draft law, before it is proposed to parliament.

All plenary sessions of the **Austrian Bundesrat** (the upper chamber) and the **Nationalrat** (the lower chamber) are open to the public. The public also have access to parliamentary documents such as interpellations, minutes, and Bundesrat and Nationalrat reports.

According to the report, the **Belgian Parliament** does not maintain any relations with civil society except those that arise from the parliamentary work itself (particularly from legislative procedures and the examinations of petitions). As in all bicameral systems, the **Belgian Senate** is more representative of a varied social reality. While the Chamber of Representatives is an expression of general and free elections the senate is more representative of the sociologically diverse state. From this point of view it should be emphasised that the presence of ten co-opted members of the senate who work as representatives of civil society with the upper house. This special relationship of the senate with the social reality is expressed in its supervisory role. This allows it to attend to the quality of legislation and to ensure the lasting effects of legislative work on society. In addition to this, the traditional methods of supervision available to the senate to maintain contact with society enable it to organise broad social debates that are not limited to the discussion of an enumerated list of specific points but that rather cover much wider fields.

The **Czech Chamber of Deputies** (*Poslanska Zbornica*) is open to the public and anyone may attend its committee and plenary sessions. Non-governmental organisations or expert groups can organise various seminars or conferences and present their own materials in the parliament's assembly chamber although only with the prior permission of the head of the prime minister's office and with the sponsorship of individual MPs, groups of MPs, a committee or a political party. Direct contact is also possible via web pages that present information on the how the parliament functions (draft laws, an electronic library with draft laws and research on the legislative process since the 19th century).

Relations between the Senate and civil society in the **Czech republic** are developed both on the level of individual senators and on the level of the Senate itself. Senators are elected in one-mandate constituencies with approx. 100 thousand voters each. Their natural effort to be re-elected guarantees their active interest in local events. As regards the Senate and its bodies (committees and commissions), it is a standard practice to discuss bills in the presence not only of government members but also of interest groups. Those are usually included in extensive projects of law preparation in specialised sub-committee. An expanding form of dialogue with the civic society is represented by public hearings of the committees or of the Senate as a whole. During the public hearings representatives of civil society express their opinions of important issues of public interest. The Senate has so far organised public hearings on public TV, racism and xenophobia, science and universities and foreign policy.

The **French National Assembly** has taken initiatives, that are not legally binding, to increase the transparency of its work. These initiatives include the Children's Parliament, where children gather once a year in the large assembly chamber and pass proposals for legislation in the field of primary education. MPs can take up the proposals and in that manner the proposal of the Children's Parliament can become a law of the republic. Other initiatives include the creation of a television network to transmit parliamentary debates which, for 18 hours a day, in alternation with the Senate broadcasts the parliamentary programme and the creation of National Assembly website, which is well-supported by documents and which has a high number of visitors. Committees of the **French Senate** initiate procedures within both its legislative and supervisory capacities with numerous discussion sessions.

The Italian Senate develops relations with the public via three main channels: information provision – including the preparation of information on parliamentary activities, documents – including the publication of collections of official documents and information on parliamentary work and through communications – interaction with the public. The senate's work is public, as determined by the constitution. Citizens can follow sessions of the senate from the public gallery and may also attend the sessions of its working bodies. Journalists have the right of access to a press gallery. Parliamentary sessions are broadcast on television and radio. A range of activities are carried out to make the senate more open to the public and to provide information on its work, such as guided tours around the senate building, an information line on the senate's work, an internet site, interaction with the public via e-mail, the senate's participation in various cultural events and the publication of official documents and parliamentary speeches.

According to its correspondents the **German Bundesrat** (the federal senate) has no formalised relations with civil society or social partners (employer associations and trade unions), professional associations, churches or other interest groups. Such groups can inform the Bundesrat of their positions on draft legislation in written form, but in general they are not formally included in discussions on legislation. In contrast with the **Bundestag** (the lower chamber) the Bundesrat rarely holds hearings that include representatives of civil society, although they do nevertheless sometimes attend, particularly in relations to the Committee on European Affairs.

The **Dutch Senate** (*Eerste Kamer der Staten Generaal*) develops relations with civil society via e-mail, fax, and replies to questions that citizens pose on the Senate website.

The powers vested in the **Polish Sejm** are aimed at the implementation and consolidation of the concept of civil society, which is achieved through the enactment of laws, the definition of the basic course of state activities and control over other bodies with the state administration. Moreover, the Sejm appoints the Government, the president of the Supreme Chamber of Control and the presidents of the National Tribunal and the Constitutional Court. Every year it passes the state budget and approves the budget. Citizens have the right to obtain information on the work and activities of the holders of public authorisation, on the activities of persons holding public office, the activities of independent economy and expert bodies and other persons and organisational units that perform the duties of authorised bodies and that manage communal assets and property. The right to information includes access to documents and attendance at sessions with the right to make sound and visual recordings. Limitations to the rights listed above may only be imposed by statute and in order to protect the freedoms and rights of persons and commercial entities, public order and security for the important economic interests of the state. The procedures for obtaining information on the Sejm and the Senate are set out in their respective rules of procedure (Article 61 of the Constitution).

According to Article 37 of the Senate's Rules of Procedure the citizens' right to obtain information is realised by prior public notice of scheduled sessions, enabling the public to attend sessions of the Senate and its committees, access to Senate papers, minutes,

stenographic records of the Senate and its committees and other documents pertaining to its activities. Citizens also have access via the internet to Senate documentation and they can also send e-mails giving their opinions on legislation passing through the Senate.

The **Romanian Senate** has a Public Relations Office that publishes an information bulletin for civil society. Senate activities and sessions are public so that civil society may attend parliamentary debates.

The **National Council of Slovenia** is an institutionalised form of representation for various social interests, organised into five interest groups (employers, employees, farmers, the self-employed and local interest groups), which adds to its weight and legitimacy as a representative of social interests. The institutionalised electoral base of the five interest groups is then in practice widened to include most sectors of civil society.

Another benefit of the National Council's function lies in the fact that numerous civil initiatives have entered the mechanisms of parliamentary democracy and the political sphere through the National Council, which were not covered or otherwise set out within the institutionalised mechanisms of the five interest groups. Through numerous lectures and debates (including unpopular subjects) the interests of different social groups and strata have been expressed that would otherwise have been prevented or restricted from expressing themselves as legitimate interest groups, let alone that they would have been able to implement their demands.

The **Spanish Senate** maintains relations with civil society via research commissions and cultural activities (visits, conferences, etc).

Sessions of the **Swiss Council of States** are entirely open to the public. Anyone can observe debates from the public gallery (including the media). Media representatives report for the press on parliamentary debates and on debates in working bodies; they may also meet members of parliament. The debates are recorded in full and can be followed on the Swiss Parliament's website which also provides additional information on the Council of States and the National Council. There is also close contact between individual members of parliament and citizens and organisations (associations and federations, etc).

The **Belarusian Council of the Republic** informs the public of its activities in sessions and committees during the sessions and through the mass media. Every member of the Council of the Republic must ensure that the rights and freedoms of voters in their constituency are respected. Senators also examine proposals, requests and complaints from voters and attempt to resolve them within their competences. Senators hold meetings with their constituents analyse public opinion and when appropriate refer proposals to the competent state body, local government body or public association (Article 24 of the Republic Law on the Status of Deputies of the House of Representatives and Members of the Council of the Republic).

The **House of Peoples in Bosnia–Herzegovina** accepts initiatives and proposals from civil society during the process of adopting legislation.

Since its establishment in 1960, **Cyprus' House of Representatives** has catered for its citizens' need to communicate with parliament, in order to express their views on matters that affect their rights before the draft law is debated in the House of Representatives (interested parties and organisations are invited to committee sessions to express their positions).

Danish citizens can contact their members of parliament in regard to proposed legislation both in writing or in person; they may also contact parliament on matters of public interest and cases of misadministration.

In 1999 in **Estonia** an agreement was signed on cooperation between political parties and "third sector" (civil society) umbrella organisations, in which they agreed to cooperate in the field of developing civil society, to hold regular meetings and maintain dialogue.

The **Finnish parliament**, known as the **Eduskunta** has numerous links to the institutions that represent Finnish civil society through various forms of interaction between members of parliament and a range of organisations and associations. Organisations are regularly consulted in their capacity as experts when parliamentary committees deliberate legislative proposals. These organisations also have a high level of contact with groups of MPs and party organisations through which their views can be expressed to MPs. Many civil society institutions receive state funding and it is the Eduskunta which makes the final decision on budgetary allocations.

Various social groups submit their views on various matters to MPs in the **Greek parliament**, via non-institutional channels. However MPs are not the representatives of pressure groups but of the whole nation.

One of the important achievements made by the **Georgian Parliament** (*Sakartvelos Parlamenti*) during this mandate is its transparency and openness to society. The parliament cooperates with non-governmental organisations and the free mass media via working groups and conferences. NGOs are actively included in deliberations on a range of topics (protecting human rights, defence, education) and are also included in the process of drafting laws and are involved in a range of different laws²⁹. This includes the participation of experts who share their remarks and experience. Accredited press and TV representatives have offices at the parliament. They can move around the parliament without restrictions and may attend parliamentary and other sessions and committee meetings.

The relations of the **Croatian parliament** (*Sabor*) with civil society take place through the participation of civil society representatives in the work of parliamentary committees, through the “Open Parliament” programme in cooperation with GONG (a citizens’ election monitoring group) and through a volunteer internship programme within the parliament (also in cooperation with GONG). In January 2001 the Croatian government signed an agreement of cooperation with the non-governmental and non-profit sector in Croatia, heralding a new method of mutual cooperation.

The **Irish Seanad** carries out its relations with civil society through expert, professional bodies that have the right to nominate citizens for election to the Seanad Eireeann and through lobby groups.

The **Yugoslav Federal Assembly** develops relations with civil society through the direct election of federal representatives to the Chamber of the Republics (*Veće republika*) of the Federal Assembly (*Savezne skupštine*); there is also the Committee for the Exercising of Citizens’ Freedoms, Rights and Duties and the Committee for Petitions and Proposals.

The **Seimas** (parliament) is the most democratic and open institution in **Lithuania** and maintains close relations with various public organisations, associations, interest groups, trade unions and religious communities.

The decisions of committees are extremely important within the **Hungarian** legislative process, so civil society representatives must first obtain the support of members of the competent committee, in order to present their legislative proposals. It is essential for civil organisations to have their proposals adopted by members of a competent committee and deliberated on as prioritised legislation. The Parliament’s Rules of Procedure set out the rules governing the participation of civil organisations during debates in committee sessions. Committees decide who is invited to their sessions and who has the right to speak. After the 1998 elections, the Parliament established a special committee – the Civil Organisations Committee, which supervises and monitors the implementation of labour legislation and prepares parliamentary debates on laws that fall within its competence. One of the committee’s tasks is to distribute budget funds to civil organisations.

²⁹ An important NGO initiative led to changes to the law on elections and on local government, which has led to today’s more liberal legislation.

The citizens of **Macedonia** can find out information about the work of the assembly and its working bodies (debates on laws and other matters deliberated by the assembly) via e-mail or by letter. According to assembly regulations, citizens have access to documents and other materials, free access to the assembly building itself and can attend the working sessions of the assembly. Representatives of citizens' associations and non-governmental organisations can contact members of parliament with their proposals and initiatives, which provides an opportunity for close cooperation between the citizens and their representatives.

Members of **Russia's Council of the Federation** do not only represent the citizens of the federation or the state bodies of the citizens but also civil society, as formed by the citizens themselves. In contrast to the State Duma, where representation is achieved through the party-political system, the members of the Council of the Federation are attached to the historic roots of their regions through direct contact with the people and their many years of experience.

The **Slovakian parliament** develops relations with civil society through its website, press office and the parliamentary information centre for any citizens in need of information (in accordance with the law on free access to information). Other methods include the Department of Education and Analysis of the Parliamentary Institute, which organises conferences and seminars together with "third sector" (civil society) organisations.

The participation of popular movements within the legislative process in **Sweden** has declined somewhat although it is still important. These movements, trade unions and the employment sector are frequently represented on commissions of inquiry that are usually involved in important decision-making. Once a commission has completed its work and before the government takes a position on the matter the proposal is circulated for comment to various agencies and organisations. Their positions are taken into account in the government's proposals to parliament.

In the **United Kingdom** a weekly information bulletin is posted on the internet every Friday, providing information on the current and future work of both houses, on legislation, presenting draft legislation, contact addresses for political parties and other general information. Citizens can also find out about the work of the parliament through the media.

3.3. The views of citizens on the institutions' work

Citizens can contact members of parliament via e-mail, telephone, fax, letter or in person. Citizens can ask to attend public sessions of parliament where there is usually a public gallery.

Most parliament have pages on their website where citizens can ask their representatives questions. Citizens have the constitutional right to submit petitions via their representatives.

The citizens of **Austria**, in addition to participating in elections, referenda and plebiscites, can participate in the legislative process by submitting popular initiatives to the Bundesrat and the Nationalrat. According to Section 25 of the Bundesrat's Rules of Procedure, citizens have the right to submit proposals to the Bundesrat. Petitions submitted to the Bundesrat can only be debated if presented by a member of the house; they are then passed to the appropriate committee. A popular initiative (*Volksbegehren*) can be proposed to the Nationalrat if supported by at least 100,000 voters or one sixth of the voters from three of the nine provinces. According to the Nationalrat's Rules of Procedure the preliminary hearing on a popular initiative must take place within one month of it being proposed to a committee; the

committee must submit a report to the Nationalrat within no more than six months³⁰. A citizens' initiative (*Bürgerinitiativen*) can be proposed to the Nationalrat if submitted by at least 500 Austrian citizens over the age of nineteen. The opportunity to present a parliamentary petition of a citizens' initiative is regulated in sections 100-100d of the Nationalrat's Rules of Procedure.

Elected representatives of the **Belgian Parliament** do not have an imperative mandate and are not required to report to their electors. A member of parliament cannot receive theoretical or legal instructions from his or her electors or anyone else (political parties). The system of direct representative democracy means that citizens, who participate in elections every four years, cannot influence the legislature nor can they participate directly by any other means (e.g. referenda). On the basis of Article 28 of the Belgian Constitution, which covers the right to petition, citizens can at any time submit petitions to the president of either parliamentary house, who can then respond to the demands for legislative action in the field in question.

The committees and their secretariats in the **Czech republic** have e-mail addresses where comments on bills discussed can be sent. The mailroom and Department on Public Relations work in a similar way. Senators are every Monday in their constituencies at citizens' disposal. Czech citizens can express their complaints directly to the Petitions Committee.

French citizens do not directly participate in the legislative process and cannot personally intervene in the work of the National Assembly. Of course they are not prevented from contacting their members of parliament and relating their observations, proposals, criticisms or from submitting proposals for legislation to a MP or group of MPs. These contacts are, however, completely informal in nature as there are no provisions for them. Furthermore an MP or group of MPs contacted in this manner is under no obligation to carry out proposals submitted in this manner. French citizens do not collaborate in the work of the committees that prepare draft legislation nor do they participate in their sessions. They have the opportunity to request permission to attend public sessions in the assembly chamber of the National Assembly where draft legislation is being heard for a second time and voted on. People attending the sessions are not permitted under circumstances, including by gesture, to express their approval or disapproval from the public gallery. The right to petition is a traditional right that goes back to the French Revolution. It is defined by a decree of 17 November 1958 and the Rules of Procedure of the National Assembly. Petitions are written applications or proposals that one or more persons submit to the president of one of the parliament's two houses. Members of parliament can freely decide on individual petitions (they are usually marked "not to be pursued" or passed to a minister or proposer). The number of petitions to both parliamentary chambers is on the decrease. Citizens can submit petitions to the **Senate**, however, they rarely make use of this opportunity, preferring direct contact with the senator from their *département*. Pressure groups generally express their positions at meetings of standing committees and MP groupings.

Italian citizens can submit their own legislative proposals or opinions on draft legislation to the senate. Article 50 of the Italian constitution regulates the citizen's right to petition.

The **German** constitution gives citizens the right as individuals or in groups to submit requests or complaints to the competent body and the parliament.

Every citizen of **Poland** has the right to appeal to the Human Rights Ombudsman who is independent of other state bodies and responsible to the **Sejm**. One political right set out in the constitution (Article 63) is the right to submit petitions, proposals, and complaints in their own or others interest (with their consent) or in the public interest. Decisions on these initiatives are governed by the Code of Administrative Procedures. The **Senate** has no special

³⁰ Only one law has resulted directly from a popular initiative. The popular initiative was held on 12-19 May 1969 when 339,407 Austrian citizens signed an initiative to change the education act.

regulations relating to the deliberation of these proposals, nor does it have a Petitions Committee.

The sessions of the **Romanian Senate** are public: citizens can participate in debates and can ask senators to express their positions in parliamentary debates. The senators' work includes activities at the end of every week at their office in their own constituency. During these meetings the voters have an opportunity to express their opinions and remarks.

The **National Council of Slovenia** maintains and strengthens direct relations with civil society via its electoral base, which takes place through direct contact with National Councillors and indirectly at consultations, public debates and lectures. In this manner it creates a realistic basis on which to form its positions and opinions on legislation being deliberated on in parliament or on the preparation of legislative initiatives for new laws that it submits to the National Assembly.

Spanish citizens can submit their requests and demands to the **Senate** (Petitions Committee) according to Article 29 of the constitution.

Swiss citizens have the right to submit petitions to parliament (Article 33 of the Constitution). Citizens can also write to the **Council of States** or its representatives (president, committees) by letter or by e-mail.

The citizens of **Belarus** can present their opinions on the work of the **Council of the Republic**. People usually present their proposals at meetings with the President or Deputy President of the Council, which are held regularly. All standing committee chairpersons have regular time dedicated to meeting citizens. The voters can present their proposals to other senators when they visit their constituency. A special department "The Department for Citizens' Letters and their Reception" deals with all correspondence addressed to the Council of the Republic. In fact it is quite rare for people to make proposals to the upper house in this manner as they usually come for personal assistance. Every citizen of Belarus has the right to submit written requests and complaints individually or collectively to a competent body (Article 40 of the Constitution).

The citizens of **Bosnia–Herzegovina** can submit their proposals via authorised proposers, on the basis of the **House of Peoples' Rules of Procedure**. The Rules also state that citizens can attend the sessions of the House of Peoples and its committees.

Every **Cypriot** citizen has the right, collectively or as an individual, to submit written requests and complaints to a competent body (Article 29 of the Constitution).

According to the **Danish** constitution (section 5, paragraph 54) petitions to the **Folketing** may only be proposed via a member of parliament.

Estonian citizens can comment and make proposals on all draft legislation, under deliberation in parliament (there is a special section of the parliamentary website for opinions and proposals). Article 46 of the Estonian Constitution gives citizens the right to submit petitions to local and state authorities.

Finnish citizens do not have a direct method of submitting their proposals to parliament.

In accordance with Article 69 of the **Greek** constitution nobody may present a written or spoken petition before the **Parliament** without an invitation. Petitions are presented via members of parliament or are presented to the President of the Parliament. The house has the right to send petitions addressed to the house to ministers and state secretaries, who are obliged to provide explanations on these matters on request.

The citizens of **Georgia** may submit their proposals in the form of a petition.

The **Croatian** constitution gives all citizens the right to make a petition or complaint (Article 46).

Yugoslav citizens can submit their opinions via federal representatives (senators) and to the Committee for Petitions and Proposals.

The citizens of **Hungary** can submit proposals to parliament, but parliament is not obliged to discuss them.

The **Macedonian** constitution gives citizens the right to make a petition, which they can submit to national and other public authorities. It also gives them the right to a reply (Article 24).

Citizens of the **Russian Federation** can submit their proposals in person or via e-mail to the Reception Bureau of the Council of the Federation, where they are examined and forwarded to the competent department of parliament. A reply to every matter is obligatory. Furthermore, citizens may also submit proposals directly to members of the Council of the Federation, without prior reception at the Reception Bureau.

Article 47 of the **Slovakian** constitution gives every citizen the right, collectively or as an individual, to submit requests, proposals or complaints to state bodies and local government bodies in relation to public or other interests.

In **Ukraine** an indirect influence on the adoption of legislation, the content of draft laws and the final versions of law can be applied through the members of parliament, the structural committee of Ukraine's parliament the Supreme Council (*Vrkhovna Rada*) and via governmental structures: the cabinet, its departments, the ministries and institutions. The public can wield this kind of influence through written submissions such as letters, analytical reports, informative material, statistics, concrete proposals and suggestions; requests to cooperate in the work of specific local fora: local council meetings, conferences, commissions, assemblies, debates; and through cooperation in the work of standing committees and governmental structures (meetings, report hearings and working groups). Article 40 of the Ukrainian constitution gives citizens the right to make individual or group petitions and guarantees their right to a reply.

3.4. Regulating civil society

Civil society is regulated in most countries by the constitution, various laws and regulations (on society, associations and institutions) and also by international treaties. Civil society does not actually feature in the legal regulations of most countries (e.g. Belgium, France, Greece, Italy, Slovenia and Ukraine).

3.5. The influence of citizens on the legislation process

Citizens have the opportunity to influence the legislation process through referenda or civil initiatives (where a minimum number of citizens is stipulated). Other methods of influence include the election of members of parliament, direct contact with MPs, writing articles, contact with political parties and political organisations. Citizens (interest groups, lobbyists) can influence the legislation process via MPs (MPs do not only belong to political parties but also usually to various public organisations), through political parties represented in parliament and by using procedural routes (submitting their positions to parliamentary committees, participating in public debates).

Austrian citizens attempt informally to influence the legislation process (direct contact with members of parliament or political parties). The Austrian system of social partnership allows social organisations to participate in shaping positions before a government proposal goes before parliament. Social organisations submit proposals to groups of MPs including

arguments favoured by that organisation. Interest groups and special economic interest groups that participate with social partners have a particularly strong influence within the Austrian legislative process. Social partners have an important role in the preparation of legislation: according to the Federal Assembly's Standing Orders in preparing draft legislation the government must consult members of parliament, in the course of which not only other Federal Ministries and provincial administrations but also interest groups have the opportunity to present their proposals. The social partners influence legislation at the parliamentary stage through political and personal contacts: for a considerable amount of time over half the MPs had close links with interest groups, although recently this rate has decreased. According to the Nationalrat's Standing Orders (Section 40, paragraph 1) and the Bundesrat's Standing Orders (Section 33, paragraph 1) experts and others representing interest groups may be invited to committee sessions to present their positions.

Belgian citizens do not have the opportunity to make a civil legislative initiative, although in the past this kind of system has been proposed. Civil society is very much included in the legislative work of the **Belgian Parliament**, but is present on a daily basis in the work of commissions that prepare material for the parliament's plenary sessions. The commissions organise public debates where the opinions of experts and professionals are presented. In practice civil society in Belgium participates in procedures and presents its opinions during governmental preparation of legislation (the legislature and the executive have an equal right to make a legislative initiative). This aspect of the work of civil society takes part largely on an informal basis. The influence of civil society on the legislative procedure in the **Belgian Senate** is largely indirect. It is expressed via the representation of social interests made by the members of elected bodies. The Senate endeavours to facilitate the influence of civil society by organising regular debates that provide representatives of the social groups, who are the subject of the debate, the opportunity to express their views and problems directly to the senate, largely in the form of senate committees. This means that citizens are able to exercise their rights and freedoms with the purpose of influencing the elected body (the rights of expression, association and petition).

In the **Czech Republic** labour and business organisations are included in the process of preparing legislation through a special social body (composed of social partners – the government, trade unions and employers), which has a very important role in draft legislation in the fields of work and social affairs. Non-governmental organisations are very active in human rights and children's rights and in environmental legislation. Committee meetings are open to the public and there is a special assembly hall for direct contact with members of parliament. Committees or individual MPs organise special seminars where anyone is free to express their opinion. It is normal practice for an MP to propose an amendment formulated by an NGO or another organisation. A regular participant of the process is the Confederation of the trade Unions. A high level of independence in legislative initiative of individual deputies causes direct lobbyists' attempts to the Chamber of Deputies. Influential NGOs are often asked to give their opinions before parliamentary procedure is initiated at the government level, that is while an MP (or group of MPs) is preparing draft legislation.

In **France**, "civil society" does not have any official right to engage in the formulation of legislation and has therefore an indirect influence. Members of parliament are of course not insensitive to the reaction of their fellow citizens and during the preparation of a proposed law or a budget plan they will often attempt to canvas expert opinion. In this spirit MPs can consult the representatives or members of professional organisations for example. These consultations do not take place during public sessions but before them: experts may be questioned by MPs themselves (generally the proposer of a law or budget plan) or by the members of a standing committee (before the committee deliberates on a draft law or budget

plan). Numerous consultations are also organised by investigative committees or information delegations set up to address a specific issue.

The French National Assembly also has parliamentary delegations whose purpose is to inform the assembly on questions in specific areas (e.g. the Environmental Planning Delegation and the Women's Rights Delegation), which must often therefore turn for advice to civil society representatives (in the form of elected representatives of local communities, company managers, representatives of women's groups).

The Parliamentary Office for the Evaluation of Scientific and Technological Options (OPECTS) also has an important role in the development of contact between MPs and the scientific community, especially at a time when the very complex aspects of many issues urgently requires expert interpretation (expert consultancy); the minutes of these consultations are later provided as appendices to the reports the office produces. In principle, these reports contain opinions and conclusions that can then be directly incorporated into legislation.

Furthermore numerous study groups are formed for the duration of one legislative mandate, composed of MPs interested in specific areas. The study themes are extremely diverse and entirely optional. The groups are also free to invite any experts they want to participate. In some instances the work of such study groups can lead to the preparation of draft legislation. During the legislative process the legislature widely consults with trade union organisations and associations (e.g. the economic social council offers opinions on general problems and on specific draft legislation).

In **Italy** it is theoretically possible for civil society to influence the content of a law, but its influence is usually expressed through demonstrations and strikes.

The **Polish** constitution states that a group of at least 100,000 citizens can introduce a civil initiative (Article 118). Proposed legislation can only be introduced to the Sejm, which is obliged to deliberate on the proposal. The procedure for the submission of a civil initiative is regulated in the Act on the Exercise of a Legislative Initiative by Citizens (24 June 1999) and the Sejm's Rules of Procedure. According to the Referendum Act (29 June 1999) a group of at least 500,000 citizens who are entitled to vote in Senate elections can propose a nationwide referendum to the Sejm. People (not only Polish citizens) can introduce their own proposals as the Senate also has the right to propose legislation. These proposals may cause the parliament to prepare its own draft law. Trade unions, socio-political organisations and institutions have the right to participate in preliminary consultations and public debates.

The **Romanian Senate** can consult social organisations about draft legislation as part of the legislative process and may invite the representatives of civil society organisations to sessions aimed at preparing improvements to legislation. Citizens can express their opinions through referenda or by proposing draft legislation. This area is regulated by the Law on Citizen's Legislative Initiatives and the Law on Referenda.

By means of its electoral base the **National Council of Slovenia** maintains and strengthens direct relations with civil society, which is seen in direct contact with National Councillors and indirectly at consultations, public debates and lectures. In this manner it creates a realistic basis on which to form its positions and opinions on legislation being deliberated in parliament or on the preparation of legislative initiatives for new laws that it submits to the National Assembly. Other instruments include referenda, which the National Assembly must call if so requested by 40,000 voters and civic initiatives (a group of at least 5,000 voters can propose a law).

The rights of **Spanish** citizens to influence the legislative process are defined in the Civil Legislative Initiatives Act.

A group of 100,000 **Swiss** citizens can file a civil initiative to amend the constitution (Articles 138 and 139). The Council of States and the National Council must examine the proposal and

formulate a decision. They can propose a counter-proposal to be put to a popular vote alongside the civil initiative.

In **Belarus** a civil initiative requires the agreement of 50,000 citizens (Article 90 of the constitution). A referendum is called if at least 450,000 citizens are in favour including at least 30,000 from each region and from the city of Minsk. Local referenda may be called when at least 10% of voters in the relevant area are in favour. Members of parliament can also propose an referendum initiative. Civil society is not otherwise able to influence the content of draft laws passing through the legislative process.

Civil society in **Bosnia–Herzegovina** influences the content of draft laws passing through the legislative process through public debate and occasionally via members of parliament. Laws are often, however, adopted through fast-track procedures.

Whenever a law has been submitted to the **Cypriot Parliament** and being deliberated by a parliamentary committee, the committee secretary, under the guidance of the committee chairman, invites interested parties (persons and organisations whose rights may be affected by the draft legislation) to give their positions. This consultative process applies to draft legislation under parliamentary scrutiny and other matters discussed by parliamentary committees.

Estonian non-governmental organisations can express their opinions, which are then discussed by the relevant committee and, if necessary, amend the draft legislation on the basis of these opinions. NGOs are often invited to sessions of the Cultural Affairs Committee, the Social Affairs Committee and the Constitutional Committee. These three committees are working on the concept of developing civil society. The task of the Economic and Social Development Department (the mediator between the parliament and civil society) within the 2002-2006 plan to develop the Chancellery is to organise seminars for NGOs to enable them to inform the parliament of their proposals.

Finnish civil society can influence the legislative process through groups of MPs and political party organisations that can then inform members of parliament of their positions.

In accordance with Article 73 of the **Greek** constitution legislative initiatives fall within the remit of the Parliament and the government. Civil society therefore has no influence on the legislative process in Greece.

Croatian citizens can influence parliament's work by submitting comments and proposals relating to draft legislation during public consultations, by reacting to the text of draft legislation published on the websites of individual ministries.

Irish citizens cannot influence the work of the Seanad.

In accordance with Article 95 of the constitution of the **Federal Republic of Yugoslavia** a group of 30,000 voters can propose a federal law and other general acts adopted by the Federal Assembly.

Lithuanian citizens have the opportunity to propose draft legislation (50,000 citizens with the right to vote can propose a draft law to the Seimas – legislative initiative) to resolve specific issues. A group of 300,000 Lithuanian citizens can initiate a referendum which the Seimas is bound to examine.

The **Hungarian** constitution guarantees the public nature of government and parliamentary work to citizens and provides them with the right to petition (Articles 36 and 64). Citizens may participate in creating draft legislation directly or via representatives. Civil organisations and the representatives of interest groups cooperate in the preparation of draft legislation that will affect their interests and lives.

The citizens of **Macedonia** can either directly or through various forms of association submit proposals and initiatives to be deliberated by the Assembly of the Republic of Macedonia. Citizens can propose that the Assembly deliberate on and adopt a civil initiative to amend or

alter the constitution (150,000 citizens) to adopt a law (100,000 citizens) or to hold a referendum (150,000 citizens). Other forms of civil initiative depend on members of parliament as they are authorised to propose them and if they are in favour of an initiative they can put them forward for deliberation by the Assembly or its working bodies. Institutions and associations also have the right to propose (to the government and MPs) amendments to the constitution, the adoption of legislation, the holding of a referenda or the adoption of a decision that falls within the competences of the Assembly.

The most active representatives of civil society in the **Russian Federation** participate in political life through political parties, associations and non-governmental organisations. They can also become members of local, regional and federal legislatures that are able to influence the content of laws and the entire legislative process.

In **Slovakia**, it is only possible for civil society to influence the legislative process indirectly. Members of parliament cooperate with “third sector” or civil society associations in the preparation of draft legislation. These activities are not regulated by law. There is currently a government proposal on public cooperation in the legislative process (lobbying), which has entered public debate. The proposal will allow the public access to the legislative process at the government, parliamentary and municipal levels. It includes a procedure for publishing draft laws (particularly via the internet), the submission and collection of comments from the public and their evaluation and inclusion into legislation (at the governmental and ministerial levels). Some regulations differ according to the level at which they will be deliberated. A lengthy debate is expected on this proposal and it is not yet possible to state when it will actually be submitted to the legislative process before parliament.

Civil society in **Sweden** has the opportunity to present its positions as part of the Riksdag’s activities – parliamentary committees often require the opinions of agencies and interest groups during the deliberation of a proposal and before the parliament decides on a proposal. The representatives of interest groups may also be invited to public hearings of committees to examine specific issues. Pressure groups also contact Riksdag members to influence their work.

In accordance with Article 38 of the **Ukrainian constitution**, citizens have the right to cooperate in administrating state affairs, in local and national referenda, free elections and by being voted onto the bodies of state authority and local administration. A direct expression of the will of the people may be made by the nation as a whole (in the case of parliamentary and presidential elections and national referenda) or by specific groups (municipalities, work collectives, etc.). The Ukrainian constitution (Art. 72) states that the competences of the Supreme Council include calling a referendum in response to a popular initiative (on the request of at least three million Ukrainian citizens with the right to vote) on the condition that signatures have been collected in at least two-thirds of the country's regions and that there are at least 100,000 signatures from each region. The National and Local Referenda Act (No. 1286, 3 July 1991) states that laws or other decrees adopted by referendum do not require confirmation by state bodies and may only be cancelled or changed if so envisaged within the law itself. National and local referenda are open to Ukrainian citizens aged at least 18 years on the day of the referendum, with permanent residence in Ukraine or in the relevant oblast, district, city, municipality, settlement or village. It is forbidden to directly or indirectly limit the rights of any Ukrainian citizen to participate in a referendum on the grounds of his or her origins, social or financial standing, race or nationality, status, education, language, religious beliefs, political positions, or the type of nature of his or her job. Referenda are held to express the authority of the people and effect the direct participation of citizens in the administration of Ukraine's local and national affairs.

In the **United Kingdom** members of organisations contact members of the House of Lords who have specialist knowledge and special interests. It is worthwhile contacting members of

the House of Lords if they are introducing a law or if the member of an organisation wants them to consider adding amendments to a draft law. People can join lobby organisations if they wish to further their own positions.

4. CIVIL SOCIETY IN SLOVENIA: A CRITICAL OVERVIEW

Prof Franc Vodopivec, State councillor

All of the countries in transition, including Slovenia, have taken on a democracy modelled on that of the European Union countries, based on the pluralism of political parties as well as political, social, cultural and other interests. In Slovenia this move was simple; the parliament adopted a new constitution defining the status of political parties and acts framing the activities of these parties, the voting system, and the rights and obligations of parliamentary deputies in the National Assembly of members of the National Council. Of course, adoption of form does not automatically mean the transfer of its content into a multiparty system, but merely the distribution of political and financial ability corresponding to new public interests, nor does it mean the breaking off of contacts that existed at the time of the one-party state. For content to be transferred, a higher level of political culture among citizens is needed and a new consolidation of the awareness that everyone the new system has elevated to political or other authority has a responsibility to the people and the state. In Slovenia today many voters are still unaware – no doubt due to a half century of a certain kind of political education – that, by voicing their views in elections, they decide their own fate and that of the country until the next election and beyond. In numbers that are all too great, they elect leaders on the basis of their popularity without regard for how the party has performed, its manifesto for the next four-year period and beyond, what the manifesto commits that leader to doing and how the general welfare will advance because of the party's presence in the government. It is a fact that, in Slovenia, the average voter is insufficiently informed about what the governing parties have achieved and what their experience has been, and this has led to circumstances developing as they have.

Slovenian governments do not clearly inform voters about their work and intentions, and the low national competitiveness ranking in the IMD publication correspond to this. In practical terms, parties are personified by their leaders, which is a clear indication of the low level of political culture. Both private and public media devote considerable space to party leaders, even though their statements are not easily understood by the average citizen. The media devote little or no space to the government's mistakes and failures, and sometimes greater space to imaginary problems of state administration. Surveys of public opinion have a great influence in the actual shaping of public opinion, and for a decade now they have ranked the president and prime minister first for political reputation and merit. This has led to a feeling that they are irreplaceable and some kind of cult of personality has emerged among us. Statistics do not, of course, show that under their leadership Slovenia would experience rapid economic and social development and take advantage of the existing synergy, and that the atmosphere of motivation from 12 years ago would be preserved among the citizens. In small countries, motivation is a precondition for internal cohesion and outward strength. Slovenia is an industrial country, but in the past few years the growth of industrial production and export has not exceeded 2 percent annually. Consequently, a portion of today's prosperity is certainly a result of significant debts run up at home and abroad, as well as insufficient investment in industry.

Under such conditions, the first task of civil society is to inform its voters. Given all the statistical information – and just that which gives a public impression of a government's

success – the public should be informed of the actual state of affairs and shown what could be achieved through a different approach and the engagement of critical fields of activity. In this manner civil society can gradually compel party leaderships to prepare good programmes and to put them into practice, if they succeed in joining the government. The accelerated growth of a culture of informing voters about politics is impossible without drawing the public's attention to the government's mistakes, to unfulfilled promises, the misallocation of public funds, the "partiocracy" that promotes faithful – but not the best – individuals to the top positions in the state administration, and to social and environmental problems, which must be accompanied by demands for the resignation of those responsible. Accordingly, it is not possible to support the position of a well-known philosopher and member of the Academy of Sciences and Arts, who in 1993 wrote in a certain journal: "In a developed parliamentary democracy and state governed by the rule of law, civil society is composed of societies, various chambers and the like; however, movements with political goals, even if they exist outside the parliament, belong to political rather than civil society." In one of his speeches the same year, the President of the Republic said, among other things: "State institutions, political leaders and high-ranking state officials are responsible for using the paths of parliamentary democracy and the means of a state ruled by law to resolve problems. The institutions of the judicial system, parties, public newspapers and civil society cannot encumber them and take over their authority." What a strange position, if one recognises how state and legal institutions, high-ranking state officials and the leaders of parastate institutions operate in Slovenia. Some years later this same president remarked, after returning from an international meeting, "that civil movements played a great role in dismantling totalitarian regimes, that they have almost drowned in the emerging parties and in the factional atmosphere ... The contemporary nation needs a strong, effective political state and also needs an effective and, above all, autonomous civil society." The president's altered position was unable to repair the damage wrought by his assessment of the role of civil society five years earlier and the disinclination of the media toward civil society associations that had become involved with various problems of domestic politics. Among those holding public authority, the conviction was confirmed that only political parties were of any importance, regardless of the professionally grounded positions of civil society. The correctness of the views and proposals from civil society, in which I took an active part, made themselves apparent in certain large-scale public projects that turned out to be far more expensive than planned in their realisation and today – as we announced ten years ago – are still far from being realised. Confusion regarding the role of civil society is also found among several leading journalists who cover domestic political affairs. For example, the editor of a sociological journal, who occasionally also appears in the newspapers, also wrote the following in 1996: "The most tangible sign of a democratic society is a transparency in the political goals of all actions in society. In such a society civil action – as an expression of non-party societal initiatives, an possibly political ones as well – has its own indispensable place, guaranteeing that civic freedom is made possible for all." However, when some years later he assessed the work of a certain civil society association that, with its positions and proposals, had rarely received public attention because it had not received space in the media, he wrote: "The ideologising of the civic and its misuse is becoming an pressing social issue in Slovenia. Pressing, because it encompasses the trustworthiness of the civic as such, thereby pushing civil society no longer to the margins of civil society, but simply out." He forgot to note the arguments for this assessment and declined to publish a rejoinder to his point of view in a journal that he himself edits and that is also printed through public sponsorship. It is interesting that a few years ago this very writer, when a discussion was held in the National Council on the position of religious groups in Slovenia, in complete earnestness opposed the right of the Roman Catholic Church to refer to itself as the Kingdom of God on Earth. Perhaps this is the highest level of misunderstanding

of what civil society is: the fact that the government has established a budgetary financing agency for promoting the activities of civil society, but in which are accepted only societies with a status approved by the Ministry of the Interior. From my own experience I am aware that some years ago a group of citizens attempted to register themselves as a political society, but they came up against so many obstacles at various official agencies that they gave up. Only the National Council has promptly accepted civil society with all its diversity of interests, has continued to be open to hearing all its positions and has helped organise discussions and meetings, so that the positions and proposals can at least be officially noted, even if they have not come to the attention of the broader public because of the media's incomprehensible low esteem for the National Council.

It therefore seems apparent to me that in Slovenia we still do not know what civil society is, especially at the highest levels of political and other authority. This can only be explained by the fact that the same person has served as a representative for civil society during two ministerial terms of office on the basis of party affiliation. In order to start clearing this position up, a number of years ago, at a meeting of engineers, a colleague and I wrote down some fundamental observations on civil society to which nobody in Slovenia has raised any objection to date. I was able to bring these to the public's attention only in a certain engineering gazette and in an analysis of the state of civil society in Slovenia that I prepared for the National Council. These observations are:

- Civil society programmes are limited to specific projects. It does not have the comprehensive programmes that political parties have, or ought to have. Therefore, a party-oriented and ideological foundation for active members is not of interest to civil society; instead, it expects support from them for projects in which they participate on a volunteer basis;
- Civil society does not put its goals into force through representation in institutions of authority, but instead addresses itself to these via the public media through petitions, proposals, positions and opinions. If the media does not lend its attention, then there is no response to the positions of civil society. Actual examples show how negative the relationship of institutions of authority towards civil society institutions has been, and not only political ones (for example, legitimate and legal initiatives for a referendum held in advance of accession to the EU), but also distinctively professional ones (for example, to the Slovenian Development Council, which comprises approximately 80 university-educated persons from various technical fields and various ideological orientations);
- For civil society effectiveness, competency and responsibility for work are the exclusive criteria for evaluating professional and national decision-making, and it demands complete transparency in all the public work of state and public institutions, and in particular demands expedience and transparency in the use of public funds;
- Civil society subsists on sponsors' funding for its projects, and also on funds received through public and other tenders. No institution that maintains itself through the government budget and state institutions, or through contributions paid on the basis of a legal act, belongs to civil society; instead, its opinions and judgments serve only as a professional basis for government decisions.

I believe that these observations apply only in part, or even not at all, to countries that have a civically better informed political elite than Slovenia. Let me end my contribution with the observation that civil society in Slovenia is weak because it has no space in the public media, nor any space for rejoinders to direct attacks, which is guaranteed by our constitution. Moreover, in at least two of the three Slovenian daily newspapers and in some of the weeklies space has been denied to several members of civil society, exposed a number of years ago,

who have criticised how the public interest is expressed in the workings of political and other agencies of authority in Slovenia.

5. COOPERATION BETWEEN THE UPPER CHAMBER AND THE EUROPEAN UNION AND ITS INSTITUTIONS

Edited by Dušan Štrus

This analysis is based on the responses given to the questionnaire sent by the National Council of the Republic of Slovenia to the senates and correspondents of bicameral parliaments in European countries.

5.1. Cooperation between the Upper Chamber and European Union institutions (EU), especially the European Parliament

The **Austrian Bundesrat** and the Nationalrat have the right to give binding opinions not only on matters within the first pillar of the European Union but also the second and third pillars. In 1994 Austria adopted a special constitutional law governing the method of parliamentary cooperation with the EU (*EU-Begleit-Bundesverfassungsgesetz*). This law amended Austria's federal constitution, which in Articles 23e and 23f now regulates the competences of the Bundesrat and the Nationalrat in relation to the EU:

- right to information on Austria's political activity within the EU – members of the federal government must submit the information,
- the possibility of presenting binding opinions to the federal minister.

To supervise Austria's work within the EU, the Bundesrat created a committee for EU affairs (the EU Committee). The sessions of the committee are open to the public. The Nationalrat created a similar committee. The Federal Government must inform both chambers of Austria's parliament without delay on the course of EU projects and invite them to take a position on these projects. If proposals from the EU would lead to constitutional changes (the Bundesrat has a greater role within the field of constitutional changes as the changes are not adopted until the Bundesrat has given its approval) then the opinion of the Bundesrat is binding, which means that the government must follow the decision of the Bundesrat. The only exception is for reasons of foreign and integration policy. There is no opportunity for the Bundesrat to directly influence European institutions. Bundesrat committee members sometimes meet European Parliament (EP) committee members.

In **Belgium**, members of parliament can influence the government's foreign policy and introduce initiatives within the framework of the normal methods of parliamentary supervision (questions, interpellations and resolutions). The two houses of the parliament may also maintain relations between themselves at the bilateral and multilateral levels and thus carry out "parallel diplomacy". The government, which is responsible for the state's international relations must inform both legislative chambers on the start of all negotiations to amend EU treaties. Before their final signing, all amended treaties must be sent to both chambers. The duty to inform which runs throughout the entire course of negotiations does not infringe on the executive's competences in negotiations, but only allow the two chambers to influence the positions of the Belgian delegation.

Carrying out democratic supervision is not limited to treaties, but also covers plans for secondary European legislation, such as decrees and directives, which must also be sent to the chambers when they are passed to the to the European Union's Council of Ministers. The federal committee for European affairs discusses the plans. This is composed of ten deputies, ten senators and ten Belgian MEPs. The Belgian senate can use this committee to influence the work of the EP. Cooperation with the EP also takes place at committee level, as EP committees regularly invite delegations from national parliaments to clarify specific questions.

Czech Senators are members of the Joint Parliamentary Committee EU-Czech Republic established on the basis of the Association Agreement. The President of the Senate takes part in regular meetings of the Speaker of the European Parliament with speakers of the parliaments of candidate countries, the Committee on European Integration is involved in COSAC meetings, the Senate has elected its delegate and alternate to the Convention. Senate exchanges with the European Parliament of information, experience and opinions.

In **France** the Senate's competences in European Union affairs stem from its legislative and supervisory competences. From a legislative point of view, the principle documents of the European Union (treaties, agreements on its own finances, accession treaties, agreements to decisions of the Communities that affect Member States' competences) must be approved with a law. Furthermore European directives containing a legal basis must be transferred to the national legislation with a law. The role of the senate in adopting these laws is the same as in the adoption of other types of laws. The Senate's work in this field focuses primarily on the Delegation for the European Union (*La délégation pour l'Union européenne*). The Delegation's role is to supervise the work carried out by French politicians in the European Union. French representatives in the European Parliament inform the Senate's Delegation for the European Union about their work in the European Parliament.

The **Italian senate** has a special committee, the Joint European Affairs Committee, that carries out studies and reviews and that can also submit draft legislation on all European matters. The senate can also give opinions on any draft law relating to the European Union. Italy has a completely bicameral system, which means that the senate has the same role and competences as the Chamber of Deputies (*Camera dei Deputati*), which of course extend to European Union-related matters. The Italian senate can influence the government's policy on the European Union. It can also indirectly influence EU institutions via the Italian government's role in EU decision-making.

After the ratification of the Treaty of Maastricht the **German Basic Law** was amended concerning new provisions for European Union Affairs. At the same time a bill concerning the cooperation between the Federation and the Laender in Matters concerning the European Union was passed. These new provisions also define the actual status of the Bundesrat and its rights in European Union affairs as well as its relations to EU institutions.

First of all the Federal Government has to inform the Bundesrat comprehensively and as soon as possible about all new developments on EU-level, above all new legislation. After deliberations in the Bundesrat's committees, especially the Committee on European Union affairs, the plenary of the Bundesrat takes a final decision which is sent to the Federal Government.

Where in an area in which the Federation has exclusive legislative jurisdiction the interests of the Laender are affected or where in other aspects the Federation has the right to legislate, the Federal Government has to take the opinion of the Bundesrat into account. Where essentially the legislative powers of the Laender, the establishment of their authorities or their administrative procedures are affected, the opinion of the Bundesrat is decisive for the decision-making process of the Federation, that is to say the Federal Government is obliged to follow the Bundesrat's view in the Brussels negotiations even if it doesn't share the

Bundesrat's opinion. This gives the Bunderat a rather strong position. Nevertheless the responsibility of the Federation for the country as a whole has to be respected. In matters which may lead to expenditure increases or revenue cuts for the Federation, the approval of the Federal Government is compulsory.

In cases when the exclusive legislative jurisdiction of the Laender is affected the exercise of the rights of the Federal Republic of Germany as a member state of the European Union has to be transferred to a representative of the Laender designated by the Bundesrat.

Moreover the Bundesrat is represented as an institution in international committees and conferences like the Conference of Speakers and Presidents of European Parliamentary Assemblies and COSAC. Bundesrat delegates cooperate closely with the European Commission and with various bodies in the Council. The Bundesrat is also represented in the Convention on the Future of the European Union. Furthermore the members of the Bundesrat maintain close links with all European institutions.

In the **Netherlands** both houses have equal competences in relation to the European Union as they hold within the adoption processes for national regulations and determining Dutch policies for EU matters. The Senate also has similar competences to the lower chamber concerning regulations from the EU's third pillar. The Senate cooperates with all EU institutions, particularly the European Parliament, which it cannot however directly influence. Cooperation with the European Parliament takes place along party lines and through working groups.

In **Poland** three senators participate in a joint Poland–EU committee. The Polish senate also cooperates with the European Parliament.

The **Romanian Senate** is committed to establishing parliamentary relations with international bodies. The Senate's aim is to facilitate, through these activities, Romania's accession to European and Euro-Atlantic structures. In this manner the Romanian senate also contributes to Romania's foreign policy.

The **National Council of Slovenia** does not directly cooperate with EU institutions but it is active in the Association of European Senates. The National Council organises numerous consultations on Slovenia's integration processes, particularly Slovenia's moves towards full membership in the European Union. Most of these consultations cover a general theme such as the advantages and disadvantages of Slovenia's integration into the European Union, but some individual sessions have covered special topics such as the issue of unemployment in the EU or the effect of Slovenia's inclusion in the EU on Slovenes living in Italy and Austria. The National Council cooperates with the European Parliament in the field of training for National Councillors and the National Council's expert collaborators. It has also organised a consultation on the role of EU parliaments within the integration process, which included appearances by speakers from the European Parliament.

Both chambers of the **Spanish** parliament cooperate in EU matters through a joint committee on the European Union. The senate cannot directly influence the work of the European Parliament, but it does cooperate with it at two levels:

- politically via committees and
- administratively via parliamentary services.

There is no official cooperation between the **Swiss Council of States** and the European Union. Parliamentary committees, particularly the Foreign Affairs Committee and the EFTA/EP delegation address matters related to European integration and have informal contacts with European Union institutions, particularly the European Parliament.

Belarus' Council of the Republic exchanges opinions with the European Parliament in all areas of mutual interest. Belarus is currently in negotiations with the Parliamentary Assembly of the Council of Europe to renew its special guest status.

The parliament of Bosnia–Herzegovina cooperates with the EU and its institutions. It has a permanent delegation to the European Union.

Ireland's cooperation with the EU means that Irish MEPs have a right of audience in the Seanad. Seanad members are members on the Joint European Affairs Committee and are members of COSAC: It maintains informal contacts with the European Parliament and other cooperation takes place with the European Parliament via the European Affairs Committee. One member of the senate is also an MEP.

Yugoslavia also cooperates with European Union institutions.

Russia's Council of the Federation participates as a full, associate or guest in the international and regional parliamentary organisations such as PACE (Parliamentary Assembly of the Council of Europe), the IU (Interparliamentary Union), the OCSE Parliamentary Assembly, the NATO Parliamentary Assembly, the CLRAE (the Congress of Local and Regional Authorities of Europe), the Northern Council, the AWEU (Assembly of the Western European Union) and PABSEC (Parliamentary Assembly of the Black Sea Economic Cooperation).

5.2. The role of the senate within the EU and its institutions

The **Belgian Senate** has priority in the sphere of international relations as agreements on international treaties must be first proposed and heard in the senate before being passed to the Chamber of Representatives.

The "Euroamendment" of the **Czech Constitution** has created room for a more intensive co-operation between the Senate and the government in the "European agenda". Now, more detailed rules are being elaborated that would enable the senate to review draft acts passed by the European Council, all conception consultative documents (green and white papers) in particular. The domestic discussion has so far indicated that an activation of national parliaments in EU based on the modified Protocol on the role on national parliaments before establishing the second chamber of the European Parliament would be preferred. The question is whether limits of domestic engagement of national parliaments have already been reached.

According to the representatives of the **French Senate** the main role of the national parliaments lies in supervising the European policies of their respective governments. They must also however state joint positions at the European level on matters of joint interest. The existing interparliamentary bodies (COSAC and the UEO assembly) have not demonstrated adequate results in this sphere.

The role of the **Dutch Senate** in the European Union is directed primarily towards influencing the work and policies of the European Union and its institutions.

Representatives of the **Polish Senate** said that the future role of senates within the European Union could relate to their territorial representation.

The **Romanian Senate** already makes use of a range of cooperative mechanisms (e.g. visits by parliamentary delegations, contacts between foreign policy committees and other standing committees, exchanging information and material on legislative questions). The senate could play a quite important role within European structures by contributing to improvements in the legislative process. An important role for the senate lies in cooperating positively with similar institutions in the European Union and its member states.

As the upper chamber of the national parliament the **National Council of Slovenia** endeavours to cooperate with European institutions. The constitution or law do not limit it in these activities. One European project whose legitimacy is based on the democratic, transparent and effective nature of its institutions, is the Convention on the Future of the Europe Union, set up by the Laeken Declaration of December 2001. National parliaments also contribute to the legitimacy of this project. Candidate states are full participants in the work of the Convention and have the same representation as member states – one government representative and two members of the national parliament. A member of the National Council should therefore have been invited to take part in the Slovenian delegation as a parliamentary representative. The National Council proposed to the National Assembly that they should together select two representatives to represent the Slovenian parliament at the Convention but the proposal was not accepted. Slovenia's two parliamentary representatives are therefore both members of the National Assembly.

The representatives of the **Spanish Senate** said that the role of upper chambers in the European Union was currently a secondary one.

The representatives of the **Belarusian Council of the Republic** believe that European senates could be more active in European integration. European senates should be more active in the economic and social development of European states and expanding the European zone of freedom, security and justice. They should adopt laws that are in accordance with

international norms and standards and that deepen relations between European parliamentary organisations.

Representatives of the House of Peoples in **Bosnia–Herzegovina** believe that the role of an upper chamber within the European Union should remain the same: to protect the national interests of the Member States.

The role of the Chamber of Republics and other European parliaments should be a secondary one according to representatives of **Yugoslavia's upper chamber**. The Chamber of Republics and other houses should not have a special role within EU institutions.

5.3. The development prospects for bicameralism in the European Union

In **Belgium** there is a desire to see the development of bicameralism to ensure democratic supervision and general voting rights for elections to the European Parliament and the representation of the EU Member States in the of an upper chamber for the EU, comprising members of the national parliaments. This upper chamber would monitor and supervise matters at the intergovernmental level that now belong within the EU's second and third pillars (foreign affairs, defence, justice and internal affairs).

In the **Czech republic** the establishing of the second chamber of the European Parliament has so far been perceived rather sceptically. This matter could be made clear only after answering following questions: What relation should the second chamber have to the Council and to COSAC? What should be its composition and competencies? Until then, effort to balance the European Parliament an national parliament is going to prevail in the Czech Republic.

The **French Senate** defines the prospects for bicameralism in the EU in great detail. This debate has already passed through the French Senate, quality reports have been prepared containing the historical development of bicameralism in Europe and reasons for creating upper chambers, and concrete proposals for the creation of a senate for the European Union.

Discussions with the **German Bundesrat** on the future development of European Union institutions and the role of national parliaments have yet to be concluded.

According to representatives of the **Dutch Senate** the bicameral system should not interfere with the democratically elected European Parliament.

According to representatives of the **Polish Senate** the concept of an upper chamber for the European Union would be dependent on the expansion of the European Union's competences.

Romania supports the development of a bicameral system in Europe as the existence of two chambers improves the legislative process. A senate for the united Europe, as part of a bicameral parliamentary system, would be a useful way of representing every member state.

According to representatives of the **National Council of Slovenia** the introduction of bicameral system to the EU is both necessary and rational. The structure of the EU must be founded on the legitimate democratic interests of the larger states, as expressed by the proportional composition of the European Parliament and the justified interests of the smaller states. The interests of the smaller states can only be assured by the principle of the equality of member states, which would require the establishment of an upper chamber, in which every member state would be equally represented. An upper chamber would also validate the ties between the EU and the national parliaments, which would reduce the democratic deficit. A European Union senate would be an additional link between the EU and its member states and would include smaller and larger states equally in the process of building the future of Europe.

The functions of a senate can contribute to the modern separation of powers, ensuring the freedom of the individual and the adoption of legislation that is objective and intended for the common good.

The debate on the role of an upper chamber is of substantial importance: the expansive all-encompassing legislative activities of a modern state, which lead to costs and long-term consequences, require the support of a wider parliamentary representation. Given the complexity of the tasks facing modern states, the importance of an upper chamber in harmonising and balancing legislation should not be underestimated. The plurality of functions that are expressed in an upper chamber are not only expressed in the separation of powers between the executive, the legislature and judiciary but also in the ongoing distribution of legislative authority between political parties and civil society.

According to representatives of the **Spanish Senate** bicameralism will survive within the context of the European Union, if upper chambers become genuine territorial representatives that could implement the principle of subsidiarity. Finally they foresee an upper European house in the form of a chamber representing the national parliaments.

In **Switzerland** the Swiss bicameral system is considered to be satisfactory, successful and appropriate to the future. Due to Switzerland's considerable diversity (languages, history, religion and culture) the capacity of the political structure to fully integrate all these components is a major issue. The bicameral system plays a major role in this process and its advantages therefore outweigh the disadvantages.

As the European integration process will also require political structures enabling all regions, languages, minorities and cultures to express their diversity through opportunities to participate in the decision-making process, it is worth considering whether a bicameral system would be a good model for European parliamentary representation.

According to representatives of **Belarus' Council of the Republic**, the question of whether to have a unicameral or bicameral system is a key issue in contemporary parliamentarianism. The advantage of a bicameral system is that it is better at representing the interests of regions, minorities and remote areas of a country. The examples of bicameralism in Europe demonstrate that it is good method of ensuring diverse representation of citizens in a democratic Europe. However, parliamentary structures remain dependent on a state's social and political situation and its constitutional organisation.

According to the leadership of **the House of People's in Bosnia–Herzegovina** the future of Europe lies in bicameralism. Bicameralism prevents the interests of the majority dominating the interests of a minority, irrespective of whether that is at a national or regional level.

According to the representatives of the **Yugoslav Chamber of the Republics**, bicameralism does have a future in Europe, particularly in federal states. The work of upper chambers should be aimed at making the work of lower houses easier in specific areas.

In **Russia's Council of the Federation** the bicameral system is considered to have a great future in the European Union. The democratisation of political institutions, which must take into account the interests of Europe's national minorities and lead more balanced policies, will lead to the development of bicameral systems even in those countries that historically have not had them.