

National Parliaments' Involvement in European Law Making: Prevention of European Law Breaking?

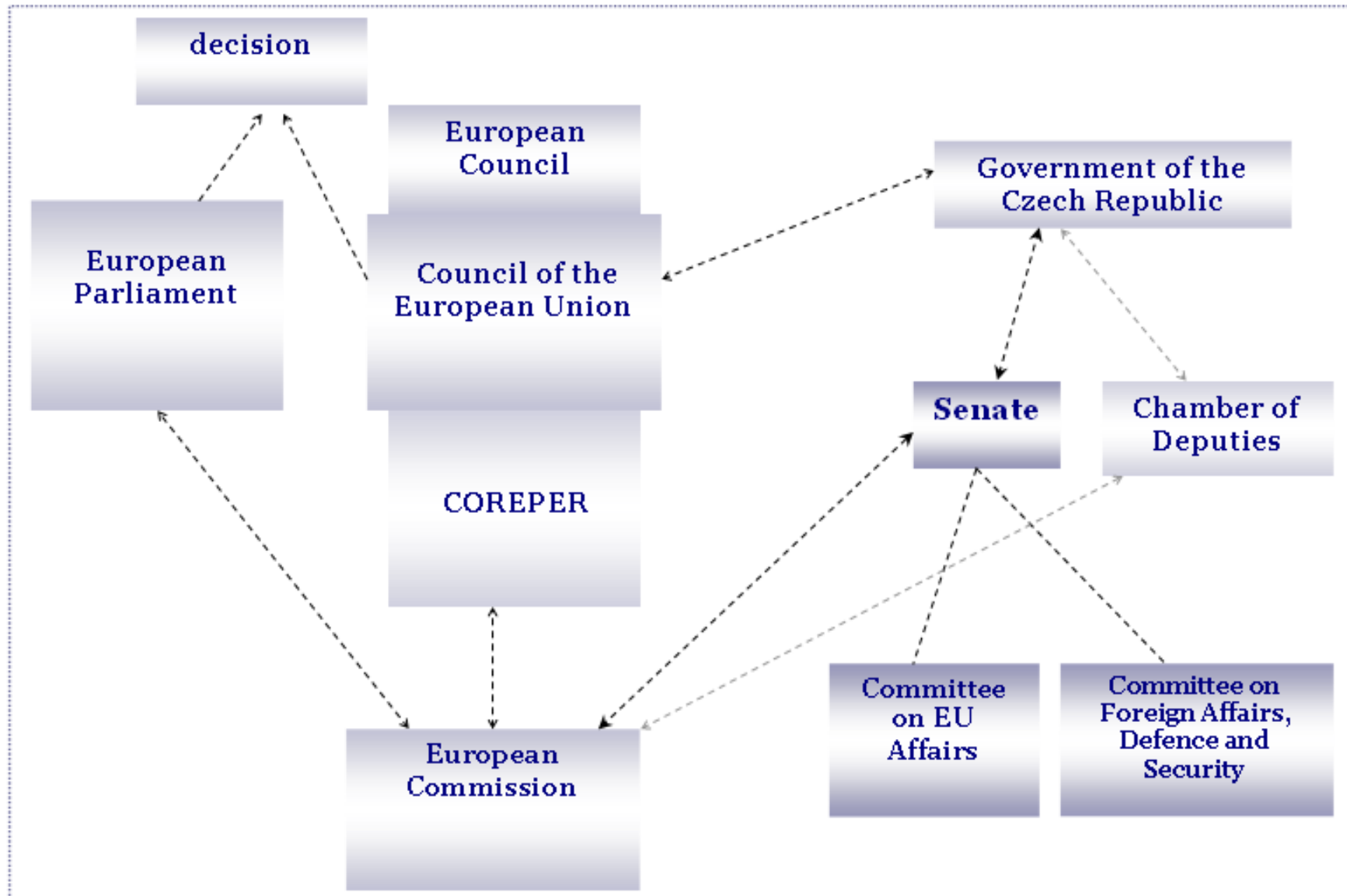


Jaroslav Šuchman
Senate of the Parliament of the Czech Republic
European Union Unit



European Commission, 30 January 2009

The Czech Senate and the European legislative process



Ex-ante scrutiny by national parliaments via national government

- Process
- Legitimacy
- Legal frame
 - Domestic constitutions
 - EU Primary law

Protocol on the role of the national parliaments in the European Union

(Treaty of Amsterdam)

THE HIGH CONTRACTING PARTIES

RECALLING that scrutiny by individual national parliaments of their own government in relation to the activities of the Union is a matter for the particular constitutional organization and practice of each Member State

DESIRING, however, to encourage greater involvement of national parliaments in the activities of the European Union and to enhance their ability to express their views on matters which may be of particular interest to them

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty on European Union:

I. Information for national Parliaments of Member States

1. All Commission consultation documents (green and white papers and communications) shall be promptly forwarded to national parliaments of the Member States.
2. Commission proposals for legislation as defined by the Council in accordance with Article 151.3 of the Treaty establishing the European Community, shall be made available in good time so that the Government of each Member State may ensure that its own national parliament receives them as appropriate.
3. **A six-week period shall elapse between a legislative proposal or a proposal for a measure to be adopted under Title VI of the Treaty on European Union being made available in all languages to the European Parliament and the Council by the Commission and the date when it is placed on a Council agenda for decision either for the adoption of an act or for adoption of a common position** pursuant to article 189b or 189c, subject to exceptions on grounds of urgency, the reasons for which shall be stated in the act or common position.

II. The Conference of European Affairs Committees

4. The Conference of European Affairs Committees, hereinafter referred to as COSAC,...

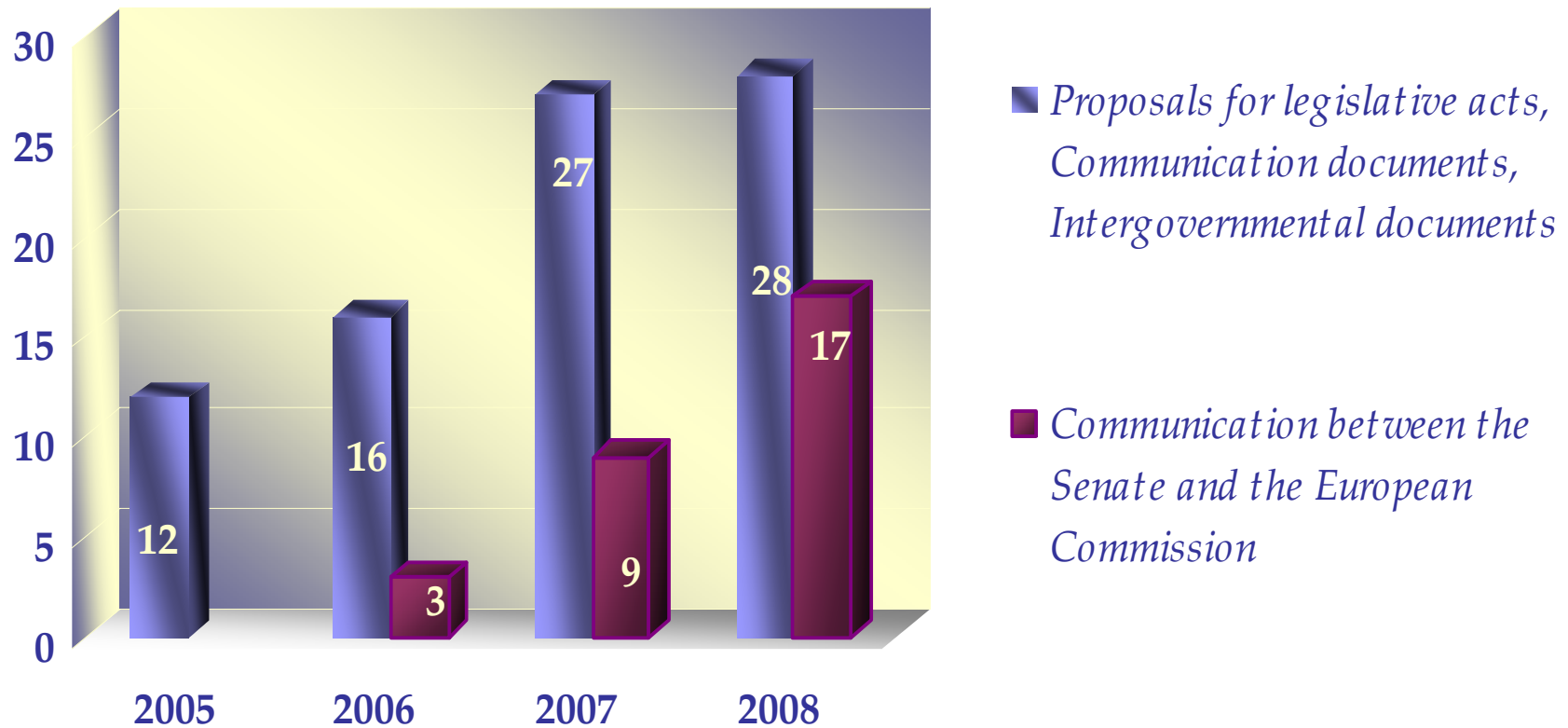
....

**September 2006 - Arrival
of the “Barroso Initiative”**

Statistics: Senate & Commission

- 2006 – 2008: more than 30 exchanges
- The first communications very early on:
 - The Czech Senate's reaction to the *Annual Report 2005 on relations between the European Commission and national parliaments* (17 October 2006)
 - The Czech Senate's reaction to the *Proposal for a Council Regulation amending Regulation (EC) No 2201/2003 as regards jurisdiction and introducing rules concerning applicable law in matrimonial matters* (17 October 2006)
- The most recent Senate reaction:
 - *Proposal for a Directive of the European Parliament and of the Council on standards of quality and safety of human organs intended for transplantation* (8 January 2009)

Statistics: Senate & Government



Annual Report 2007 on relations between the European Commission and national parliaments COM(2008)237

I.:

- As of 31 December 2007, the Commission had received **168** opinions regarding **82** Commission texts from **27** national Parliaments in **19** Member States.
- **Thirty-five** opinions were issued as part of two coordinated subsidiarity exercises conducted by the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC).
- The **133** remaining opinions concerned various Commission documents.
- at least three opinions:
 - European Technology Institute, **the common organisation of the wine market**, soil protection, sanctions against employers of illegally staying third-country nationals; the Green Papers on tobacco, modernising labour law, diplomatic and consular protection, public access to documents held by the institutions of the European Community, research policy and the future common European Asylum System; the Communication on a European vision for the oceans and seas and the Annual Policy Strategy for 2008

Annual Report 2007 on relations between the European Commission and national parliaments COM(2008)237

II.:

Chapter 2.1

Very active Parliaments

Some lower (sic!) chambers were very active: the French Senate, the German Bundesrat, the House of Lords and the Czech Senate alone submitted 92 opinions. Sweden's Riksdag and Denmark's Folketing also took positions on several consultation documents, while the Parliament of the Portuguese Republic issued a series of favourable opinions on subsidiarity. These seven chambers issued 138 opinions.

Commission replies

The Commission replied to 109 of these opinions. 41 of the opinions from the national Parliaments were favourable and did not require any answer other than an acknowledgement of receipt. The Commission replies in the language of the chamber concerned, and its reply is sent for information to the European Parliament and the Council.

Annual Report 2007 on relations between the European Commission and national parliaments COM(2008)237 III.:

ANNEX

NATIONAL PARLIAMENT OPINIONS

7 January 2008

	COUNTRY	Opinions received	Empowerment **	Simplified reply ***	Favourable opinion ***	Replies sent	REMARKS
1	FR Sénat	40	29	7	4	24	
2	DE Bundesrat	21	21	-	-	15	
3	UK House of Lords	18	17	1	-	14	
4	SV Riksdagen	17	16	1	-	9	
5	PT Assembleia da República	19	-	-	13	-	
6	DK Folketing	12	7	2	3	8	
7	CZ Sénat	11	10	-	1	6	
8	NL Eerste Kamer / Tweede Kamer	3	3	-	-	3	Both chambers *
9	DE Bundestag	3		2	1	3	
10	LT Seimas	3	1	1	1	2	
11	FR Assemblée nationale	2	1	-	1	1	
12	BE Sénat / Senaat	2	2	-	-	2	
13	UK House of Commons	2	1	-	1	2	

Case Study:

Reform of the wine sector

KOM(2007) 372 of 4.7.2007

11361/07 of 9.7.2007, CS version 30.8.2007

THE PARLIAMENT OF THE CZECH REPUBLIC
SENATE



6th term

223rd RESOLUTION OF THE SENATE

Delivered on the 9th session held on 31 October 2007

on the proposal for a Council Regulation on the common organisation of the market in wine and amending certain regulations

(Senate Press no. N 042/06)

The Senate

I.

1. **Agrees**

with the necessity of reform of the Common Organisation of the Market in wine the aim of which should be to increase the competitiveness of this sector and which would take into account the socio-economical function of the European viticulture and its traditions and while not jeopardizing diversity and authenticity of European wines;

2. **Expresses concern**

over the current development of debates on the reform as it considers that the European Commission has not adequately reflected neither the observations of the Czech Republic and remaining Member States nor the positions of specialized organisations and the European Parliament;

3. **Considers it appropriate**

that the Czech Republic be on further instances included during the preparatory stage among countries to which the European Commission presents the Common Agricultural Policy reform proposals regarding sectors where the Czech Republic is a significant producer;

II.

1. **Stresses**

that the reform must not compromise the essential features of the European viticulture since the wine sector is one of the sectors the cultural, socio-economical and traditional implications of which must not be disregarded;

2. **Evaluates positively**

the efforts to increase the promotion of European wines on export markets, to strengthen national envelopes and to abolish subventions on wine distillation;

3. **Disagrees**

particularly with proposed ban on adding beet sugar during the fabrication process since this procedure forms part of traditional wine fabrication techniques in many wine regions situated in the north, and notes that the ban on acidification used on the contrary in the south regions has not been proposed;

4. **Disagrees**

moreover with the historical share of the wine budget as one of the criteria proposed as a basis for the allocation financial resources into national financial frameworks because such regard to previous payments would discriminate against wine-growers from the new Member States and regions situated in the north, and on the contrary supports the criterion of wine planted area;

5. **Supports**

in view of the aforesaid the Position of the government of the Czech Republic which takes due account of the opinion of the Wine-growers Association of the Czech Republic;

III.

1. **Requests**

the Government to inform the Senate about the way this position was taken into account and about further evolution of the negotiations;

2. **Authorises**

the President of the Senate to forward this resolution to the European Commission.

Přemysl Sobotka
Sign manual
President of the Senate

Jiřina Ríppelová
Sign manual
Verifier of the Senate

Reform of the wine sector I.:

Resolution of the Senate

discontent:

- with the proposed ban on adding beet sugar during the production process since this procedure forms part of traditional wine production techniques in many wine regions situated in the north, and notes that the ban on acidification used on the contrary in the south regions has not been proposed;
- with the historical share of the wine budget as one of the criteria proposed as a basis for the allocation financial resources into national financial frameworks because such regard to previous payments would discriminate against wine-growers from the new Member States and regions situated in the north, and on the contrary supports the criterion of wine planted area

Reform of the wine sector II: Resolution of the Senate

- (The Senate) Expressed concern over the current development of debates on the reform as it considers that the European Commission has not adequately reflected neither the observations of the Czech Republic and remaining Member States nor the positions of specialized organisations and the European Parliament;
- (The Senate) Considered it appropriate that the Czech Republic be on further instances included during the preparatory stage among countries to which the European Commission presents the Common Agricultural Policy reform proposals impacting sectors where the Czech Republic is a significant producer.

**Reform of the wine sector III:
Reply of the Commission**

V Bruselu dne 12. 02. 2008
SR/kk D(08)267

pan Přemysl Sobotka
předseda Senátu České republiky

Vážený pane předsedo,

Komise by ráda poděkovala Senátu Parlamentu České republiky, že jí zaslal své usnesení. Komise předložila návrh nařízení Rady o společné organizaci trhu s vínem v dokumentu KOM(2007) 372 v konečném znění ze dne 4. července 2007. Tento návrh byl podroben důkladnému posouzení, na němž se podílelo celé názorové spektrum správních orgánů a zúčastněných stran v celé Evropské unii.

Po obdržení stanoviska Evropského parlamentu Rada ministrů dne 19. prosince 2007 dospěla k politické dohodě ohledně návrhu Komise.

Komise vítá souhlas Senátu týkající se nutnosti reformy společné organizace trhu s vínem i četných navržených opatření, jako je podpora prodeje evropského vína na vývozních trzích, zřízení vnitrostátního finančního rámce a zrušení podpory destilace vína. Rovněž souhlasí s tvrzením Senátu, že reforma by neměla ohrozit základní rysy evropského vinařství. Jedním z cílů této reformy bylo totiž posílení pozice evropského vína a zachování jeho dlouholeté tradice.

V průběhu jednání směřujícího k dohodě ministrů byly brány v úvahu připomínky České republiky, uvedené rovněž v usnesení Senátu Parlamentu, a to zvláště v souvislosti s doslazováním vína. Tyto připomínky budou zohledněny ve znění nového základního nařízení o společné organizaci trhu s vínem.

S pozdravem


Margot WALLSTRÖM

Effects on policy formulation

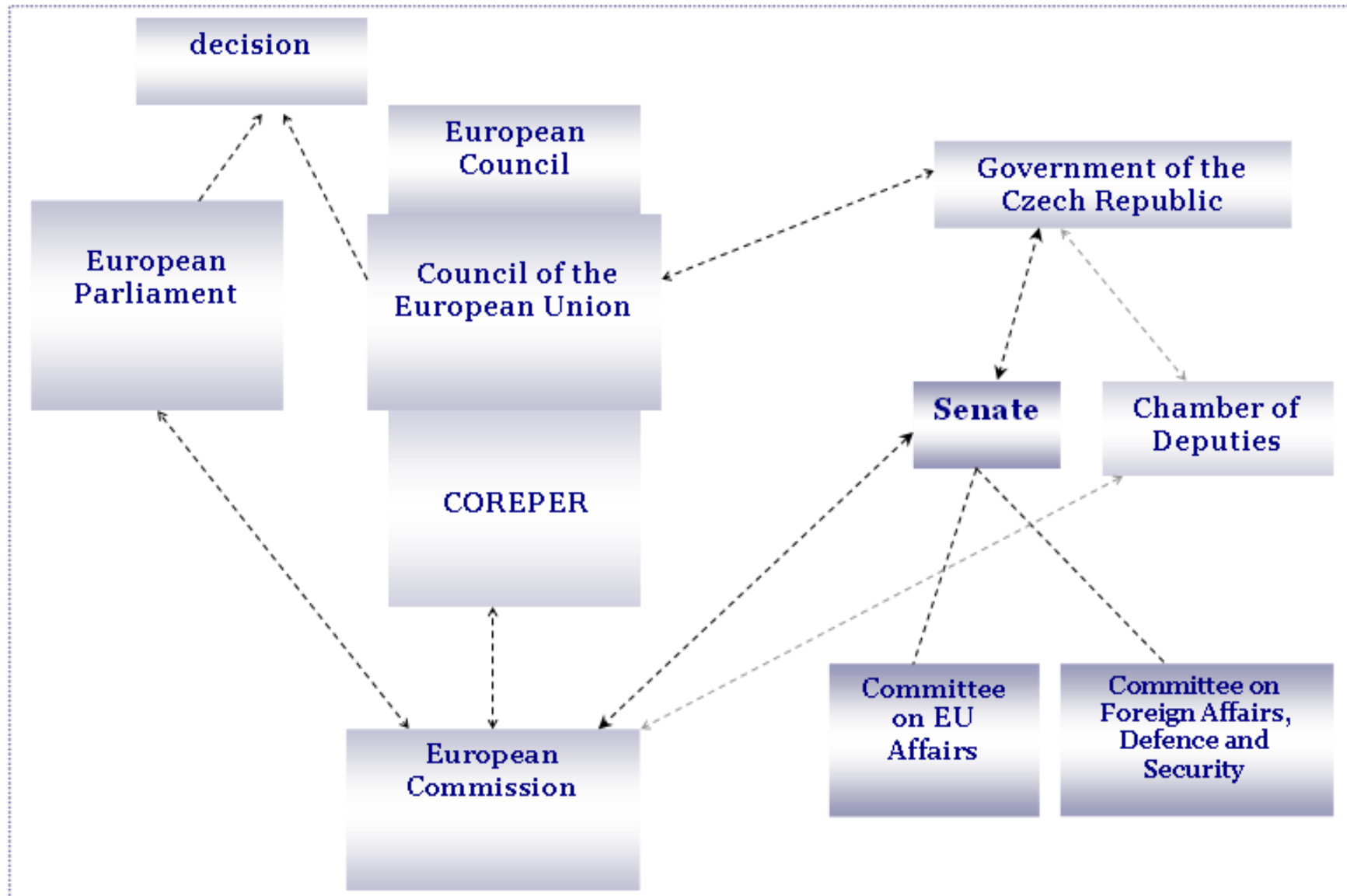
(Chapter 2.3. of the Annual Report 2007 on relations between the Commission and national parliaments):

“The most immediate effect of the national Parliament opinions is to **elicit a reply and explanation** from the Commission. This is a new form of transparency that the Commission would like to promote in order to **enrich its policy formulation and development process**. In accordance with the Treaty and their constitutional rules and practice, the national parliaments **do not take part in decision-making at European level**. As part of the political dialogue launched by the Commission in September 2006, their contribution can, however, help **improve European policy formulation**.

The national Parliaments have replied on numerous occasions to consultation documents from the Commission. For its part, the Commission will take these replies into account when drafting its proposals.

It is worth noting that, while examining legislative proposals from the Commission, on several occasions the European institutions echoed concerns expressed by the national Parliaments. This was the case with such matters as the completion of the internal market for postal services, the proposals on soil protection, motorway infrastructure safety and the European Technology Institute.”

The Czech Senate and the European legislative process



Conclusion

- Greater acceptance of regulation coming from Brussels (x rubberstamping syndrome)
- Gives valuable feedback to the initiator of EU legislation
- Results in better law?
- Results in more accepted and more easily implemented law?



Z BRUSELU PŘIŠEL ZÁKAZ VYVĚŠOVÁNÍ VLAJKY EU NA HRADECH, PROTOŽE HRAD JE OD FEUDALISMU SYMBOLEM DEMOKRATICKÉHO DEFICITU.

Mr President, there's new regulation from Brussels banning flying of the EU flag above castles, because castles have always been feudal symbols of democratic deficit.