



# Tweede Kamer

DER STATEN-GENERAAL



## The House of Representatives and the European Union

**The European Union is engaged in almost every area of policy. National and European affairs are often interwoven and influence each other. This makes it important for a Member of Parliament to be well informed about what is going on in the European Union in his or her area of interest. Be it in the field of agriculture, the environment or the economy, Europe is every MP's business.**

## Debate in the House before every “Council”

The House of Representatives is involved in various ways with the decision-making in the European Union and has a number of tools and working methods at its disposition to carry out its duties. A key element is the definite role the House plays in the preparation of the negotiations between European ministers. Any Dutch minister who is going to attend a meeting of the European Union, a “Council” in EU-terms, has to explain the position of the Netherlands in the negotiations in a letter to the House of Representatives, prior to the Council of Ministers. This is the so-called annotated agenda, which is discussed with the standing committee on the policy area in question. During the debate the responsible standing committee can adjust the Dutch position. If necessary, the House can also put forward a motion in a plenary sitting, to express its opinion on the Dutch position to be taken in the negotiations. Only after the debate with the standing committee does the minister travel to Brussels for the Council of Ministers, meeting with his or her 26 European colleagues.

That is how the House of Representatives can exercise influence, through the government, on the European decision making in any possible policy area. This procedure offers more opportunities to exercise influence and democratic control of EU-decisions than many other national parliaments have.

For MPs to make the most of these opportunities, it is important that the House of Representatives is involved in an earlier stage, namely when new European policy is being drafted. The tools described in this leaflet and the work of the EU-staff of the House enable MPs to make the most of their opportunities to influence European decision-making.

## Europe matters for each MP

Every standing committee is responsible for the European affairs in its own policy area. This means that European policy forms an integral part of the business of every standing committee, and, consequently, of any of its members.

Every year, the standing committees of the House decide on the basis of the European Commission's Legislative and Work Programme which proposals they will consider with priority, on which proposals they will enter a parliamentary reservation and which proposals will be subject to the subsidiarity test. The meaning of these two specific instruments is explained hereafter. The standing committee on European Affairs discusses the list of priorities with the government and monitors the planning. As soon as a proposal has been published in the course of the year it is up to the committee in charge of the subject to deal with the proposal.

## Early involvement

Once a proposal from the European Commission has been published – and sometimes even before that – the House of Representatives starts the scrutiny procedure. The working method to be applied by the committee depends on the relevance of the subject for the Netherlands and on the question whether the proposal is a legislative one or not.

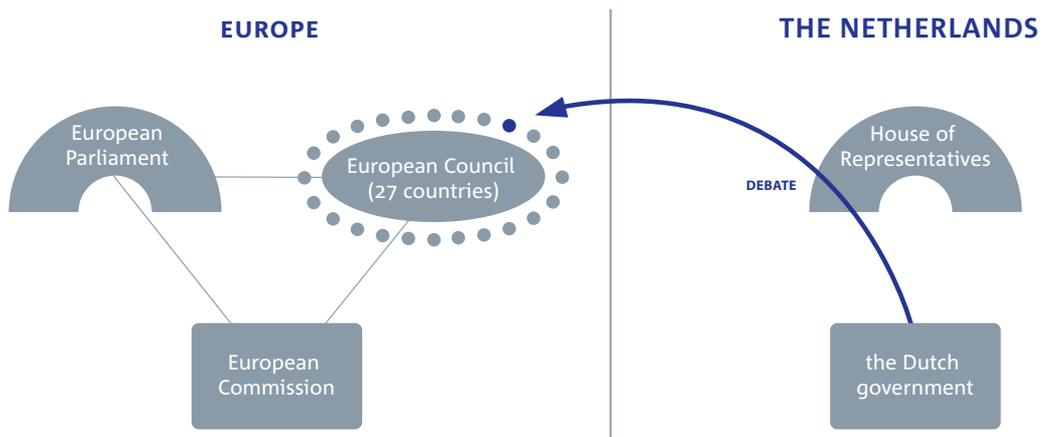


Diagram 1 Prior to every Council of Ministers the House of Representatives has a debate with the government.

### Consultation documents

The earlier Parliament is involved in the process, the more influence it can exercise. It is important, therefore, that the House takes action not only on legislative proposals, but also on everything that precedes these, such as action plans, communications or consultation documents like Green Papers. In a Green Paper, the European Commission headlines intended proposals. Subsequently, all stakeholders are invited to comment on the Green Paper. The Dutch government almost always makes use of the opportunity to reply to these consultations. Moreover, the government enables the House to examine the draft reply on a proposal and to hold a debate about it with the member of the cabinet in charge. The House itself can also submit a reply on the Green Paper.

### Legislative proposals

European legislative proposals mainly relate to regulations and directives. The House wants to keep a close eye on this, because member states are obliged to implement European regulations and to incorporate directives into their national legislation. The process of negotiation and

adoption can take several years, as is the case with Dutch bills. The House of Representatives is engaged in the entire process.

### Options for scrutiny

On every key proposal from the European Commission the House of Representatives chooses an option for scrutiny. For instance, the House can organise roundtables with stakeholders or expert briefings (e.g. with EU-officials). Other options are consultations during working visits or a special thematic debate with the minister in charge about the position and the strategy of the Netherlands in the negotiations. The committee can also choose to designate a rapporteur. This is an MP who gathers information and draws up a report on behalf and for the benefit of the members of the committee. The report serves as a basis for the debate with the government.

### Files on the Dutch position

Within six weeks after the publication of a new European proposal, the government sends a so-called BNC file to the House. BNC (in Dutch) stands for assessment of new proposals from

the Commission. The file states the preliminary appreciation of the proposal by the Dutch government and its possible impact on the Netherlands. Moreover, the BNC files contain the Dutch position in the Brussels negotiations.

The file is submitted to the standing committee responsible for the policy area in question. The committee may decide to put the BNC-file on the agenda of the next debate prior to the Council of Ministers, or to discuss it in a thematic debate on the very subject.

### **Annotated agenda**

In the annotated agenda of each Council of Ministers in which the proposal will be discussed, the government informs the House of the course of the negotiations, and indicates whether the Dutch position has to be adjusted. It is standard practice that the House discusses the annotated agenda with the minister concerned, prior to the Council of Ministers.

## **Subsidiarity test**

Every year the House makes a selection of proposals to be tested against the principles of subsidiarity and proportionality. Subsidiarity means that the EU will not act, unless European measures demonstrate clear added value, relative to national measures. Proportionality means that no legislation will be initiated if less far-reaching options are available.

The standing committee responsible for the assessment of the proposal carries out the subsidiarity test. The committee assesses whether the proposal has a sound legal basis and whether it meets the requirements of subsidiarity and proportionality, supported by arguments. After that, the committee's opinion is put to the vote in a plenary sitting. Subsequently, the House, sometimes together with the Senate, sends a letter to the European Commission, stating Parliament's

subsidiarity and proportionality assessment, with a copy to the European Parliament, the Council of Ministers and the Dutch government. The European Commission always replies to a subsidiarity assessment. The reply from the Commission is included in the further consideration of the proposal by the House. Actual practice shows that subsidiarity objections from national parliaments are taken into account when the proposal is further elaborated in Brussels. Moreover, this opportunity to exercise influence was formalised in the Lisbon Treaty by the introduction of the so-called yellow and orange cards.

### **Yellow and orange cards**

If a sufficient number of parliaments are of the opinion that a proposal from the European Commission is inconsistent with the principles of subsidiarity and proportionality, they can show the Commission a yellow card or an orange card, compelling the Commission to reconsider or even withdraw a proposal.

**Yellow card:** If one third of the national parliaments of the EU member states should lodge objections to a proposal on the ground of subsidiarity or proportionality, the European Commission is shown the so-called "yellow card", which means that it has to reconsider its proposal. For subjects in the field of Justice and Home Affairs the threshold is a quarter of the national parliaments. After reconsideration the Commission can amend or withdraw its proposal, but is not bound to do so.

**Orange card:** If half of the national parliaments is of the opinion that a proposal from the European Commission is inconsistent with the principles of subsidiarity or proportionality, the proposal is definitively withdrawn.

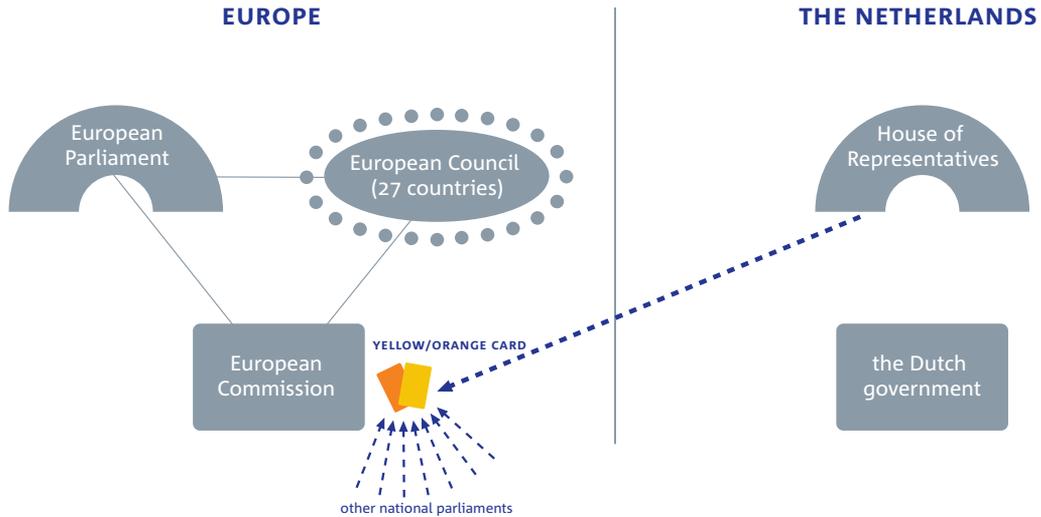


Diagram 2 National Parliaments can stop the European Commission by means of the subsidiarity test.

The yellow and orange card procedure has been formally in force since the implementation of the Lisbon Treaty in December 2009. The House of Representatives of the Netherlands in particular has insisted on including this procedure in the treaty.

## Parliamentary reservation

If the House of Representatives considers a European legislative proposal to be of such importance that the government should inform the House immediately after its publication, it can enter a so-called parliamentary reservation. The House then asks the government not to take any irreversible decisions in the Brussels negotiations until after a debate on the issue has taken place between the minister and the standing committee concerned.

The parliamentary reservation is a new tool for the House of Representatives and the Senate

to increase their control of European decision-making, introduced in 2008 by an amendment to the Kingdom Act approving the Lisbon Treaty. This act states that a parliamentary reservation has to be expressed within two months after publication of the European proposal. Within four weeks thereafter, the House and the government must have a debate on the proposal. In that debate an arrangement is made about how the government will inform the House about the course of the negotiations on the proposal. Detailed provisions on the procedure to enter a parliamentary reservation are laid down in the Rules of Procedure of the House of Representatives.

### Debate after publication of a new proposal

A parliamentary reservation leads to a debate between the House and the government shortly after publication of a European proposal, in contrast to the debate held shortly before a Council of Ministers. Whereas that debate takes place on the eve of European decision-making in the Council, rather at the end of the European legislative cycle,

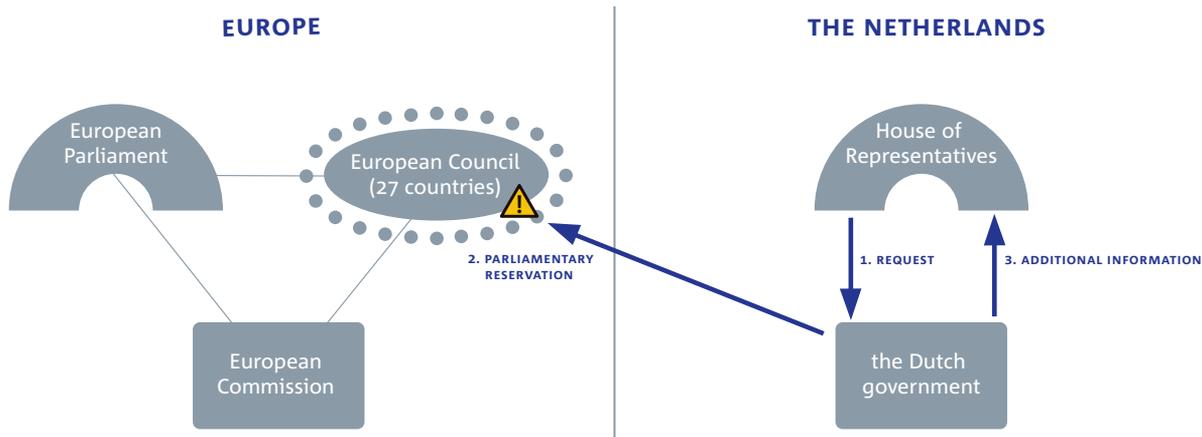


Diagram 3 Parliamentary reservation: The House of Representatives asks the Dutch government to enter a parliamentary reservation in Brussels until being informed (3) about the new European proposal.

the parliamentary reservation leads to a debate between the House and the government at the very beginning of the European legislative cycle, shortly after a proposal has been published by the European Commission.

## Implementation

Once a directive or regulation has been approved, the House will supervise the correct implementation in the Netherlands of European legislation. A regulation becomes Dutch law immediately after its coming into force, but European directives have to be incorporated in national legislation within a specified time, in most cases within a period of two years after the decision has been made.

This way, the House of Representatives can directly influence the incorporation of European directives in Dutch law.

## Cooperation with other parliaments

Dutch MPs meet with members of parliaments from other EU member states on a regular basis, for instance at meetings of COSAC, the cooperative body of committees on European affairs of the national parliaments and the European Parliament. COSAC meets four times per year and has its own secretariat. The standing committee on European Affairs of the House of Representatives sends a delegation of MPs to COSAC meetings.

Exchange between parliaments also occurs on other occasions. Every year, national parliaments or the European Parliament organise several thematic interparliamentary conferences.

Furthermore, the House receives many parliamentary delegations from other European countries.

In turn, standing committees of the house also pay working visits to (the parliaments of) other EU member states.

Sometimes, a rapporteur from the European Parliament is invited to The Hague for consultation. Moreover, standing committees of the House regularly visit Brussels. At joint meetings as well as via their party, Dutch MPs and Dutch MEPs keep each other informed about the positions they take.

A digital system, called IPEX and accessible via [www.ipex.eu](http://www.ipex.eu), has been set up to ensure a smooth and up to date exchange of information between the various national parliaments of the European Union, for instance about the subsidiarity test and any possible yellow or orange cards.

The circle of permanent representatives of national parliaments at the European Union, among whom the representative of the States-General of the Netherlands, also constitutes an important means of harmonisation and cooperation between the national parliaments of several EU member states.

## The House of Representatives: well informed

In order not to be dependent on information provided by the Dutch government only, the House of Representatives has increased its own supply of information over the past few years. The House makes use of information from European institutions like the European Commission, the European Parliament, the secretariat of the Council of Ministers and the rotating Presidency. Various organisations in the Netherlands and in Brussels, whose business is to monitor and influence the

European decision-making process, like industrial, consumer and environmental organisations, can provide useful information. Such organisations often employ experts, who have detailed information about the impact of European proposals. The House organises roundtables or expert briefings with these organisations and MPs pay working visits to them.

### **Assistance from the House's administration**

The House has set up its own EU-staff to assist MPs in using the instruments and carrying out the activities described in this leaflet. The EU-staff of the House of Representatives is formally linked with the standing committee on European Affairs, but its activities and advice relate to all the specialist standing committees.

Among other things, the EU-staff provides the standing committees of the House with advice on European proposals and points out European key developments to MPs and their staff, aimed at optimising the House's influence on these developments. On the basis of a report, published in 2006, the EU-staff of the House was increased by four EU-advisors. Furthermore, the EU-staff comprises the clerk of the standing committee on European Affairs, four assistant-clerks and a committee assistant.

Moreover, the permanent representative of the Dutch parliament in Brussels contributes, in close cooperation with the EU-staff, to a timely supply of information to the House and to the cooperation with other national parliaments and the European Parliament.

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