

The Early Warning System from the point of view of the administrative representatives of national parliaments in Brussels: “not redundant, but unimportant”

Cristina Ares

Universidad de Santiago de Compostela

cristina.ares@usc.es

ORCID: 0000-0002-2278-629X

Helena Patiño

Universidad de Santiago de Compostela



Received: 18/01/2023

Accepted: 14/06/2023

Published: 28/07/2023

Recommended citation: ARES, C. & PATIÑO, H. (2023). “The Early Warning System from the point of view of the administrative representatives of national parliaments in Brussels: ‘not redundant, but unimportant’”. *Quaderns IEE: Revista de l'Institut d'Estudis Europeus*, 2(2), 3-25. DOI: <<https://doi.org/10.5565/rev/quadernsiee.52>>

Abstract

Under Protocol No. 2 on the Application of the Principles of Subsidiarity and Proportionality, national parliaments have been granted participation in EU law-making through the Early Warning System (EWS; or the subsidiarity mechanism). Under the EWS, national chambers can evaluate EU legislative proposals on the grounds of subsidiarity within an eight-week period, following their submission by the European Commission. Furthermore, the contribution of the administrative representatives of national parliaments in the European Parliament (or the so-called liaison officers) is crucial for the national chambers to follow up on the Union agenda and participate in EU affairs. This study offers novel data that were collected through a questionnaire administered to the liaison officers in 2022. In brief, these transnational practitioners tend to express scepticism with regard to the EWS and its eventual reform, and at the same time, they would welcome an enhancement of the much broader “political dialogue” between the European Commission and national parliaments.

Keywords: Early Warning System; National Parliaments; European Parliament; Liaison Officers; Political Dialogue.

Resumen. *El Sistema de Alerta Temprana desde el punto de vista de los representantes administrativos de los Parlamentos nacionales en Bruselas: “necesario, pero poco importante”*

En virtud del Protocolo n.º 2 sobre la aplicación de los principios de subsidiariedad y proporcionalidad, se ha concedido a los parlamentos nacionales la participación en la elaboración de leyes de la UE a través del Sistema de Alerta Temprana (SAT; o el mecanismo de subsidiariedad). Bajo el SAT, las cámaras nacionales pueden evaluar las propuestas legislativas de la UE por motivos de subsidiariedad dentro de un período de ocho semanas, luego de su presentación por parte de la Comisión Europea. Además, la contribución de los representantes administrativos de los parlamentos nacionales en el Parlamento Europeo (o los llamados funcionarios de enlace) es crucial para que las cámaras nacionales hagan un seguimiento de la agenda de la Unión y participen en los asuntos de la UE. Este estudio ofrece datos novedosos que se recopilaban a través de un cuestionario administrado a los funcionarios de enlace en 2022. En resumen, estos profesionales transnacionales tienden a expresar escepticismo con respecto al SAT y su eventual reforma y, al mismo tiempo, agradecerían una mejora del "diálogo político" mucho más amplio entre la Comisión Europea y los parlamentos nacionales.

Palabras clave: Sistema de Alerta Temprana; Parlamentos nacionales; Parlamento Europeo; Funcionarios de enlace; Diálogo político.

Resum. *El Sistema d'Alerta Primerenca des del punt de vista dels representants administratius dels Parlaments nacionals a Brussel·les: “necessari, però poc important”*

En virtut del Protocol núm. 2 sobre l'aplicació dels principis de subsidiarietat i proporcionalitat, s'ha concedit als parlaments nacionals la participació en l'elaboració de lleis de la UE, a través del sistema d'alerta primerenca (SAT; o el mecanisme de subsidiarietat). Sota l'SAT, les cambres nacionals poden avaluar les propostes legislatives de la UE per motius de subsidiarietat, dins d'un període de vuit setmanes, després de la presentació per part de la Comissió Europea. A més, la contribució dels representants administratius dels parlaments nacionals al Parlament Europeu (o els anomenats funcionaris d'enllaç) és crucial perquè les cambres nacionals facin un seguiment de l'agenda de la Unió i participin als assumptes de la UE. Aquest estudi ofereix dades noves que es van recopilar a través d'un qüestionari administrat als funcionaris d'enllaç el 2022. En resum, aquests professionals transnacionals tendeixen a expressar escepticisme respecte al SAT i la seva eventual reforma i, alhora, agrairien una millora del "diàleg polític" molt més ampli entre la Comissió Europea i els parlaments.

Paraules clau: Sistema d'Alerta Primerenca; Parlaments nacionals; Parlament Europeu; Funcionaris d'enllaç; Diàleg polític.

Summary

1. Introduction
 2. Individual opinions versus collective cards under the EWS
 3. Methodology
 4. Results
 5. Conclusion
 6. References
 7. Appendix
-

1. INTRODUCTION

Since the Lisbon Treaty, national parliaments have had the option to become more directly engaged in European Union (EU, hereinafter) law-making through the Early Warning System (EWS, hereinafter). They can also take advantage of a variety of other both formal and informal channels of participation in EU affairs to become “multi-arena players” (Auel and Neuhold, 2017:1; Auel and Neuhold, 2018: 13) in the political system of the EU as a compound democracy. Prior to this latest constitutional reform of the EU, national parliaments had already been mentioned in protocols annexed to the Treaties, but after the entry into force of the Treaty of Lisbon, in December 2009, Article 12 TEU states that “National Parliaments contribute actively to the good functioning of the Union”. Moreover, national chambers can scrutinise EU draft legislative acts within the framework of the EWS, be involved in Treaty changes (also by supervising the adjustments in favour of the EU level that can be introduced by the European Council through the so-called *passarelle* clauses) and cooperate with the European Parliament more extensively.

This notwithstanding, the EWS is the most innovative mechanism to embed national parliaments in EU affairs. Constitutionalised through Protocol No. 2 on the application of the principles of subsidiarity and proportionality¹, it offers national chambers the possibility to scrutinise EU legislative proposals regarding the principle of subsidiarity, within an eight-week period starting the moment the proposal is submitted by the European Commission.²

Additionally, national parliaments have a say within the framework of the “political dialogue” (PD, hereinafter), which is an informal exchange of views between the European Commission and national parliaments applicable to all EU initiatives, introduced by José Manuel Durão Barroso in 2006, during his first mandate as

¹ OJ C 115, 9.5.2008, p. 206–209.

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12008E/PRO/02>

² The principle of subsidiarity is not applicable to EU exclusive competences. But according to this principle, “in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level” [Article 5(3) TEU].

Commission president. But it is worth noting that, unlike the PD, the EWS is at the exclusive disposal of national chambers and is installed in the core of EU law-making.

Furthermore, the functioning of the EWS requires both expertise on EU issues within each national chamber and intense collaboration among them. It is common knowledge that numerous officials are crucial to make the EWS work, especially the administrative representatives of national parliaments in the European Parliament (also referred to as liaison officers).

However, the perceptions and opinions about the EWS by these transnational practitioners, unrelated to the positions of their respective national parliaments, to the best of our knowledge, have not been sufficiently considered in the discussions on the workings of the subsidiarity mechanism and how it could be enhanced.

Thus, in moving forward, this research is focused on the point of view of these liaison officers. It covers the following aspects: the importance that these officials concede to the EWS in their daily routines vis-à-vis other consultation and participatory channels in EU affairs available to the parliaments they work for, and their assessments of both the effectiveness of the subsidiarity mechanism and the relevance of the political dialogue.

The rest of the article is structured as follows. Section 1 reviews some institutional data and academic works on the functioning of the EWS. Section 2 is devoted to the methodological elements of the study. Next, and prior to the conclusion, some novel data gathered in spring 2022 are examined.

2. INDIVIDUAL OPINIONS VERSUS COLLECTIVE CARDS UNDER THE EWS

The EWS gives all national chambers the right to obligate the European Commission to further elaborate on how a legislative proposal is respectful of the principle of subsidiarity.³ This occurs when enough national chambers agree on the necessity to reconsider the legislative proposal on the grounds of subsidiarity, according to Article

³ At present, the chambers of the EU national parliaments are the following: the Bundesrat and the Nationalrat (Austria), the Sénat de Belgique/Belgische Senaat and the Chambre des Représentants de Belgique/Belgische Kamer van volksvertegenwoordigers (Belgium), the NarodnoSabranie (Bulgaria), the HrvatskiSabor (Croatia), the Vouli ton Antiprosopon (Cyprus), the Senát and the Poslaneckásněmovna (Czech Republic), the Folketing (Denmark), the Riigikogu (Estonia), the Eduskunta (Finland), the Sénat and the Assemblée nationale (France), the Bundesrat and the Bundestag (Germany), the Vouli ton Ellinon (Greece), the Országgyűlés (Hungary), the Houses of the Oireachtas: Dáil and Seanad Éireann (Ireland), the Camera dei Deputati and the Senatodella Repubblica (Italy), the Saeima (Latvia), the Seimas (Lithuania), the Chambre des Députés (Luxembourg), the Kamra tad-Deputati (Malta), the Eerste Kamer and the Tweede Kamer (Netherlands), the Sejm Rzeczypospolitej Polskiej and the Senat Rzeczypospolitej Polskiej (Poland), the Assembleia da República (Portugal), the Senatul and the Camera Deputaţilor (Romania), the Národná rada (Slovakia), the Državni svet and the Državni zbor (Slovenia), Senado de España and Congreso de los Diputados (Spain), and the Riksdag (Sweden). Concerning the Brexit, the last contributions authored by the UK Parliament under the EWS were submitted in 2019. Both the House of Lords and the House of Commons were active players within the framework of the subsidiarity mechanism.

7 of Protocol No. 2, which establishes the procedure and the thresholds required to trigger a so-called “yellow card”:

Where reasoned opinions on a draft legislative act's non-compliance with the principle of subsidiarity represent at least one third of all the votes allocated to the national Parliaments in accordance with the second subparagraph of paragraph 1, the draft must be reviewed. This threshold shall be a quarter in the case of a draft legislative act submitted on the basis of Article 76 of the Treaty on the Functioning of the European Union on the area of freedom, security and justice. After such review, the Commission or, where appropriate, the group of Member States, the European Parliament, the Court of Justice, the European Central Bank or the European Investment Bank, if the draft legislative act originates from them, may decide to maintain, amend or withdraw the draft. Reasons must be given for this decision.

Furthermore, Article 7(3) of Protocol No. 2 incorporates an “orange card” under the ordinary legislative procedure that would open up the possibility for the Council and the European Parliament to halt the legislative proposal.

Thus, on paper, the rationale behind the EWS is both reactive —a response to a new legislative proposal delivered by the European Commission—, and negative as it entails the possibility for national parliaments to cooperatively water down the proposal on the grounds of subsidiarity.

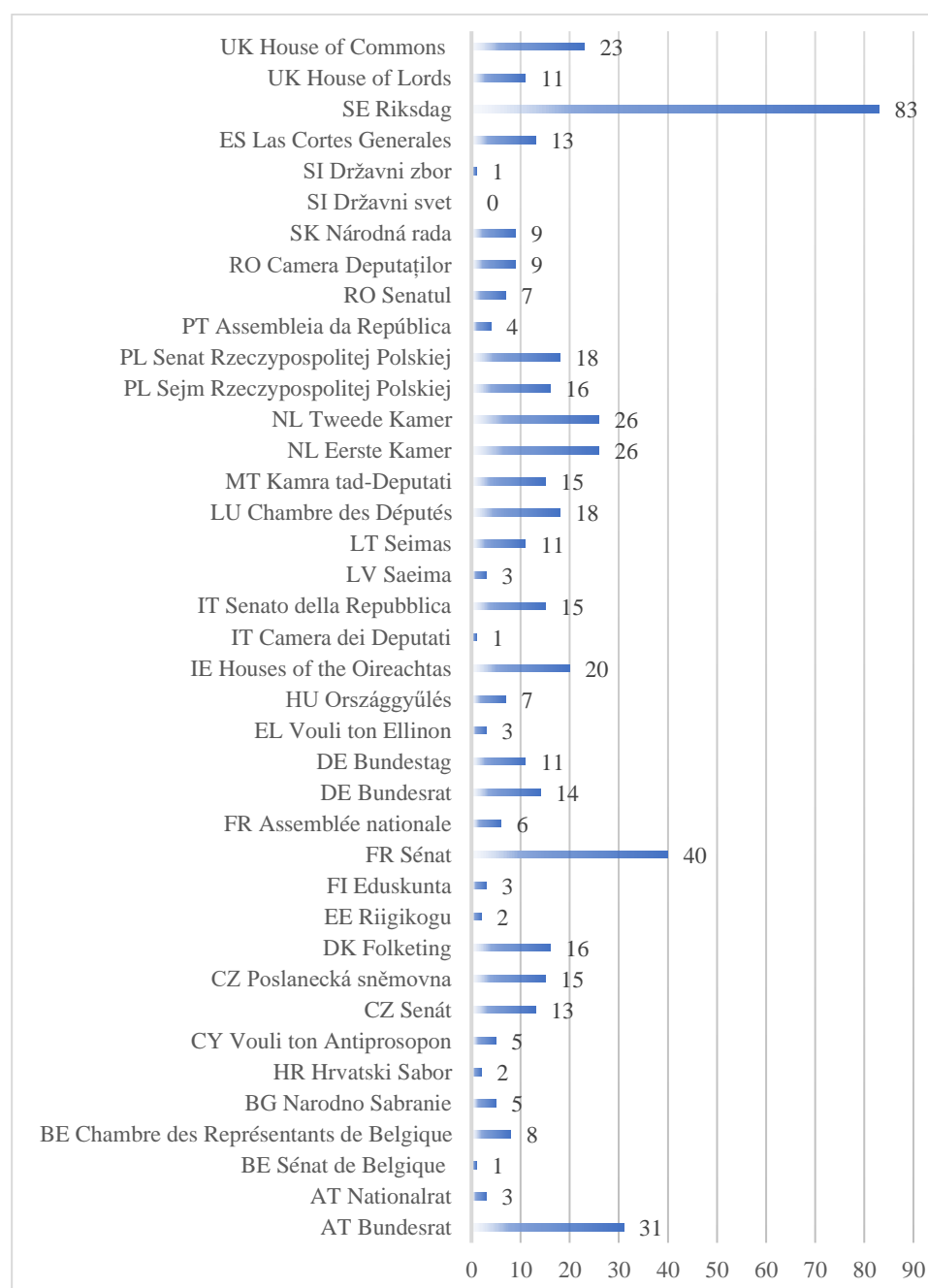
In practice, some national chambers go beyond the subsidiarity scrutiny within the framework of the EWS, and their reasoned opinions (ROs, hereinafter) (i.e., their outputs arguing that the Commission's proposal is not respectful with the principle of subsidiarity) also provide valuable inputs for EU law-making, regardless of whether or not a collective “card” is ultimately triggered. Moreover, “if subsidiarity checks are not followed by a RO, they often result in a submission of an opinion within the broader framework of “political dialogue” (PD), where the chamber is able to communicate its political views more generally, raising issues of the potential policy impact of the proposed policies, aspects of proportionality and legal basis” (Borońska-Hryniewiecka, 2021: 6).

Furthermore, the literature on the EWS has put too much focus on the three yellow cards activated since 2010, while it tends to overlook the individual contributions submitted by national chambers under Protocol No. 2. Considering only the reasoned opinions, a total of 514 were registered by the European Commission between January 2010 and January 2022.

There is great variability in terms of the outputs submitted by the national chambers within this framework, as shown in Figure 1. In this respect, the most active national chamber is the Swedish Riksdag, which must be considered as a deviant case, as it issued about 16% (83 ROs) of the 514 ROs. The second most active chamber is the French Sénat, which authored 40 ROs. This is followed by the Austrian Bundesrat (31 ROs), both the Dutch Eerste Kamer and the Dutch Tweede Kamer (26 ROs each), the British House of Commons (23 ROs) and the Irish Houses of the Oireachtas (Dáil and

Seanad Éireann) (20 ROs). On the other side of the coin, nineteen national chambers have issued fewer than ten ROs, and among them, eleven chambers have submitted fewer than five reasoned opinions.

Figure 1. Total number of ROs issued by each national chamber/Parliament, 2010-2022



Source: authors' own work.⁴

⁴ It must be noted that, in Spain, Las Cortes Generales (the *Congreso de los Diputados* and the *Senado*) work conjointly under the EWS. This is an unusual arrangement, as national chambers in bicameral systems tend to act separately within the framework of the subsidiarity mechanism.

With regard to this variation, Christiansen, Högenauer and Neuhold (2014) consider that the following variables, among others, might be associated with greater activity under the EWS: not having strong mandating powers (national parliaments that can mandate their ministers would probably see the EWS as superfluous); being a second chamber (weaker chambers have a greater need for new roles); being a national parliament of a small country (with fewer resources); or being a national parliament with a minority government or with parties with weak discipline (“Parliaments in countries with majority governments and strong party discipline are expected to be less likely to adapt, as the majority party avoids open conflicts with its government”) (Christiansen, Högenauer and Neuhold, 2014: 128). It has been demonstrated that both upper chambers and national parliaments with minority governments are more likely to submit ROs (Huysmans, 2019: 444).

In addition, beyond individual reasoned opinions, three collective “yellow cards” have been activated. These are summarised in Table 1.

Table 1. Yellow cards triggered by national parliaments (2010-2022)

<i>Proposal from the Commission</i>	Topic	No. of chambers that issued ROs (and votes represented, out of 41)	Response from the Commission
<i>Proposal for a regulation “On the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services” (the so-called “Monti II”) [COM (2012) 130]</i>	Workers’ rights	12 (19)	Withdrawal of the proposal, but not due to a subsidiarity infringement; the reason was the apparent lack of support for its content by the Council
<i>Proposal to create a European Public Prosecutor’s Office (EPPO) [COM (2013) 534]</i>	EU budget, judicial cooperation	13 (18)	Proposal maintained, but the EPPO was established through an enhanced cooperation, with the participation of just twenty Member States out of twenty-eight
<i>Amendment proposal for a Directive concerning the posting of workers within the framework of the provision of services (the so-called Posted Workers Directive, PWD) [COM (2016) 0128]</i>	Workers’ rights	14 (22)	Proposal maintained, although in this case there actually was a procedural infringement of subsidiarity as regards the justification of the EU action according to Article 5 of Protocol No. 2

Source: authors’ own work, based on institutional data, Borońska-Hryniewiecka (2021) and Cooper (2019)

In this regard, what is more interesting is how the national chambers that managed to trigger these cards became connected among themselves. In terms of the first yellow card,⁵ “the Danish Folketing played the role of ‘initiator’, acting rapidly to adopt the first RO, based on a conscious decision to try to persuade other National Parliament (NPs, hereinafter) to do so with the express goal of achieving the first yellow card” (Cooper, 2015: 1412). Regarding the second yellow card, upon the creation in 2013 of the European Public Prosecutor’s Office (EPPO, hereinafter), although the legislative proposal prospered and EPPO was established, the Parliaments of six out of the eight Member states that decided not to participate in this enhanced cooperation from the beginning (Hungary, Ireland, Malta, the Netherlands, Sweden, the UK) issued a RO (Cooper, 2019: 936). Concerning the third yellow card on the Posting of Workers Directive (2016),⁶ a regional block of national chambers from Central and Eastern Europe (plus Denmark) was created in response to the legislative proposal (Borońska-Hryniewiecka, 2021: 4).

Furthermore, the EWS also goes beyond subsidiarity concerns from the viewpoint of the European Commission. The Commission’s annual reports on subsidiarity (e.g., European Commission, 2022) and its responses to the individual ROs are worth examining.

Ares and Patiño (2022) show that the European Commission, in its individual replies within the framework of the EWS, addresses not only the considerations of the national chambers related to the principle of subsidiarity, but also aspects of legal basis and proportionality, as well as substantive comments. This EU institution occasionally notes that the legislative procedure is in an early stage, and the national government of the country whose parliament authored the corresponding RO will be co-responsible for the content of the EU legislative output, e.g., “The Commission is convinced that the proposal provides a solid basis for the negotiations to come” [C(2020) 3045 final: p. 2], or “The points made above are based on the initial proposal presented by the Commission, which is currently in the legislative process involving both the European Parliament and the Council” [C(2020) 5391 final: p. 2].

In brief, the Commission does not perceive the EWS as a barrier to EU laws. Along these lines, Van Gruisen and Huysmans (2020: 452 and 452) argue that the subsidiarity mechanism increases EU decision-making efficiency and this “can partly explain why the Commission has been willing to grant more powers to NPs” (Van Gruisen and Huysmans, 2020: 452 and 453). “As such, ROs can be considered as an expanded form of pre-consultations. The Commission can, then, anticipate bargaining difficulties in the Council and therefore save precious time and resources”.

⁵ Proposal for a COUNCIL REGULATION on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services /* COM/2012/0130 final

⁶ Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 96/71/EC of The European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services COM/2016/0128 final.

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016PC0128>

Moving on to the focus of this research, the literature on the role of national parliaments in EU affairs sheds light on the support of the representatives of national parliaments in the European Parliament (EP, hereinafter) or the liaison officers within the framework of the EWS.⁷ To foster inter-parliamentary cooperation within the EU, since 1991, the European Parliament has hosted these administrative representatives, who occupy offices in the same building as the Directorate for Relations with National Parliaments. The number of people sent by each national chamber differs, e.g., the *Deutscher Bundestag* appoints three representatives, who are accompanied by three assistants, while Spain has only one administrative representative in the European Parliament to represent *Las Cortes Generales* (the *Congreso de los Diputados* and the *Senado* jointly).

The liaison officers collaborate with each other on a regular basis, and with the members of the secretariat of the Conference of Parliamentary Committees for Union Affairs (COSAC). Another instrument that is crucial under the EWS is the Inter-parliamentary Information Exchange System (IPEX), which according to its website,⁸ is “a platform for the mutual exchange of information between the NPs and the European Parliament”. IPEX provides a legislative database and all the information and documentation needed by NPs to make contributions under the subsidiarity mechanism. One example of the extent to which IPEX can be helpful is the section called “Documents with high activity”. This “refers to documents attracting a high degree of interest from national parliaments”.⁹

Because of the information, and expertise they provide, all officials involved in inter-parliamentary cooperation are crucial for the participation of their respective national chambers in EU affairs, regardless of the mechanism employed to share their inputs or the level. But the EWS would have been impracticable without IPEX and the liaison officers in Brussels. The administrative representatives of national parliaments in the EP compose a network that has been considered as a “‘hub of information trading’, where each individual liaison officer could be seen as constituting a ‘hub of information exchange’ between his or her institution, other Parliaments and the European arena” (Neuhold and Högenauer, 2016: 241). This network is focused on information exchanges, and it does not constitute an epistemic community, which would have had its own values and shared beliefs. Thus, even though the representatives of national parliaments in Brussels collaborate intensively with one another, they remain agents of their respective national chamber.

Our novel data and analyses confirm this. The purpose of our research is to examine the subsidiarity mechanism beyond its negative first rationale, in correspondence with how the EWS is employed by both most national chambers and the European Commission, and considering the remarkable contribution to its

⁷ The complete list of liaison officers can be retrieved from the website of the European Parliament: <https://www.europarl.europa.eu/at-your-service/en/stay-informed/liaison-offices-in-your-country>

⁸ IPEX website: <https://ipexl.europarl.europa.eu/IPEXL-WEB/>

⁹ Documents attracting a high degree of interest from national parliaments can be consulted on-line. This is available at: <https://secure.ipex.eu/IPEXL-WEB/document/highActivity>

functioning made by the administrative representatives of national parliaments in the EP.

3. METHODOLOGY

This research has obtained data through a questionnaire, which was sent by email to all administrative representatives of national parliaments in Brussels in April 2022, and which is available in the appendix of this article. The questionnaire covers several dimensions of the subsidiarity mechanism, along with the activities of these transnational practitioners within the framework of the EWS, as well as their careers before being nominated for their positions in Brussels. The views documented through the questionnaire are technical and personal; accordingly, they are not intended to reflect the political/institutional positions of the respective national chambers.

Since previous literature had demonstrated that the network composed of the administrative representatives of national parliaments in the EP does not constitute an epistemic community, we were mostly interested in finding common ground among these officials.

Ultimately, we obtained data from sixteen liaison officers serving different national chambers. Fourteen people responded to the entire questionnaire, while two preferred to elaborate only by including a personal comment. Some people among the fourteen full respondents also contributed with additional observations and remarks.

To preserve the anonymity of the respondents, the analysis avoids linking data to countries. This notwithstanding, we can share the following figures: respondents work for eight national chambers of the EU-15, and seven chambers of Member states that have acceded to the EU since 2004. The responses include insights from small, medium-sized, and large countries, along with countries from diverse groups/areas, e.g., founding Member states, Eastern Europe, Nordic countries, and Southern Europe. Furthermore, data were provided by officials working for chambers that participate to different degrees in the subsidiarity mechanism, consisting of some that are active on a regular basis and others that are almost inactive.

It is worth noting that this variation helps to reflect the average technical perspective of the liaison officers.

The next section examines the most relevant findings of the study.

4. RESULTS

For a start, the administrative representatives of national parliaments in Brussels who answered the entire questionnaire were all experienced in their role, which they have held for a mean of four years. The most experienced among them has occupied the position for eleven years, while the least experienced arrived at the EP ten months before contributing to this research.

Moreover, all of them were experts on EU affairs prior to their appointments as liaison officers. They had studied a bachelor's and/or a master's degree in the field (eight people), earned their expertise working at the national level (ten people), and/or become experts for other reasons (six people). Several respondents emphasised the knowledge of EU affairs that they had gained within their corresponding chamber at the national level prior to their nomination as a representative in Brussels, e.g., one person declared that he/she had been working in the field for more than ten years before becoming a liaison officer.

Moreover, our data confirm the national entrenchment of these administrative representatives in Brussels. These supranational practitioners are in permanent contact with their respective national capitals. They address other members of the corresponding parliamentary administration several times per week. Furthermore, there are representatives of national parliaments in the EP, who combine both national and supranational responsibilities.

There are some differences, however, concerning commuting to the national chambers. These representatives in Brussels normally work at the national parliaments at least once per month; however, one respondent claims to return home just once per year, and a second one shares that he/she spends time in their country twice per semester. In contrast, five respondents say that they work from their national chambers several times per week, in person or through hybrid meetings. A smaller number primarily work from the national chamber, arguably because of the proximity between their national parliaments and the EP.

Greater variation was found regarding how these administrative representatives of national parliaments in Brussels judge their capacity to negotiate and take decisions on behalf of their chambers. Eight out of fourteen declare that they frequently bargain on behalf of the national chamber ("based on a political or administrative guidelines," to quote one of the respondents), while four say that they never do this. Concerning decision-making, respondents are split into two groups: half say that they are never involved, and half claim that they contribute occasionally. By this, we mean participating in a technical capacity. One respondent from the group of more involved representatives offered the following explanation: "Formally, of course, only the chamber can make decisions on behalf of the Parliament, and I have no formal mandate to negotiate political texts or similar".

In moving forward, addressing the relevance that these administrative representatives of national parliaments in the EP give to the various activities that they conduct in their capacity within the framework of the EWS, they tend to consider the following two activities to be particularly important: summarising/forwarding information (thirteen out of fourteen) and promoting collaboration among different national chambers (eleven people).

Some respondents also place importance on exchanging views with other members of the network of representatives of national parliaments in the EP about the substance of EU laws (eight out of fourteen), and on doing so on the grounds of

subsidiarity (seven people). Besides, most of them declare that they do not use academic publications and data or scientific methods to do their own research or to draft policy analyses. In addition, their orientation is more top-down (from the EU level to the national level) than the other way around. Their work concerning the EWS is apparently disconnected from national debates, e.g., ten out of fourteen do not deliver technical opinions or advice following national debates.

Furthermore, there seems to be room for improvement regarding collaboration among the community of administrative representatives of national parliaments in Brussels under the EWS. Eight out of fourteen respondents say that there is no cooperation among them on most of the dossiers. One person provides insight in this regard, as he/she clarifies through a side comment that “collaboration only takes place after the chamber has taken a position; before that, it is sharing information”. This latter respondent also stressed that administrative representatives of national parliaments in the EP work together more smoothly outside the framework of the EWS than within it.

Moreover, it is encouraging to note that there is typically no common position among the liaison officers about the legislative proposals on the grounds of subsidiarity. In fact, five out of fourteen respondents fail to see the rationale of asking for this collective understanding, and six people reveal that they normally disagree on this.

This result reinforces the significance of both diversity in the interpretations of the principle of subsidiarity and the idea that the network of administrative representatives of national parliaments in the EP does not constitute an epistemic community in the least. This is fully in agreement with the previous literature on the EWS.

In addition, our evidence is consistent with the fact that there are national chambers completely unconcerned with the subsidiarity mechanism. Indeed, some liaison officers recognise, in their accompanying comments, their lack of attention to the EWS, e.g., “Experience shows, unfortunately, that subsidiarity checks have become irrelevant, —they have no outcome whatsoever—. In our case, they tend to be considered as a total waste of time”. Besides, eleven out of fourteen liaison officers say that they collaborate naturally beyond the framework of the EWS. Coming straight to the point, one respondent added the following observation:

The amount of information exchanged among the National Parliament Representatives in the EP is quite important. However, such information exchange is increasingly relevant in the context of the political dialogue, and less and less relevant in the area of subsidiarity checks.

Moving on to examine some new data on the assessment of the EWS by these officials, we find more agreement than disagreement. Contrary to what tends to be assumed in the political discussion on the subsidiarity mechanism, six out of fourteen respondents do not consider the subsidiarity mechanism to be a burden for national

parliamentarians. Additionally, six people do not see the need to strengthen legal units or documentation/research units within national chambers. However, nine respondents would consider a positive advancement the reinforcement of sectoral committees with more experts on EU affairs.

But despite being members of their staffs themselves, there is no common ground among the liaison officers on giving a greater say to national parliaments regarding the substance of EU laws. Only two out of fourteen respondents would be strongly in favour of this. Furthermore, only six people would support granting legislative initiative on EU themes to national parliaments.

Furthermore, there are two major collective understandings among the administrative representatives of national parliaments in Brussels who contributed to this study: on the one hand, twelve out of fourteen recognise that the EWS has had a positive impact on the political dialogue among the national parliaments and the European Commission; on the other hand, eleven people see infringements of the principle of subsidiarity in some EU legislative proposals and, consequently, they do not consider the EWS to be unnecessary in this regard.

It must be stressed that, even though teamwork among the liaison officers seems to be less common within the framework of the EWS as compared to their other activities at the EU level, and they usually disagree in their evaluations of the legislative proposals on the grounds of subsidiarity, eight out of fourteen respondents do not consider the EWS to be ineffective, and only one person would be in favour of suspending it because of its futility.

Moreover, eight out of fourteen respondents recognise that the EWS has improved the access by national parliaments to information on the EU legislative agenda, and nine out of fourteen think that the subsidiarity mechanism has contributed to the adaptation of national chambers to EU affairs, or at least to their “EU awareness,” as one person phrases this. This notwithstanding, just half of the respondents believe that the EWS has enhanced the capacities of the national parliaments to monitor EU issues, possibly because some chambers had developed these capabilities prior to the Lisbon Treaty.

Moving on to examine what the administrative representatives of national parliaments in the EP think about a likely reform of the EWS, ten out of fourteen respondents would support the incorporation of the discussion about proportionality and legal basis (conferral) into the subsidiarity mechanism. This would mean on paper, because in practice the debates on proportionality and legal basis are already taking place within the framework of the EWS, as one respondent confirms also for this study: “my chamber already assesses these in the EWS, regardless of the narrow interpretation of the EWS”. On the contrary, the support for extending the eight-week deadline for submitting ROs is not as massive as might be expected (eight out of fourteen respondents in favour; five people do not consider this relevant; one person is against the extension). Furthermore, one liaison officer added the following remark:

Oddly enough, there are ideas that circulate regarding the need to reform the thresholds for yellow cards, so that national parliaments feel more respected. However, thresholds are not a problem! The problem is the possibility offered to the European Commission to maintain its proposals unchanged, even where yellow/orange cards thresholds are reached.

Lastly, there is agreement among the liaison officers who participated in this study on the desirability of reinforcing the political dialogue (twelve out of fourteen respondents in favour and none opposed).

5. CONCLUSION

In the light of our novel data with regard to the point of view of the administrative representatives of national parliaments in the European Parliament about the EWS, some national chambers continue to welcome the opportunity to share with the European Commission and the EU legislator their subsidiarity complaints, or simply to ask for clarifications regarding EU legislative proposals under this mechanism. Besides, some national chambers skip the EWS because they consider it unfruitful, and consequently there is less teamwork among the liaison officers regarding the subsidiarity mechanism as compared to the rest of their duties in Brussels.

From the viewpoint of these transnational practitioners, the main pitfall of the EWS is the possibility for the European Commission to maintain its legislative proposals unchanged, regardless of the opinions delivered by the national chambers within this scheme. This notwithstanding, these officials tend to express scepticism towards a hypothetical enhancement of the EWS, and at the same time they would support improvements in the political dialogue, which is an informal exchange of views between the European Commission and national parliaments that goes beyond subsidiarity concerns.

In summary, previous studies on the EWS link the mechanism to a number of positive effects, such as “ensuring democratic input into the EU policy processes” (Raunio, 2005: 2) or achieving from the Commission better explanations of the reasons for new EU legislation (Borońska-Hryniewiecka, 2021: 5; Raunio, 2005: 6; Raunio, 2010: 13). It has been argued that “the democratic legitimacy of the EU has been enhanced if the EWS has increased the influence of national parliaments within the EU’s legislative process” through “political bargaining” to stop a new EU law, or alternatively through “policy arguing” to influence its contents (Cooper, 2019: 920-921). A relevant constructive outcome of the subsidiarity mechanism from a supranational perspective would be enriching the contribution of national parliaments on EU issues as multilevel actors through both the political dialogue with the European Commission (Borońska-Hryniewiecka, 2021: 6) and an enhanced cooperation with the European Parliament (Fromage and Kreiling, 2017: 144). This latter institution has recognized that “the implementation of the right of national parliaments to scrutinize

compliance with the principle of subsidiarity, on the basis of the so-called early warning system, has partially improved relations between the EU institutions and national parliaments” (European Parliament, 2021: 23).

In addition, the EWS might have promoted the Europeanisation of some national parliaments, including their administrations (Auel and Neuhold, 2018; Christiansen, Griglio and Lupo, 2021; Christiansen, Högenauer and Neuhold, 2014; Cooper, 2012; Högenauer, 2021). It has been stated that “working parliaments can adapt much more easily to the challenge of scrutinising large numbers of documents under the EWS than speaking parliaments” and, also, that “the increased workload is likely to give rise to a greater involvement of sectoral committees, replacing the past ‘monopoly’ of European Affairs Committees over EU affairs” (Christiansen, Högenauer and Neuhold, 2014: 127). It must be noted that, at present, most national chambers have a “central EU unit” that helps all committees with regard to EU affairs (Högenauer, 2021: 11).

Ultimately, although the EWS has delivered in terms of orienting some national chambers to EU affairs and improving their access to incoming EU legislation, according to our novel evidence gathered from the administrative representatives of national parliaments in Brussels, the subsidiarity mechanism is trivial from its very inception, and in a nutshell, the most valuable benefits derived from it would remain in place merely with the political dialogue.

6. REFERENCES

- Ares, C.; Patiño, H. (2022). *The EWS as an instrument of multi-level democracy according to the European Commission's replies to the individual ROs*. Draft paper presented at the 11th Biennial Conference of the ECPR Standing Group on the European Union (SGEU), 8-10 June, Luiss University, Rome.
- Auel, K.; Neuhold, C. (2017). Multi-arena players in the making? Conceptualising the role of national Parliaments since the Lisbon Treaty. *Journal of European Public Policy*, 24(10), 1547–1561.
<https://doi.org/10.1080/13501763.2016.1228694>
- Auel, K.; Neuhold, C. (2018). *“Europeanisation” of National Parliaments in European Union Member States: Experiences and Best-Practices*. Study for the European Parliament's Greens/EFA Group.
https://irihs.ihs.ac.at/id/eprint/4746/1/Study_Europeanisation_June-2018.pdf

- Borońska-Hryniewiecka, Karolina (2021). Beyond Legislative Veto Power: The Transformative Effects of the Early Warning for Subsidiarity Control Ten Years Down the Line. *Política y Sociedad*, 58(1), e71934.
<https://doi.org/10.5209/poso.71934>
- Christiansen, T.; Griglio, E.; Lupo, N. (2021). Making representative democracy work: the role of parliamentary administrations in the European Union. *The Journal of Legislative Studies*, 27(4), 477-493
<https://doi.org/10.1080/13572334.2021.1976948>
- Christiansen, T.; Högenauer, A.; Neuhold, C. (2014). National Parliaments in the post-Lisbon European Union: Bureaucratization rather than Democratization?. *Comparative European Politics*, 12(2), 121-140.
<https://doi.org/10.1057/cep.2012.38>
- Cooper, I. (2012). A “Virtual Third Chamber” for the European Union? National Parliaments after the Treaty of Lisbon. *West European Politics*, 35(3), 441-465.
<https://doi.org/10.1080/01402382.2012.665735>
- Cooper, I. (2015). A yellow card for the striker: national parliaments and the defeat of EU legislation on the right to strike, *Journal of European Public Policy*, 22(10), 1406-1425. <https://doi.org/10.1080/13501763.2015.1022569>
- Cooper, I. (2019). National Parliaments in the democratic politics of the EU: the subsidiarity early warning mechanism, 2009-2017. *Comparative European Politics*, 17, 919-939. <https://doi.org/10.1057/s41295-018-0137-y>
- Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services.
<https://eur-lex.europa.eu/eli/dir/2018/957/oj>
- European Commission (2022). *Annual Report 2021 on the Application of the Principles of Subsidiarity and Proportionality and on Relations with National Parliaments*, Brussels, 1.8.2022 [COM (2022) 366 final]. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52022DC0366>
- European Parliament (2021). *Resolution on European Union regulatory fitness and subsidiarity and proportionality - report on Better Law Making covering the years 2017, 2018 and 2019 (2020/2262(INI)) (2022/C 81/06)*.
https://www.europarl.europa.eu/doceo/document/TA-9-2021-0316_EN.pdf

- Fromage, D. and Kreiling, V. (2017). National Parliaments' Third Yellow Card and the Struggle over the Revision of the Posted Workers Directive. *European Journal of Legal Studies*, 10(1), 125-160.
<https://cadmus.eui.eu/handle/1814/48071>
- Högenauer, A. (2021). The mainstreaming of EU affairs: a challenge for parliamentary administrations. *The Journal of Legislative Studies*, 27(4), 535-553.
<https://doi.org/10.1080/13572334.2021.1965364>
- Huysmans, M. (2019). Euroscepticism and the Early Warning System. *Journal of Common Market Studies*, 57(3), 431-447.
<https://doi.org/10.1111/jcms.12809>
- Neuhold, C.; Högenauer, A. (2016). An information network of officials? Dissecting the role and nature of the network of parliamentary representatives in the European Parliament. *The Journal of Legislative Studies*, 22(2), 237-256.
<https://doi.org/10.1080/13572334.2016.1163884>
- Proposal for a COUNCIL REGULATION on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services /* COM/2012/0130 final - 2012/0064 (APP).
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52012PC0130>
- Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 96/71/EC of The European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services COM/2016/0128 final.
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016PC0128>
- Raunio, T. (2005). Much Ado About Nothing? National Legislatures in the EU Constitutional Treaty. *European Integration online Papers (EIoP)*, 9(9).
<http://eiop.or.at/eiop/pdf/2005-009.pdf>
- Raunio, T. (2010). *Destined for Irrelevance? Subsidiarity Control by National Parliaments (WP)*. Working Paper 36/2010, Elcano Royal Institute Madrid.
<https://media.realinstitutoelcano.org/wp-content/uploads/2021/11/wp36-2010-raunio-national-parliaments-subsidiarity-control.pdf>
- Van Gruisen, P.; Huysmans, M. (2020). The Early Warning System and policymaking in the European Union. *European Union Politics*, 21(3), 451-473.
<https://doi.org/10.1177/1465116520923752>

7. APPENDIX

Questionnaire for the administrative representatives of national parliaments in Brussels

Thank you very much for your contribution to this study, whose results will serve exclusively for academic purposes.

This research aims to enrich academic understanding of how the representatives of national parliaments in the European Parliament (EP) work within the framework of the Early Warning System (EWS).

The study does not deal with the positions of national parliaments, but it is focused on the points of view of their liaison officers, in their capacity as transnational practitioners.

The questionnaire covers the following sections:

Section 1: Activities within the framework of the EWS

Section 2: Assessment of the EWS

Section 3: Career

Section 1. Activities within the framework of the Early Warning System (EWS)

List of questions:

Q.1.1 Vis-à-vis your role within the framework of the EWS, how important are the following aspects? *Choose one response per aspect (1= of little importance; 5 = of immense importance)*

	1	2	3	4	5
Summarising/forwarding information					
Delivering early technical opinions and advice					
Collaborating to prepare debates in your national parliament by preselecting key documents					
Using academic publications and data					
Employing scientific methods to deliver new data and/or academic analyses, and/or publishing pieces of research/policy analyses					
Delivering technical opinions and advice following national debates					
Promoting collaboration between different national chambers/parliaments					
Exchanging views with other members of the network of representatives of national parliaments in the EP <u>on the grounds of subsidiarity</u>					
Exchanging views with other members of the network of representatives of national parliaments <u>on the substance of EU laws</u>					

Q.1.2 How often do you collaborate with other administrative representatives of national parliaments in the EP to accomplish your work regarding the EWS? *Select one option.*

1 (Never)	2	3	4	5 (On almost every dossier)
-----------	---	---	---	-----------------------------

Q.1.3 How often do you agree with other administrative representatives of national parliaments in the EP when assessing a legislative proposal on the grounds of subsidiarity? *Select one option.*

1 (Never)	2	3	4	5 (On almost every dossier)
-----------	---	---	---	-----------------------------

Q.1.4 How often do you collaborate with other administrative representatives of national parliaments in the EP in your day-to-day routine beyond the framework of the EWS? *Select one option.*

1 (Never)	2	3	4	5 (On almost every activity)
-----------	---	---	---	------------------------------

Section 2. Assessment of the EWS

List of questions:

Q.2.1 How would you assess the following statements? *Choose one answer per statement.*

	Very favourably	Quite favourably	Neither favourably nor unfavourably	Rather unfavourably	Very unfavourably
The EWS is a burden for national parliamentarians (NPs)					
NPs should be given a greater say on the substance of EU laws					
National parliaments should be granted legislative initiative vis-à-vis EU laws					
The EWS does not reach citizens					
Many national parliaments need more experts on EU affairs for sectoral committees					
Many national parliaments need to strengthen their legal units					
Many national parliaments need to strengthen their documentation/ research units					
Many national parliaments should act more independently from their governments on EU affairs					

Q.2.2 To what extent do you agree with the following statements on the EWS? *Choose one answer per statement.*

	Agree strongly	Agree	Neither agree nor disagree	Disagree	Disagree strongly
The EWS has improved access to information on EU laws					
The EWS delivers valuable information from the side of the national parliaments					
The EWS has contributed to the Europeanisation of national parliaments					
National parliaments have gained capacities for being aware of EU issues because of the EWS					
The EWS may indirectly improve the perceptions of citizens regarding EU laws					
The EWS is unnecessary because EU laws do not breach subsidiarity					
The EWS is ineffective					
A positive effect of the EWS is the enriching of the political dialogue between the national parliaments and the European Commission					

Q.2.3 How would you assess the following proposals for institutional reform? *Choose one answer per reform.*

	Very favourably	Quite favourably	Neither favourably nor unfavourably	Rather unfavourably	Very unfavourably
Adding concerns about proportionality and legal basis (conferral) to the EWS					
Extending its eight-week deadline					
Suspending the EWS because of its futility					
Reinforcing the political dialogue					

Section 3. Career

List of questions:

Q.3.1 For how long have you been working as a representative in the EP?

Number of months:

Q.3.2 Prior to your appointment as a representative in the EP, did you have any expertise on EU affairs? *Select all the answers that apply.*

<input type="checkbox"/>	Yes, I had earned a bachelor's and/or a master's degree in the field of EU affairs
<input type="checkbox"/>	Yes, I had gained expertise on EU affairs within the parliament I work for at the national level prior to my appointment as a representative in Brussels
<input type="checkbox"/>	Yes, because of other reasons
<input type="checkbox"/>	No, I had no expertise on EU affairs prior to my appointment as a representative in the EP

Q.3.3 How often do you engage in the following actions? *Choose one answer per statement.*

	Never	Once a month	Once a fortnight	Once a week	Several times per week
Negotiate on behalf of your national chamber					
Take decisions on behalf of your national chamber					
Contact another member of the staff of your national chamber who is working at the national level					
Go back to your national chamber					

Q.3.4 The Member State of the parliament you work for is:

	Austria
	Belgium
	Bulgaria
	Croatia
	Cyprus
	Czech Republic
	Denmark
	Estonia
	Finland
	France
	Germany
	Greece
	Hungary
	Ireland
	Italy
	Latvia
	Lithuania
	Luxembourg
	Malta
	Netherlands
	Poland
	Portugal
	Romania
	Slovakia
	Slovenia
	Spain
	Sweden