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of European Senates*

# 18<sup>th</sup> MEETING OF THE ASSOCIATION OF EUROPEAN SENATES

Ljubljana, 1-2 June 2017



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**Thursday, 1 June 2017**

Opening of the 18<sup>th</sup> Meeting



**Mitja Bervar, President of the National Council of the Republic of Slovenia,  
President of the 18<sup>th</sup> Meeting of the Association of European Senates**

Welcome in our midst. It gives me great pleasure to be able to greet you on behalf of the National Council of the Republic of Slovenia. I thank you very much for participating at the 18th meeting of the Association of European Senates. Sadly, the representatives of United Kingdom and Italy because of other pressing engagements could not participate. Additionally, we have invited the president of the Irish senate that the Irish senate submits a request for membership in the Association of European Senates, so that at this meeting we could vote on their membership in our association. We have received a response of the president of the Irish senate, saying that he is positively disposed towards the Association of European senates, and that he is actively analyzing the question of membership of the Irish senate. He expressed openness to future cooperation with the Association of European Senates, and wished us a pleasant conference. His response is included in your material.

The National Council is a founding member of the Association of European senates and is organizing a meeting for the second time. The first time was in 2002 as the meeting took place at the headquarters of the National Council in Ljubljana. We have made a decision that this meeting should be organized at the Brdo Congress Center next to the eminent and historically significant renaissance castle Brdo. I would also like to inform you that in 2001 this building hosted an exceptional event between the American president G.W. Bush and Russian President Vladimir Putin. The Congress Center Brdo was built as Slovenia presided over the European Union in 2008, and we hosted a meeting at the highest European level. Since, it has been used for conferences such as today's meeting of the Association of European Senates. The congress center is very useful, but its expansion is planned for the next presiding of Slovenia over the European Union in 2021. The opportunity for the National Council at the 25th anniversary of its functioning to host this meeting, is very important and eminent for us. We are very proud, so I would like to thank you all for your participation.

For an efficient functioning of the parliament in modern democratic states it is very important that both chambers in bicameral systems cooperate. Almost all countries with bicameral systems are experiencing the famous antagonism between the upper

and lower chamber. In Slovenia, we would like to emphasize the great cooperation between the National Council and the National Assembly that have headquarters in the same building - The Parliament. We wish to nurture these good relations in the future, so I have invited to our meeting the president of the national assembly, Dr. Milan Brglez.

***Milan Brglez, President of the National Assembly of the Republic of Slovenia***

I would like to warmly welcome you all to Slovenia at the 18<sup>th</sup> meeting of the Association of European Senates. I would like to emphasize how glad I am that the National Council can host this event at the 25<sup>th</sup> anniversary of its founding, which coincides with the founding of the National Assembly of the Republic of Slovenia. The main question as the theme of this meeting regarding the need for a bicameral European parliament is not only interesting, but very ambitious. Why ambitious? You are probably aware of the position of European cooperation. It is facing challenges that were only a few years ago unimaginable, challenges resulting from one of the member states leaving the European family, and challenges of global events combined the inability of the European Union to react appropriately, timely, and uniformly. While taking into account the mentioned challenges and the fact that after last year's Brexit only 27 different, individual member states remain, I believe that discussing a bicameral arrangement at the level of European parliament is a very ambitious task.

The execution of bicameralism in practice, its execution, is everything but simple. Bicameralism, based on division of power and cooperation in decision-making, first appeared in this form in the antique Greece and Rome, and as such correspondingly had a great influence on European philosophers and thinkers in the middle ages. The value of democracy added to bicameralism a new level of checks and balances, enabled an opportunity for additional discussion for adopted legislation, prevented rashness and enabled better quality legislation. To use the words of **victor hugo**, as Christian Poncelet did at the founding of the Association of European Senates: two heads think better than one. In theory, the mentioned seems logical and extremely simple, something, without which a well-functioning democracy and high-quality representation system can barely be imagined. Practice is oftentimes very different. Even our, the Slovenian experience, can be a good example. 25 years ago, as we set off to the path of independence and sovereignty, we pondered over the question of unicameralism or bicameralism. We have finally reached a compromise, with which both the National Council and the National Assembly gained a place in the Slovenian Constitution. Although we have placed the National Council in a different, perhaps even unequal position compared to the National Assembly, it holds and

important role. It was formed and envisaged as an institution, which will as a body of profession, theory and education, counter the overreaching influence of partisan politics in adopting legislation in the National Assembly. It was imagined as an institution that will contribute to a smarter government, higher quality legislation and decrease of democratic deficit in the country. In the years after establishing the system of asymmetric or imperfect bicameralism we gained a broad range of experience, including the unsuccessful effort to terminate the upper chamber in Slovenia. Whether these experiences are good or bad, they are all valuable and key for the development of parliamentarism.

With this short description of Slovenian bicameral parliamentary system, I only wanted to warn on the difficulties of theme that will be discussed in the next two days. Current time is unfortunately extremely unstable and unpredictable. With the changing of the world and developments in our neighboring regions, the needs and ways of cooperation, response and decision-making change within each state, and also on the level of European Union. The question whether bicameralism in Europe really is necessary, is a question that is of key importance for the European Union, yet is occurring at an unsuitable time. Even more complicated is a resulting question whether such bicameralism could be executed. I am not sure what the answer to the latter is, at least in short-term. Member states have multiple varying, sometimes completely polarizing interests. However, Brussels and the European community are not closely linked, as many critical citizens of the European Union point out. It is therefore justified to doubt whether the introduction of bicameralism would result in an improvement of the quality of decision-making, democratic processes, and citizens' lives.

Dear guests, I believe that with close cooperation and open communication among chambers of individual states, as well as through inter-parliamentary cooperation among other countries we shall find the answers to as complicated dilemmas, as is today's agenda.

Let there not lack the awareness, that usually especially small, slow steps are the ones that lead to strong, lasting and wide decisions. At the end, I would like to wish you an interesting, lively and fruitful discussion. Thank you for your attention, enjoy your stay in Slovenia.

**Thursday, 1 June 2017**

Seminar: The European Senate – The road  
towards a closer link with EU citizens?





***Mitja Bervar, President of the National Council of the Republic of Slovenia***

Last October's meeting of European senates in Bern encouraged me to consider in depth the content of this year's meeting here in Slovenia. We are currently faced with the constant strengthening of legitimate demands from European citizens for structural changes to be made to European institutions that would allow a wider circle of citizens to exert more influence on the decisions that affect all of us. On the other hand, the experiences gained over 25 years of existence of the National Council, the asymmetrical "second home" of the Slovenian parliament, allow us to discern certain advantages that a bicameral parliamentary structure could bring to the European Union as well. These experiences show that the bicameral system has more strengths than it has weaknesses.

By placing the National Council in a constitutional context, the fathers of the Slovenian Constitution subtly recognised that, under a parliamentary democracy, a bicameral system could offer certain solutions by reducing the democratic deficit, which is one of the key criticisms made by citizens when they consider their relationship to national representative bodies and to the European Union as a whole. The development of Slovenian democracy over the last quarter of a century has shown how important it is to bring as wide a selection of social interests to parliament as possible; this contributes to the formulation of better policies – policies that resonate more readily with citizens.

What I have in mind here is the voice of civil society, which has gained important recognition within Slovenian society through this second chamber and has managed to influence the process of formulating legislative solutions. The experiences that I have had in my five years as president of the National Council also demonstrate that it not only establishes links between politics and the needs of civil society as represented by societies, associations and the like. State authorities, ministries, the Human Rights Ombudsman, the Court of Audit, the European Commission and the European Parliament are also increasingly asking the National Council for help in compiling expert consultations aimed at formulating well-argued conclusions within an open dialogue that involves political, professional and civil-society stakeholders, thereby helping to improve legislative solutions.

Last year, the European Commission's representative in Slovenia also turned to the National Council. Together we organised a very popular conference on a topic of great importance for Slovenians and for Europeans in general: the European pillar of social rights.

One important positive experience of the National Council over the last 25 years, and one I wish to highlight, is that this second parliamentary chamber represents a tried and tested, perhaps even exemplary, potential for interaction within the civil society-legislature-executive triangle. The reason for this lies in the composition and competences of the National Council, which are unique and innovative.

Please allow me a brief excursion into the part of the Constitution that sets out the composition of the National Council and its place within the constitutional structure. The Constitution established the National Council as a unique representative of interests, and it has been serving as the point of contact between the interests of Slovenian society for 25 years now. In contrast to the National Assembly, which represents political groupings, the National Council represents a highly varied spectrum of interests: 18 representatives of functional interests and 22 representatives of local/territorial interests. It is also important to note that it is in the National Council that local communities enjoy their highest level of nationwide representation, since mayors are no longer permitted to serve as National Assembly deputies.

The National Council sets out its positions on the social and political questions it receives from civil society, pointing out any major substantive and developmental shortcomings in the process, and works to establish those positions constructively at the National Assembly and among the general public. The National Council is therefore an important element of the system of checks and balances, and its power of veto enables the National Assembly to reconsider legislative solutions. The National Council regularly discusses all legislation and sends the National Assembly, and its working bodies, opinions regarding all matters within its sphere of competence. We have sent over 3,000 opinions to the National Assembly and its working bodies. These opinions contain, among other things, proposals for amendments, which the National Assembly's working bodies then adopt as their own and insert into draft laws. I should point out that the National Council's influence on

the quality of adopted legislation is evident not only via its power of veto, but primarily via its entitlement to give opinions, which arise through the close interaction of specialist elements of civil society and those with a particular interest in a specific issue.

Although there are differences between the first and second chambers in terms of the way they are composed, there is an objective common to both: to work together to formulate the best possible legislation. This is also an important starting point for the parliamentary work we undertake together.

I should point out at this juncture that the classic democracy we have known up to now has, in recent times, been faced with challenges that will likely require new approaches, new mechanisms of decision-making and new ways of defending its basic tenets. If we fail in this process, we will lose one of the bulwarks of democracy and the promoter of positive interests in society. There are currently numerous examples of extremism at play across Europe and a new division of power within the international community, while individuals and groups, in trying to defend and exercise their interests via established mechanisms, are failing to pay due regard to the broader well-being of society.

As I said at the outset, our experience is that a bicameral parliamentary system can, in a representative democracy, provide certain solutions in terms of reducing the democratic deficit.

Therefore, one of the possible scenarios for the future development of the European Union and European Parliament, and one that, in my opinion, deserves thorough consideration, is the development of parliamentarism towards a bicameral system. The establishment of a second chamber at the European Union level would provide a link between national parliaments and the EU, leading to a reduction in the democratic deficit. A second chamber would provide better balance between centralised EU institutions and could, because of its composition, become an element of decentralisation. The placing of Member States' institutions alongside those of European Union citizens in a bicameral arrangement is something that politicians from several larger European countries have argued for in the past. Former German foreign minister Joschka Fischer and British prime minister Tony Blair spoke in favour

of this idea in 2000, and were joined in 2001 by the then French prime minister Lionel Jospin. The idea was also supported by Czech president Vaclav Havel.

By searching for methods for and paths towards strengthening citizens' trust in institutions, parliamentarism might give the European idea and European practice new impetus towards bicameralism, and therefore improve the quality of parliamentary work at the European Union level and better incorporate civil society into the legislative procedure. Bicameralism would expand the possibility of reaching better compromises and provide a better balance of power, represent territorial units more equally, and so on. The experiences and positions of the presidents of senates from the member countries of the Association of European Senates can make a particularly valuable contribution towards the search for possible solutions.

As a country of two million, Slovenia wants a strong European Union. We live in a turbulent world and the challenges facing the nations of Europe, large and small alike, are perhaps greater than ever before. We have to realise that the European family will only be stronger in the future in so far as every European citizen is able to identify with it and its decisions. We therefore need, more than anything, proposals for changes that will open up a space for "more Europe" within the hearts of every European citizen. This means the launching of new challenges, including the idea of bicameralism at the European level. And just as the National Council is a constituent part of our young democratic system, so a bicameral European Parliament could improve decision-making for all Europeans. I believe, indeed am convinced, that the discussions at this year's meeting will contribute a great deal to consideration of this issue.

***Franz Grad, Professor of Constitutional Law***

The opportunity to stand here in front of you is very dear to me and is a great honor. This is not simply because you are all representatives of upper chambers of your national bicameral systems, but also because I have throughout my career paid great attention to parliaments and especially upper chambers. Why the upper chamber? Lower chambers are almost indistinguishable. Upper chambers vary to a great extent, as they stem from different traditions, cultural communities, follow different goals and represent different interests. Additionally, I am glad to be here, as I was a member of a working group that prepared a draft of the Slovenian Constitution, from which the National Council of the Republic of Slovenia originates. I am very glad that the National Council was able to overcome the initial mistrust and was successful in establishing itself as holding an important, active role; even greater as initially foreseen. It is not my intent to speak of our upper chamber, of our National Council, but to speak about the Road to a closer link with citizens of the EU.

The European Union is a very special, complex, complicated group. Consequently, positions on its past, present and future development are very different, and rightfully so due to the complexity of the organization itself. However, we all recognize one fact; the European Union is now facing some sort of an institutional crisis that is in my opinion expressed through the functional crisis of the past years. I will try to illustrate this very simply. If such a complicated, yet fragile organization as the European Union is suddenly faced with a problem, and a responsible organization is not determined in the contracts of the European Union, the entire organization is unable to resolve the problem. The institutional framework therefore does not fit the present and most likely also future development. I am noticing that questions on institutional or constitutional arrangement of the European Union are yet again being brought up.

The question of bicameralism is one of the key topics in this matter. Why? The Union has from the very beginning been facing two increasing difficulties. The first is the efficiency, and the second is democracy. The European Union suffers under both; however, its scope has been increasing. Its duties increase as well, and correspondingly the authority of the European Union is greater and becoming more and more similar to the authority of a federal country with an apparatus to adopt laws without input of member states, an apparatus that enforces these laws as laws

superior to laws of member states; the principle of primacy in case of a conflict is enforced directly. What does this arrangement resemble? A federation. Of course the word federation is problematic, as it suggests that member states will lose their sovereignty. However, an old saying says: You cannot fry an egg without breaking it. Correspondingly, it is impossible to have an arrangement of uniformed enforcement, execution and legislation, without losing a part of sovereignty. Sovereignty of states has to a great extent already been lost, of course in a way that is largely opaque. My position holds that in practice the European Union operates as a federation, although it is not a federation, but an international organization. And this is precisely its greater challenge, as this model of international organization no longer fits its duties – duties of mutual authority that was established within the European Union. What can we do about this? I believe that it is precisely bicameralism that could act as a solution to this situation. Through bicameralism, both constitual elements of the European Union could be expressed. These are citizens of the European Union, and member states. These two constitual elements must be expressed at the legislative, institutional levels and the executive level of the European Union. At this moment, we have the European parliament and the Council of Europe. The latter acts according to principles of international law, international cooperation and execution, and is still the main body of decision-making. The European parliament is the hope for democratic development of the European Union, as it is the most democratic body. From 1979 it has been directly elected, however, does it fit the democratic standards of functioning and structure? I think not. There was of course a compromise, a large step forward towards democratization of the European Union; however, it is still not perfect. It should have been shaped according to the principle of equal voting right. In the Parliament, citizens of some states have a significantly weaker voting right than others. This is the case for citizens of larger countries, whose voting right is much weaker than that of citizens of smaller countries. This may seem democratic, as no large or small country is favored, however, we all know how this is arranged in a federal state, in which just like in the European Union, the two constitual elements are the citizen on one hand, and the federal unit on the other, may that be a state, a republic, a canton. The solution is bicameralism. In bicameralism one chamber represents citizens according to the principle of equal voting right – each representative is elected for the same number of residents. In the other chamber, the representation of federal units is also equal. If we wanted to establish such a

framework within the European Union, we should follow this model of equal representation of citizens in one chamber, and an equal representation of states in the other chamber, as well as equal jurisdictions of both chambers. It may sound bold, as the European Union is still an international organization, and countries cannot simply give up their sovereignty. Brexit is only one example. The country that has in the past lead an empire, greater than the entire European Union, can hardly be content with a position of a merely federal unit. I believe that the rejection of this path of the European Union would mean its demise, since the current situation is unlike that at the formation of the European Union. The stakes today are the existence in this world and our civilization. There is of course hope, but it is a hope of closer links and of transparent and efficient decision-making. I, as a constitutional law professor, support the notion that the European Union rethinks its constitution. Perhaps the moment in the past was not right, when a constitution was accepted but not ratified, and the idea collapsed. The idea of such a constitution still remains alive, and it may be today that the idea of a constitution, allowing for a transparent structure, more democratic and effective decision making of the European Union, should be revived. We need a constitution, because it would lead us forward. It is clear that a constitution of a real federation is impossible; however, it can include the main benefits of a federation, combined with the fact that the European Union already fulfills important duties of a federation. At this point I would also like to welcome the so called Petition of Ljubljana for a new draft for the constitution of the European Union.

***Milan Stech, President of the Czech Senate***

I was asked to deliberate on the topic of creating the second chamber of European Parliament in front of this respectable gathering. It is important to inform you in advance that I do not support this idea in the next couple of years. I shall try to explain my reasons for such opinion in the time allocated to my contribution. I think that a critical view can be of substantial benefit to the debate on this particular topic.

Firstly, I am of the opinion that the system of institutions of European Union is so specific that one cannot simply transfer the domestic models into this sophisticated system. And I say this even though recent history has clearly shown us how important the upper chambers can be in the respective constitutional systems in terms of stabilisation potential.

The Parliament of the Czech Republic is an example of a successful model of bicameral system the structure of which learned from deficiencies of bicameral system of former Czechoslovak republic implemented between 1920 and 1939. The Senate is a very successful constitutional safeguard. The majority election system with single-mandate constituencies and higher election age differentiates the Senate itself as well as the social profile of the Senators from the composition of the Chamber of Deputies elected by means of a proportional election system. The term of office in the respective chambers is also different and since the Senate cannot be dissolved and one third of Senators is elected every two years, we can hardly come across a situation many of you know from your own experience, that is the upper chamber will have approximately similar political composition as the lower chamber, which in effect significantly reduces the scrutiny and balancing function of the upper chamber. Moreover, the gradual alteration of the composition of the Senate allows for moderating the deviation in election preferences and short-term successes of populists respectively.

The Czech Senate cannot block the will of the Government and its majority in the Chamber of Deputies when it comes to ordinary matters. However, it is impossible to change the Constitution and Electoral Laws without the consent of the Senate. Furthermore, the Senate also approves fundamental international legal matters. In case of dissolution of the Chamber of Deputies, the legislative power in urgent matters is not transferred to the Government or other bodies of the executive branch,



but it is the Senate that is authorised to adopt legal measures that are subject to additional approval of the newly elected Chamber of Deputies. The Constitutional Court judges are appointed by the President of the country with the approval of the Senate.

However, I can hardly see space for the second chamber in the European Union.

The current system of EU institutions is far too complicated already, let alone the fact it is hard to understand for ordinary people. Discussions on establishment of the second chamber of European Parliament have already started at the end of 1970's after introduction of direct election of MEPs. Any expectations connected with such proposals intended to introduce scrutiny or correction of the European legislative process with the ultimate effect of reinforced democratic legitimacy of European Union are not realistic now, in my humble opinion. Although I do not want to reduce the indisputable importance of the European Parliament, one needs to understand that direct election to the European Parliament and subsequent reinforcement of its competencies neither resolved the issue of European Union's democratic deficit, nor it motivated the public's urge for even closer integration. So why should we think that with creation of yet another directly elected body of the European Union the history of European Parliament is not to be repeated?

We would face issues already during the debate on composition and functions of this body. Present proposals for establishment of the second chamber of European Parliament diverged quite substantially when it comes to these issues. However, there is one certainty – an agreement would be very difficult to be found. After all, we witnessed first-hand how painful the birth of significantly smaller institutions with practically no decision-making powers, such as the Interparliamentary conference on Common Foreign and Security and Security and Defence Policy, Conference on stability, economic and financial governance of the EU, or the Joint Parliamentary Scrutiny Group for Europol could be.

Former Czechoslovak and Czech president Václav Havel was one of the strong supporters of the second chamber of European Parliament. He envisaged the upper chamber as a House of delegates from national parliaments. Each country was supposed to be represented by the same number of members. This was meant to ensure sufficient engagement of national parliaments into the European decision-making process on the condition of absolutely equal representation of member

states. However, I believe this concept causes many issues on which I would like to deliberate further.

The European Council can be practically considered the second chamber of European Parliament right now. It consists of representatives of governments of individual member states, similarly to the German Bundesrat. However, the votes of individual countries in the Council do not have the same weight. What impact would formation of European Senate have on the role of the Council?

Provided the Council is maintained, the European Parliament would become tricameral. Member states would be represented in two independent bodies protecting their own particular interests. The question is whether this would represent an added value or not. In my opinion, the decision-making process would be far more complicated making it extremely difficult for the citizens to find their way through.

And even the potential replacement of the Council by a body consisting of representatives of national parliaments does not appear as a suitable solution to me. The Council is not only the body protecting the interests of individual member states, but it is also a body that brings in the knowledge from domestic policies and from our common legal environment into the European legislative process, which is necessary for subsequent application of EU legislation in individual member states, which is something the Commission lacks especially in the new common EU law areas. National administrations correct many legislative errors within the Council and often evince the Commission's and EP's proposals into realistic limits. This is only possible owing to very strong departmental specialisation. Also, one should not omit the role of the Council when it comes to drafting common policies with respect to third parties. A body consisting of representatives from national parliaments would certainly not be able to play such role with dignity

The other question is whether or not the national parliaments should have the capacity to direct and scrutinise contributions of their representatives in the newly established parliamentary body. If such a body shall replace the Council of Ministers, this would only lead to undermining the role of national governments and their detachment from European politics, which I would personally consider to be very dangerous. On the other hand, tying the delegates' hands with strict mandates – often in the interest of uniform national position – would be counterproductive simply

because it would paralyse the decision-making processes in the body they constituted.

What would probably make more sense than a chamber consisting of delegates from national parliaments is a second chamber elected at large by citizens of individual member states. However, we do have this system implemented in case of the European Parliament. Our experience with this system is mixed and we would only create a duplicity. MEPs find it very difficult to establish contacts with their voters. The voters claim MEPs are too distant while being subject to concentrated lobby on the European level. Creating a second body of similar type would hardly resolve this type of problems. On the contrary, it would make the situation even worse. As you all probably know, the European Parliament consistently promotes introduction of pan-European lists of candidates. This would be absolutely logical in case of establishment of the second chamber elected in individual member states. However, I am afraid that if we asked our voters to vote for foreign politicians speaking different languages, we would rather harm the democratic legitimacy of European Union.

To summarise, introduction of the second chamber would most likely lead to weakening of influence of national parliaments instead of to reinforcement of their impact.

I can tell you that back home in the Czech Republic the idea of bicameral European Parliament would not gain any support especially if it related to further global deepening of integration. I even dare to say that the citizens of not only the Czech Republic would perceive this as yet another needless increase of the number of European officials. This is also the reason why the Czech Senate is not advocating for creation of new and formal assemblies even on regional level, for example within the Visegrad group. The Czech Senate rather prefers flexible co-operation of individual committees and meetings on topical issues.

I am convinced that the potential reforms of EU institutions shall mainly focus on rational settlement of member states' interests in order to make clear who is responsible for what.

As far as national parliaments are concerned, their main tool for influencing European policies is the scrutiny over their governments in the European Council assuming the voice of individual states is not weakened in this body. The second way in which the

national parliaments shall go with respect to European matters is their approach towards individual bodies of European Union. The parliamentary scrutiny over the principle of subsidiarity introduced by the Lisbon Treaty is of key importance in this respect. Our current experience with this mechanism is not very satisfactory. Since the so-called yellow and orange card respectively assume one third majority for approval of reasoned opinions and majority of all parliamentary chambers respectively, this mechanism is often referred to as the “virtual parliamentary chamber” in the European legislative process. Not even the opposition of majority of national parliaments does not oblige the Commission to amend or withdraw the proposal. Hence the question is whether or not to return to the debate about so-called red card while allowing significantly numbered group of national parliaments to veto the Commissions’ proposal in exceptional cases. This idea is naturally not the subject of our today’s discussion, but it also has certain pitfalls. However, it is apparent that this type of considerations does really have a much better chance to really reinforce the position of national parliaments.

**Ankie-Broekers-Knol, President of the Eerste Kamer der Staten-Generaal**

In recent decades the idea of creating a European Senate as an institution within the European Union has been elaborated in several documents, both from national parliaments and from research institutions. Most of these are not of very recent date. In fact they date from at least 10 to 15 years ago. May I start with the disclaimer that the thought of a European Senate has never been discussed in my Senate, the Senate of the Netherlands. My remarks therefore will be of a more personal nature and I am only personally accountable for them.

Whenever we scrutinise a proposal in the Dutch Senate, we always begin by asking ourselves two questions:

1. What is the problem?
2. Can this proposal fix it?

In the discussion of today on the proposals for a European Senate, I will do just that.

As for the first question: the underlying problem the different proposals hope to address is the growing disconnection between the EU and its citizens.

This is an issue we talked about during previous EU Speakers-conferences and that will be central to the discussion on the future of Europe.

In the current discussion, the term 'democratic deficit' is often used. The term 'democratic deficit' however, refers to a lack of formal representation in the decision-making process. But that is not the real problem. Citizens are formally represented in their national parliaments, their governments, and the European Parliament. Therefore, the problem can better be described as a lack of connection - a disconnection - between EU citizens and EU institutions.

Now, the disconnection between citizens and the EU has a number of reasons.

One important reason has to do with the EU '*doing the right thing*'. We have come to realize that the European Union has spent too much time on the small issues and too little time on big issues. As President Juncker stated at the beginning of the term of his commission: "*The new commission has the ambition to show European citizens*

*that its focus will be on the major issues, and leave the other issues to the member states."*

What matters now, is the focus of the political agenda of the EU, and national parliaments have an important role in that matter. I'll return to that point later on.

Another reason for the disconnection, is the complexity and lack of transparency of the EU's institutional architecture. In the increasingly globalised world of today, there is a lot of uncertainty about the future of the EU, and a feeling that people have no control over that future through the democratic process.

Despite the fact that the EU has been hugely successful in raising the standard of living of its citizens, citizens do not feel the EU institutions sufficiently respond to their concerns. They do not feel their voices are being heard.

This brings me to question number two: how can a European Senate fix it? How can a European Senate fix the problems I just mentioned?

Founding a European Senate would add a third source of democratic legitimacy on a Union-level. The first source being the Council of Ministers as the voice of national governments. The second source being the European Parliament, as the elected voice of all Europeans. A third source, introducing a European senate, would be an addition to the democratic process as a solution for the problems I just mentioned.

In my opinion, a European Senate would not help but only hinder the democratic process. And it will most certainly not solve the disconnection between the EU and its citizens.

I will give you four reasons why I believe that. And I will also tell you what I think can actually contribute to solving the problems.

The first reason why I believe a European Senate cannot solve the disconnection, is that I believe the problem has more to do with lack of connection, rather than process.

Adding yet another institution to the collection cannot solve this. In fact, it will only make the decision-making process more complex and less comprehensible.

The second problem I have with a European Senate, is that it is nearly impossible to find a suitable and effective role for it in the Union's decision-making system. If the new chamber were granted substantial power, the system would become even more complex and cumbersome than it is today. But if the chamber would be granted little or no power, it would most likely be criticized for being an expensive talking-shop. So whether it is weak or strong, a European Senate would - I am afraid - only further distance people from the EU.

The third roadblock I see, is that a European Senate would inevitably clash with other institutions. Don't get me wrong, this can also be a good thing. In theory, adding another source of democratic oversight could add to the system of checks and balances. In practice however, this addition could lead to unworkable situations.

A European Senate would create the risk of competing democratic legitimacy with the European Parliament, the Council of Europe and national parliaments. This will most certainly lead to conflict and makes it impossible to time the European Senate's role in the process. Involving the Senate at the beginning of the decision-making process will be futile, because the proposals are often substantially amended by the Council and the Parliament. Involving the Senate at a later stage would run the danger of second-guessing by the Council of Ministers. The fourth and final reason why I do not believe in a European Senate, has to do with its composition. In all the proposals I've seen so far, the European Senate would be comprised of existing members of national parliaments.

This so-called 'dual mandate' poses both a political and a practical problem.

The political problem is that a number of parliamentarians will be involved in the decision making process on European legislative proposals both at a national level and at a European level. This may bring them in a situation of conflicting interests.

If the position of a national parliament differs from the position of its delegation in the European Senate, this could also damage the role of the national parliament in scrutinizing EU-legislation and controlling their national government. The practical problem boils down to a lack of time. Parliamentarians will simply not have enough time to do both jobs properly. The experiences with the dual mandate in the

European Parliament until the end of the seventies of the last century were the very reason to finish the double mandate.

All these four issues - the increased complexity of the process, the lack of a suitable and effective role, the risk of clashes between institutions and the flaws of the dual mandate - have led me to the conclusion that I am not in favour of founding a European Senate.

None of us here in this room doubt whether there is a real added value to having a second chamber in our respective countries. But what works for a country, doesn't necessarily work for the EU as a whole.

The European Union is a unique form of governance and partnership. It is neither confederal, nor federal. It is unique; an organisation *sui generis*. That unique form of governance requires a unique form of democratic oversight. In my opinion a very important step was set in 2009 when the Treaty of Lisbon introduced a mechanism of subsidiarity scrutiny by national parliaments. Through the yellow and orange card procedures national parliaments have a direct role in assessing the compliance of draft legislation with the principle of subsidiarity. We have only just begun picking up this new role and I think there is a lot of room for further improvement.

We, the national parliaments, are the 'watchdogs of subsidiarity'. We do take this role seriously, but there is enormous potential to give further growth to this role, to enhance this role.

This requires that Members of national parliaments make sure that they are well-informed on European policy, so that they are able to play a much more active role in the decision-making process.

The House of Lords wrote a report on the European Senate in 2001 and there is one sentence that has stuck with me: *"Whether people are satisfied with their institutions will to a great extent depend on the quality of those institutions."*

If we as national parliaments want to preserve the quality of our work, we have to protect and widen our information position.

That means we have to strive for more transparency from the Council of Europe. If we can achieve greater accountability from the Council, we can better explain to the



public whether the EU institutions are doing the right thing and are not overdoing things.

Striving for more transparency from the Council also means that we have to hold our own governments to account for their input in Council-decisions.

We have to make sure our governments make an effort to be accountable both in being scrutinised on Council meetings in advance, and in reporting the outcome of Council meetings after the event.

All too often, members of the government make a political compromise in Brussels which they distance themselves from once they are back home. This sends a confusing and misleading message to the population. It is up to national parliaments to make sure that does not happen. If we want the trust of the general public, we need to make sure members of the government take responsibility for their actions in the Council.

If we want our national parliaments to play an active role in the EU decision-making process, we have to make sure we also play an active role in the discussion on the future of Europe.

It is my belief that national parliaments are ideally placed to make sure that the policies the EU pursues, are based on public support and that they benefit the citizens of our respective member states.

In addition to this, it is of the utmost importance that the European Union as a whole strikes a better balance between ambition and modesty regarding its own political agenda.

We need a European agenda that connects the ambition of the EU and its citizens more accurately than the agenda's that were developed in the past. Key topics of common concern are jobs, financial balance, energy, climate change, protecting external borders and working on a more common asylum and migration policy.

Referring to the choice of Britain for a standalone and the uncertainties that come with the changes of direction of the United States, Angela Merkel last week said after the G7 summit: "We Europeans must really take our fate into our own hands."

Ladies and gentlemen, dear colleagues, In order to create a better connection between citizens and the EU, it is important that we tackle the issue that is causing the disconnection.

Founding a European Senate is not the answer. The problems the European Union is facing today do not lie in its institutional structure, which does not mean that some adaptations could be considered. To name a few: the size of the European Commission and the size of the European Parliament. And if I may be honest, a real source of disconnection and frustration is the rather inefficient monthly relocation of the European Parliament between Brussels and Strasbourg.

Real added impact in the European Union in the near future has to come from national parliaments, working individually and collectively to strengthen their role in the decision-making process. We have just started to utilize the new instruments laid down in the Treaty of Lisbon. Together we must make sure that the decision-making process in the Council is made more transparent than it is now and that the EU has a more focussed political agenda.

If we fulfil our role as watchdogs of subsidiarity and as controllers of our Ministers as members of the Council to our best capacity, we can reaffirm the connection between EU-citizens and the EU.

***Colette Melot, Secretary of the French Senate***

First of all, please allow me to thank the National Council of Slovenia for the quality of its reception and the perfect organisation of this meeting.

The national Parliaments represent the Peoples. They have a key role to play in order to bring Europe closer to its citizens. In the French Senate, we are very much in favour of strengthening the role of the national Parliaments.

It is the meaning of the contribution that was submitted during the Conference of Presidents of the European Union Parliaments, which was held in Bratislava in October 2016, by the President of the Senate, Gérard Larcher, whom I am honoured to represent here.

This strengthening could be brought about in three ways.

First approach: the National Parliaments must be guarantors of an effective subsidiarity. To this end, the European Commission should, as a prerequisite, provide better justification for resorting to a legislative proposal. Too often, the Commission merely justifies its proposal by the development of the internal market.

Parliaments should also be able to seriously study the texts: the eight-week time limit is too short, should be extended to ten weeks.

The Commission's replies to the reasoned opinions should be made within a time limit of 12 weeks. They should be specific to the arguments raised.

Delegated acts should also be forwarded to Parliaments. Together with implementing acts, they make up supplements to legislative acts, which are actually subjected to this monitoring of subsidiarity.

The arrangement reached on 19 March 2016 with the United Kingdom, but rendered obsolete by the exit of the latter, could also be taken up. According to the procedure for which it provides, Member States will put an end to the review of the draft act at issue or they will modify it in order to take into account the concerns expressed in the reasoned opinions.

Second approach: bringing about the emergence – based on the present treaties – of a right of initiative or «green card». National Parliaments should be able to propose actions or amendments to the existing legislation. They should also be able to contribute to the development of the Commission's annual work programme.

An improvement of political dialogue should also be considered. The time limit of three months for the Commission's reply must become effective. The French Senate waited for more than six months for a reply to its observations on the «waste package»!

The European Commission's replies should, by the way, be better reasoned.

Third approach: The development of cooperation between National Parliaments.

For National Parliaments to be able to carry out their missions efficiently at the European level, it is essential that they should be able to know one another better, share information and cooperate more, for example regarding the «yellow card» mechanism.

Does this make it necessary to create a new body at the European level, some sort of second House or «European Senate»? Or would it be preferable to strengthen the COSAC? One may wonder.

In the French Senate, we proposed – a few years ago now – the creation of a second European house, consisting of representatives of the National Parliaments – in order to better include the Member States and the Peoples in the construction of Europe.

More recently, the Senate's monitoring group on the re-founding of the European Union, set up on the initiative of the Senate's President and shared by the Committee on Foreign Affairs and the European Affairs Committee, has proposed a permanent meeting of National Parliaments.

In our minds, this meeting of National Parliaments would not have any legislative function. Its main mission would be to ensure compliance with the principle of subsidiarity thanks to a dialogue between National Parliaments on legislative proposals. It could also play the role of parliamentary monitoring on intergovernmental matters, such as foreign policy and defence, for which the

European Parliament is not best equipped. Finally it could be a forum for debate on the major European challenges.

This would not be about creating a new body, because it would be based on a very light structure and would take up the remit of several already existing bodies, such as the COSAC or the parliamentary conference on monitoring foreign policy and common security. Its cost would therefore be low and it would actually be a guarantee of simplification.

No matter which way is chosen – a second European house or a strengthened COSAC – it is vital to reinforce the role of the National Parliaments in order to make the functioning of the European Union more democratic and closer to its citizens.

***Stanislaw Karczewski, President of the Polish Senate***

Ladies and gentlemen, the idea of forming the European senate or the senate of the European Union, as we speak of the structure of the European Union, was discussed in a broader European framework and is an idea that was discussed in the past in several different contexts. It is a dialogue about the distance between EU citizens and EU institutions. As we have already discussed it on several occasions, the institutional reform of the European Union could also be a way of addressing this issue. This has recently been an especially important theme, but it should not lead to new founding of organizations or an upper chamber, brothers or sisters of the European parliament, because this would only lead to multiplicity and increased expenses.

I speak of the idea of the European senate as a factor in building a closer link with EU citizens. Of course we must know the role that the European senate would play based on the existing system of the European Union, roles of European parliament and Council of Europe, COSAC as well as the Committee of the Regions. The basic question remains whether the existing framework even offers any room for a European senate. Robert Schuman predicted the creation of the second chamber. Another supporters were former German foreign minister Joschka Fischer, Christian Poncelet – the founder of our association, who spoke about this in Stockholm in 2001 at the conference of presidents of chambers of European Union. The European convention that formed the founding of the European Union explicitly criticized the second chamber. In 2009 at the conference of presidents of European parliaments in Paris, this discussion was reopened according to the initiative by president of the Czech senate Mr. Sobotka. At the same time, from the legislative perspective the Council of Europe already represents a very strong senate, as it is a co-decision-making institution with the idea of bicameralism. Some think that we should develop existing institutions in a way that would enable them to perform functions of the upper chamber, or even to change the Committee of the Regions to resemble the European senate responsible for social and economic matters. This was suggested by vice president Mr. Ramon Luis Valcarcel in 2014. On the other hand, even COSAC could be developed to be a European senate or a senate of the European Union, for which the entire European Commission should have responsibility. This was suggested by

French senator di Borgo. We also know of the proposal of the former Czech president Václav Havel; as he spoke at the European parliament, he stated that the initiation of the second chamber should have much less representatives and the same number of delegates from all countries. It should only be convened by demand and accept decisions based on a consensus. We must not forget that citizens must have a say in executing decisions from Brussels. In this context, the European senate must be developed as a platform where different boards, different sectors could meet. In such a way, we could mimic conventions like COSAC, which has been convening since 1989. Recently, two permanent conferences of parliamentarians of the European Union according to the COSAC model were initiated; on the field of foreign, security and defense policy as well as economic management. At the last parliamentary meeting of the EU last April in Bratislava, a conference for regulation of Europol was established. In such a way, we already have some type of a virtual parliamentary assembly, but it does not meet as the parliamentary assembly of the Council of Europe. This is definitely not a new idea regarding the integration of Europe. Let us remember the formerly active Assembly of the European Communities. In 1979 the European parliament gained an upper hand. What do we need today in the European parliamentary dimension? It is a horizontal web, in which parliamentarians or representatives of national interests and at the same time professionals of different fields would cooperate. Such a format would not require permanent headquarters, and the work of the secretariat could be performed by the parliament that at that time presides over the Council of Europe. Such a structure should not compete with the European parliament. The unique model of COSAC, the national parliaments would only meet to discuss. Adopting decisions would be determined in contracts. This jurisdiction should have to be one of the Senate of Europe, even if it never convened at parliamentary meetings. As long as cooperation among national parliaments in European Union takes place in the form of conventional discussion, matters of the European Union will not have an appropriate place on the agenda in national legislative bodies. Hence, the question is whether matters of the European Union will reach national mass media to a sufficient extent, enabling the overcoming of the democratic deficit. This is the main theme.

I would like to thank the president for choosing this theme, which is important for the broader future of the entire European Union.

**Friday, 2 June 2017**

Seminar: Second chambers facing the challenges  
of time





***Mitja Bervar, President of the National Council of the Republic of Slovenia***

The National Council of the Republic of Slovenia is celebrating its 25<sup>th</sup> birthday this year. Like any important milestone, it provides an opportunity to evaluate past development and assess the way ahead.

I am satisfied with the work we have done over the last quarter of a century, but I'd like to assess in more detail the fifth five-year mandate, over which I have presided. I believe that our efforts as part of the strategy that we set out at the start of the mandate have brought numerous positive results.

The Slovenian parliament's second chamber has managed to strengthen its position, reputation and profile at home and abroad, and has established itself as the representative body for social, economic, occupational and local interests. Above all, we have managed, in this extremely dynamic five-year period, to remove from the agenda any question regarding the existence of the National Council, and demonstrated to Slovenian politics and the wider public that a bicameral system can add value to the parliamentary set-up. It has also brought to an end a period in which the competences of the National Council were curtailed and even removed, for example the change to the regulations governing the function of the president of the National Council and the abolition of its right to call a referendum in 2013. This competence was one of the strongest possessed by the National Council. It had used it wisely – and in fact only twice in the whole of its existence.

The National Council has proved itself to be a safeguard against those political decisions that do not arise from a sufficiently strong social consensus. Its power of veto enables the National Assembly to reconsider legislative solutions, although this is not a competence that it exercises particularly often. More frequent is the practice of regularly discussing legislation and sending opinions to the National Assembly and its working bodies regarding all matters within its sphere of competence. We have sent over 3,000 opinions to the National Assembly and its working bodies containing, among other things, proposals for amendments, which the National Assembly's working bodies then adopt as their own and insert into draft laws.

The National Council's influence on the quality of adopted legislation is evident not only via its power of veto, but primarily via its entitlement to give opinions.

I should mention the National Council's extensive international cooperation, which takes place with other parliamentary chambers as well as other institutions. This is our attempt to help forge new links and strengthen old ones, foster an understanding between nations and cultures, and open the doors of the Slovenian economy to businesses and institutions abroad.

One of the important challenges that has occupied us for almost 25 years is the issue of cooperation with Slovenia's first chamber. At the National Council we are committed to changing arrangements so as to be able to exercise a suspensory veto in order to force a decision to be reconsidered.

In the large majority of cases involving the suspensory veto, it is clear that only part or an article of a law is disputed, but the National Council has no other option but to reject a law in full. It would have liked the opportunity, on many occasions, to have been able to amend articles of laws, since its warnings were later shown to have been justified. However, the current regulation does not allow this within the same procedure. If the option of reconsideration of a decision were in place, the National Council would be able to draw attention to an article of a law that was contestable or that required improvement, the competent working body of the National Assembly would have the option of proposing an amendment to the article following a new discussion, and National Assembly deputies would be able to then reach a new decision. This would therefore make it possible to insert substantiated amendments as part of the same procedure, removing the necessity for a new, lengthy procedure. This would provide one further opportunity to formulate higher-quality legislation.

The next challenge remains cooperation with civil society. From time to time, civil society organisations produce ideas regarding changes to the composition of the interest groups that are worthy of consideration, including expanding the current composition of the National Council with two very important "generational" interest groups: the young and the elderly. Owing to demographic challenges, a synergy of generations will be even more important in the future. Therefore, successful intergenerational dialogue will be an important factor in our ability to live together in

the future. This challenge is not unique to Slovenia: it is one that is faced by almost all European countries.

Only when experience and maturity are allied to youthful energy and new knowledge can society forge entirely new paths and find new solutions.

In this mandate in particular, the National Council has been very successful in strengthening its role as a bridge between day-to-day politics and civil society, and endeavouring to increase the influence citizens are able to exert on the decisions of the executive. Among the more important levers for this are the numerous expert conferences that bring together those defending certain positions, civil-society representatives, professions and decision-makers. We want to continue this work, as the conclusions reached at these conferences provide decision-makers with an insight into the thoughts and feelings of citizens, as well as the opinions of the profession. On this basis, the legal proposals and solutions adopted can be significantly improved.

Let me mention here just a few of the National Council's projects. They are testament in themselves to the great support given to civil society, and remain major challenges for the chamber in the future.

The National Council has always supported the voluntary sector, which provides every society with huge social capital. It is the only institution that gives annual awards to the most active volunteers in Slovenia.

The National Council is also the sponsor of the Growing Book project, which supports the promotion of positive values, excellence and skills among young people,

actively supports the "culturalisation of space" project, which is run by the Cultural Centre of European Space Technologies (KSEVT) in collaboration with Russia,

and supports the Cerje monument project in the Slovenian Karst region, which serves as a reminder to current and future generations of the horrors of the two world wars and urges us never to let such things happen again.

The work carried out by the National Council in the last 25 years shows that connectedness and cooperation with as wide and varied a public as possible are crucial to the search for the best legislative solutions. In this context, Slovenia's

National Council will continue to bring interests together, strengthen the role of civil society and, as it has done over the last quarter of a century, remain the point of contact for the interests of society. We used this as the title of the monograph which has been published to mark this occasion and presented to the heads of the delegations.

***Ernst Godl, Vice-President of the Federal Council of Austria***

This year, the annual meeting of the Association of European Senates is for the first time being hosted by Slovenia and I would like to take this opportunity to thank our Slovenian colleagues and hosts most warmly for their efforts. Among the many bonds shared by Slovenia and Austria are not only their common history, but also a common border of exactly 299 kilometres. Since I happen to live in this border region, in the Province of Styria, I only had a short journey – and it is a great pleasure for me to represent the Austrian Federal Council here at this conference.

We are witnessing major changes and upheavals all around the world – and in many places they are unfortunately accompanied by extreme violence. Our democratic model of society is also increasingly being put to the test; digitalisation, globalisation, migration flows, terrorist threats. The world seems to have fallen into an all-encompassing state of emergency. And our citizens very rightly turn to the political players, demanding that this state of emergency – just think of the ongoing terrorist threat right in the heart of Europe – shall not be allowed to become the norm.

The question we thus need to ask ourselves is: are our structures suitable for tackling the current challenges? Do our constitutions set the right framework to enable us to take the necessary democratic decisions in this fast-paced world that is marked by a globalised exchange of goods, data and capital?

A glance at my own country shows that in some areas our state continues to be organised in line with structures that stem from the 19th century; such as in the administrative field where we still have the division between municipalities and districts. Generally speaking, one can say that in Austria we have an administrative structure that dates back to the 19th century, a constitution from the 20th century and are currently in the middle of setting the course for the 21st century.

Ladies and Gentlemen, with this in mind, we are all called upon to break new ground, to jointly proceed along new paths and to challenge and question everything. Let me highlight in this context that it is a hallmark of political maturity to also subject oneself and one's immediate environment to a certain amount of critical scrutiny. As I mentioned before, I come from Styria, one of the nine federal provinces of the Republic of Austria. Over the last few years, the regional government has

implemented a number of drastic and far-reaching structural changes: many municipalities that had been established in 1849 were merged and consolidated into larger municipalities. I myself, for instance, had been the mayor of a small municipality for twenty years – and I was the last to hold this office. We merged with the neighbouring municipality to establish a new, larger municipality. We joined forces because we believe that a larger entity will enable us to manage local challenges – such as childcare, care of the elderly as well as local infrastructure, for instance – in a much better organised and more efficient manner. But we had to face some fierce resistance, in particular from local politicians. However, focusing on the responsibility we hold for the future we were convinced that it did not make much sense to try and address the challenges of the 21st century by relying on 19th century structures.

And the same holds true at both the national and the international level too: we need to adopt new approaches, in our national states, and together with the states in Europe, in order to reach the most important goal, namely to make sure that our children will be able to experience what we have been able to enjoy over decades, i.e. peace, freedom and widespread prosperity.

Ladies and Gentlemen, at events or official meetings I am often approached by young people who want to talk about life and the meaning of life, about values and value systems – in brief, about the major questions of our times: Where do we come from? Where are we going to? What dangers are we facing? What are the risks and problems? But also: What are the opportunities to be seized?

I generally believe that interaction with people – both with young people who shape our future, and with older people whose experience may help them in this context – should encourage us all to join forces on certain fundamental issues and to do everything we can in order to stem this rising sense of insecurity shared by people and to ensure that it does not increase any further. What is thus required is determined policies, decisive action and politicians who act with resolve and credibility and do not shy away from launching reforms. As a matter of fact, it will only be possible to successfully tackle the huge challenges lying ahead if we all join forces and cooperate.

Ladies and Gentlemen, peace is not established when the peaceful remain quiet and peaceful. Peace is brought about when the peaceful are stronger than the aggressors, when the tolerant are stronger than the fanatics, and ultimately when the democrats are stronger than the dictators. Even in the 21st century, democracy is not yet a matter of course – not even in our region. Indeed, it is rather undergoing a veritable existential crisis in Europe too.

The debate on future-related issues, on what is considered sensible, meaningful or risky, and on what is considered an opportunity or a threat, is decided mainly in public discourse that is being framed by the media. As lynchpins of social self-observation, the media plays a pivotal role in this context. In other words, the quality of the public and the quality of public debate are also directly linked with the quality of the media. Another important topic in this context and in these times of digitalisation is the need to ensure that this key element of public debate and thus of democracy be not only preserved but is rather further developed as the foundation of meaningful public discourse based on reason. (Position paper “Österreich 22”)

As regards the political work ahead that is to be tackled over the next few years, the deficits are not so much knowledge-based but rather action-based. Solutions are already available for most of the problem areas, such as the environment, pensions, education and research, to name but a few. However, the problem rests in political feasibility – which is being constrained in the face of limited growth opportunities. (Position paper “Österreich 22”)

As regards societal design over the next few decades, we are faced with an additional knowledge deficit which cannot be remedied. There are many signals indicating that we are standing at a decisive crossroads. We already find it hard to imagine how society will look in the middle of the century in terms of new jobs, the digital world, infrastructure boasting new technologies and much more besides. We must learn to live with these uncertainties. This is why we are limited to developing only temporary plans and projects. But after all, Europe’s past was also marked by uncertainties, and in spite of that the continent is considered as a region that developed a special dynamism and creativity. Dynamism and creativity are indeed two properties we will need at the crossroads laying ahead of us. But this should not fill us with anxiety. (Position paper “Österreich 22”)

What had long been taken for granted is coming apart. Against this background, it is thus pivotal that we continue to communicate. We need to talk to one another, and keep on thinking, surmising – maybe we should even dream together – and then get back to reality. We need to talk about the trends each of us believes we have identified. We need to discuss the approaches to be taken and where we are heading. What we wish to preserve and retain and what we wish to abandon. What we can and cannot influence. We therefore need ongoing talks and discussions on many levels and involving many different stakeholders. (Position paper “Österreich 22”)

This requires people who work pro-actively in parties and actually regard this as work, work that involves effort and dedication and whose top-level relevance for democracy is to be fought for on a daily basis and won every day anew. This requires people who do not take democracy for granted. Democracy indeed has a price. Commitment. Effort. The ability to manage conflicts. Election victories. Electoral losses. In other words: hard work. (Christian Lagerer, “Österreich 22”)

And let’s be honest, we know a lot in theory, we know very well that democracy will only work when all – or at least the vast majority – of the people get involved. Or as the saying goes: “Sleeping idly in a democracy may mean waking up in a dictatorship.”

And how does it look in practice? Is our democracy wide awake?

As parliamentarians we naturally assume a decisive role in this context, we must always be both pioneers and at the same time role models for a vibrant, well-functioning democracy.

We are called upon to prepare especially children and young people for the role each of them needs to play in a pluralist democracy.

With a view to assisting children and young people from an early age on in forming an opinion, taking (electoral) decisions and contributing to political processes, the Austrian Parliament offers a range of services that were established a number of years ago, such as: the Demokratiewerkstatt (democracy workshop) directed at 8 to 14 year olds (set up in 2007), the Jugendparlament (youth parliament) directed at 15



and 16 year olds (set up in 2007) and the Lehrlingsforum (apprentices forum) directed at 15 to 24 year olds (set up in 2015).

In addition there are special guided tours of the Austrian Parliament that are tailored specifically to the needs of a young audience and the Austrian Parliament also operates dedicated websites ([DemokratieWEBstatt.at](http://DemokratieWEBstatt.at) and [Lehrlingsforum.parlament.at](http://Lehrlingsforum.parlament.at)).

The Demokratiewerkstatt (democracy workshop) organised by Parliament in Vienna has been a great success. Every year, some 450 to 470 workshops are held involving around 10,000 children and young people. As of the end of March this year, more than 92,000 had participated. And international guests including the Speaker of the Indian Parliament Meira Kumar (2009), the Speaker of the U.K.'s House of Commons John Bercow (2013) and the President of the Parliamentary Assembly of the Council of Europe Anne Brasseur (2015) have also paid visits to the Demokratiewerkstatt and engaged in discussions with the young participants.

What specific contribution can be made here by Second Chambers?

The Austrian Federal Council has for quite some time now sought to address and communicate seminal future-oriented topics in a highly visible manner. At the end of 2015, for instance, we set up a dedicated Committee for Innovation, Technology and the Future in order to give more scope to topics that have an impact on our future. Over the last few years, the Presidencies of the Federal Council also set relevant priorities: on the one hand, public parliamentary enquetes and enquiries on ground-breaking topics are organised and broadcast on TV, involving the broadest-based participation of as many decision-makers as possible as well as interested citizens. On the other hand, discussion processes are launched on the internet and/or in the social media, for instance on the topics of “Digitaler Wandel und Politik” (digital change and politics) ([#besserentscheiden.at](http://#besserentscheiden.at)) as well as on moral courage/hate postings on the internet – sometimes this is done in coordination with the roadmaps defined by the Federal Government, sometimes by way of resolutions addressed to the Federal Government (digital change; a green paper prepared by way of a citizen participation procedure; measures against hate crimes on the internet).

Public attention and party politics generally tend to focus more on the Chambers of Deputies than on the Second Chambers, which are also a little less involved in day-to-day politics. I believe that it is precisely this fact that makes the Second Chambers very well suited to addressing large complex topics in an objective manner and based on more detailed background information. In Austria, the Members of the Federal Council also act as mediators and intermediaries between the federal and the province levels. Half of the members of the Federal Council are at the same time active at the municipal level, either as mayors or as municipal councillors, and are thus very well aware of people's worries and concerns.

We should thus refrain from constantly seeking to justify our existence, but rather highlight the fact that thanks to Second Chambers more districts, more municipalities, more professional representations – simply more people, are directly involved in democratic processes and represent citizens' concerns in a very wide range of ways.

Breaking new ground and jointly embarking on a new path also means not regarding one's own sensitivities as the measure of all things but rather focusing on the bigger picture instead of keeping one's eyes set on the next headline. But it also means taking measures that are necessary and right, albeit unpopular, and explaining such unpopular steps in such a manner that wins people's support and is thus backed by a majority. And it also means thinking and living in a sustainable manner and also resisting the zeitgeist. Because flirting with the zeitgeist all too often leads to a nasty surprise.

Our states and especially federalism in Austria do indeed require further reform. However, we will not be able to find political answers to 21st century challenges by relying solely on remedies developed several centuries ago. If we want to make sure that our children will be able to live in peace, we need to be able to rely on a strong Europe and avoid our continent's disintegration into national states. If we want to guarantee the safety and security of our citizens and opportunities for the future as well as a place called home, we need strong regions and municipalities. Ultimately, we need responsible political leaders in all parties who focus on the bigger picture to make sure that they can achieve the most for those parts of the picture they were elected to focus on.

***Christine Defraigne, President of the Belgian Senate***

I, in turn, would like to warmly thank the National Council of Slovenia and you personally for the wonderful welcome we have received here and for the excellent organisation of this meeting of European Senates under your presidency.

I apologise for not being able to attend yesterday's seminar. I have been told that the debate was most interesting. The topic anyway was challenging and exciting, namely the idea of creating a senate at the level of the European Union in order to bridge the gap between European citizens and the Union's institutions and policies. I guess that this means a second elected or parliamentary house representing member states, because obviously, there is already a second house representing member states at the European Union level, namely the Council. I would be very interested to read the report of your debate on this issue.

The topic we are considering today is no less exciting: how can the senates best address the present challenges? Do they need to be reformed to that end? And what could be the outline of such a reform in the context of a given country?

Before tackling this question from the point of view of the Belgian Senate, I would like to make a few opening remarks.

In the first place, parliamentary reforms can take various forms. They are not always motivated directly by the will to strengthen the capacity of parliaments to address the present challenges if this means the pressures coming from extra-parliamentary factors, such as the expectations and changing needs of society, the gap between parliament and the electorate, particularly the younger generations, technological advances or globalisation. It is especially true for the reforms of senates.

For instance, the Belgian Senate was subjected to a fundamental reform in 2014, which fundamentally changed its composition, its remit and its operating mode. I already had the opportunity to present a broad outline of this reform to you at our meeting in La Haye, two years ago.

Now, this reform, like the one that preceded it in 1995, was essentially the result of purely institutional considerations, namely the adaptation of the Senate to the transformation by stages of the country into a Federal State *sui generis*. One can

probably say that the ultimate motivation for this transformation was the creation of an institutional framework better adapted to the specific challenges of Belgian society. The fact remains that the details of the reform of the Senate are mostly determined by an inner institutional logic and generally have but a tenuous connection with the concrete concerns of citizens.

By the way, the dominant position that institutional issues occupied in Belgian politics during the last fifty years has often been criticised on the grounds that it diverted attention from «people's real problems». The same reproach of self-centredness has incidentally been directed at the European Union each time it engaged in a review of its basic treaties.

Therefore one will not necessarily find examples of the adaptation of Parliaments to today's challenges in institutional reforms but perhaps more significantly at the level of working methods. This being said, even in the reform that the Belgian Senate experienced in 2014, one can trace elements that echo some societal challenges. I will give you an example: the provision that the Senate cannot comprise more than two-thirds of senators of the same gender (Article 67, §3 of the Constitution).

Such a provision does not exist in the case of the directly elected parliaments in Belgium, that is to say: the Chamber of Representatives at the federal level and the parliaments of communities and regions at the level of federated entities. Belgian electoral laws opted for quotas (near parity) at the level of candidate lists to achieve a balanced representation of the genders in elected parliaments. Quotas at the level of election results are considered incompatible with the free choice of voters. But the Senate is no longer elected directly but consists of elected representatives from the parliaments of federated entities, appointed by these parliaments and who in turn appoint a limited number of co-opted senators. Hence the constitutional provision that submits these successive appointments to a gender restriction. In practice, the Belgian Senate does better than that and is presently made up of an equal number of men and women, 30 members of each gender.

I will turn to my second opening remark. I believe one will find a greater diversity in the way senates can face up to today's challenges than in the single or lower chambers. In spite of the differences that can exist between single or lower chambers regarding their operating mode, because of the specific features of each country or of

its history, these assemblies all share some common characteristics, at least in democratic systems: thanks to election by universal suffrage, they directly represent the population as a whole and embody its will, they legislate in every field that falls within their level of jurisdiction (national or federal, regional, supranational) and they oversee the Executive at that level of jurisdiction. On the other hand, there are many ways of defining the nature of a second chamber, both regarding its composition and regarding its powers of law-making and oversight of the Executive.

Thus the Belgian Senate, as I have said, is mostly made up of members of the parliaments of the country's federated entities, whereas the National Council of Slovenia, for instance, consists, if I am properly informed, of representatives of interest groups and of the local communities. This is a very different composition.

The same goes for competencies. The Belgian Constituent Assembly has opted for a minimum application of the principle of participation of the federation's components at the federal level. The reason for this is a special feature of Belgian federalism, namely the absence of a hierarchy of standards between the different levels of power. When a level of power (federal, regional or community) is competent to regulate something, the other levels are not. This is why the law-making powers of the Senate are mostly limited to the revision of the Constitution and to the laws that govern the organisation and functioning of the Belgian federal system, that is to say: to the definition of the rules of the game of the Belgian federal state. As for the exercise of federal competencies on a daily basis, legislation and government control mostly falls within the sole remit of the Chamber of Representatives. Other senates have much more extensive legislative and oversight competencies. It is obvious that the specific features of each senate will shape the way it addresses the current challenges.

This brings me to the third and last part of my presentation: what are the advantages that the Belgian Senate, in its new form, has at its disposal to address these challenges?

After intense institutional discussions of the previous legislature, the current federal legislature is in the period of implementation, without major institutional developments. This means that the Senate cannot presently exert a great influence through legislative action. However, in the framework of the reform of 2014, the

Senate has also been endowed with a general advisory competence for cross-cutting matters – that is to say, federal matters that have an impact on the competencies of communities and regions. On the other hand, another special feature of Belgian federalism is that, in nearly every field, the competencies are distributed (sometimes in an over-elaborate way) between the different levels of power, that is, the federal level is competent for some aspects and the communities or regions for others. On these transversal issues, the Senate can draw up what the Constitution calls information reports. Even if, in the Belgian federal system, no level of power can tell another how it should run its business, communication, cooperation and consultation are necessary to avoid inconsistency and friction.

As far as I am concerned, I consider these information reports to be the most useful instrument the Senate possesses in order to address the needs of Belgian society, the citizens' expectations and the great challenges of our times.

Listing a few of the topics that have been dealt with so far will be sufficient to show you what I mean:

the possibilities of creating a legal regime of co-parenting

the implementation of the Beijing Platform for Action of the United Nations (on the equality between men and women)

the transposition of the European Union law into Belgian law at the different levels of power

the intra-Belgian distribution of the climate effort

the fight against child poverty in Belgium

the introduction of a better-integrated offer and plan of public transport

new applications in the healthcare sector and especially in mobile health.

The drafting of these information reports represents a new task, regarding which we are still in the learning process, both at the senators' level and at that of the Senate's offices. In the community or regional parliament where they are elected, our senators are used to legislating and to exerting political oversight of their respective governments. In the Senate, they have to commit themselves to quite another type of

work. It is not easy. Likewise, our administration was used to classic parliamentary work and needs to retrain, so to speak, especially at the level of the committees' secretariat.

According to the Constitution, information reports can be drafted at the request of the other Belgian parliamentary assemblies or the federal government. But so far, all the information reports have been produced on the initiative of senators. This shows that it will be incumbent on the Senate itself to demonstrate its capacity to use this instrument in order to bring significant contributions to the parliamentary debates in our country. To accomplish this, I think (though these are personal ideas, yet to be explored) that there would be an advantage for the Senate to tackle this function in a more systematic way, by working on the basis of a work plan, for example. As the results of this activity are not legal texts but observations and recommendations, I also believe that we must strive harder to formulate them in a language that is accessible to a wider public, and all the more since these information reports are invariably based on hearings with all stakeholders, including those from civil society.

As a complement to these reports, the Belgian Senate is also betting on other types of activities that are consistent with its function as a place of meeting and dialogue between the communities and regions that make up the Belgian State. For instance, we ever more often organise or host colloquiums on issues that interest Belgian citizens as a whole and which could require legislative initiatives or political measures at the different levels of power. Two weeks ago, the Senate was thus the venue of a colloquium on the institutionalisation of a citizen's service in Belgium. On our website, we make information available on the institutional innovations in Belgium, including the decisions of the Constitutional Court and the opinions of the Council of State regarding institutional issues. And we want to further strengthen our educational activities focused on young people and citizens as a whole.

This, Mister President, Dear Colleagues, is how the Belgian Senate has been reformed and how the specific position it henceforth occupies in the institutional landscape of our country enables it to meet the challenges of the times. It is too early to prejudge the assessment that the Belgian political world will make of the added value the new Senate provides. As far as I am concerned, I believe that the result is already positive.

***Bariša Čolak, Speaker of the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina***

Please allow me to greet you all and to thank our hosts, the National Council of the Republic of Slovenia, for the successful organization of this year's session of the European Senates Association.

Parliaments, as holders of legislative power, are the expression of the highest degree of democracy in a society. In their work, they directly decide and influence the law-making and decision making processes which are of the most importance for the functioning of our states.

Parliamentary democracy, as we know, has marked almost the last two centuries of political life of modern democracies of the world. The emergence of parliamentarism through history is based on the idea of constitutional rule and the limitations of political power, so that this system is reaffirmed again as a purposeful institutional prerequisite of political democracy.

Starting from the general principal of democracy that power in a state derives from the people and belongs to the people, and BiH Constitution in its preamble marks Bošnjaks, Croats and Serbs as constitutive peoples who (together with Others) and BiH citizens form a community of citizens who equally exercise power through their representatives. Creator of Constitution thus designated constituent peoples Bošnjaks, Croats and Serbs as special collectivities and recognized equal rights for them, i.e. emphasized a special status on an equal footing.

In the structure of BiH state authorities, the Parliamentary Assembly of Bosnia and Herzegovina is a representative body, the holder of constitutional and legislative power. With its constitutional position, structure and competencies, the Parliamentary Assembly also reflects the very character of Bosnia and Herzegovina as a complex social and state community, whose constitutional solutions respect democratic standards, but at the same time contain a number of specific solutions.

These solutions are result of political compromises achieved within the frame of negotiations on the conclusion of the General Framework Agreement for Peace in BiH from 1995, known as the Dayton Agreement. This agreement consists of eleven



annexes, of which Annex IV is BiH Constitution, which still exists as part of an international agreement because BiH Parliamentary Assembly has not decided on it.

The Parliamentary Assembly of Bosnia and Herzegovina, as a legislative body, consists of the House of Representatives and the House of Peoples. PA BiH, as a bicameral body, by its structure and way of decision-making, expresses the principles of national sovereignty, equality of the three constituent peoples and complex state structure, i.e. the fact that BiH consists of two entities - the Federation of Bosnia and Herzegovina and Republika Srpska.

The process of decision-making in the Parliamentary Assembly of BiH, as a result of efforts to ensure equality of citizens and protection of national interests of the three constituent peoples, is of the most complicated parliamentary procedures. The Constitution established full equality of both Houses, therefore the laws and other important decisions are adopted only if adopted in the same text both in the House of Representatives and the House of Peoples.

Bicameralism exists not only at the state level, but also at the entity level. The Constitution of BiH Federation also provides full equality of Houses because all laws must be adopted in identical text in both houses, while the Constitution of Republika Srpska stipulates that only laws that deal with issues of vital national interest for some of the constituent peoples have to be adopted in both houses in the same text.

Upper houses/chambers at the state and entity level, unlike upper houses in some other complex states with comparative federalism such as Belgium and Switzerland, in which federal units are mostly represented on an equal footing, represent constitutive peoples so apart from their regular legislative role, have a specific role to play in **protecting vital national interests of constituent peoples**. In fact, their primary task is to protect the constitutionality, the equality of the constituent peoples and the protection of their vital national interest.

In the practice so far, a vital national interest was initiated only 15 times, of which the caucus of Bosniak people used the right 13 times, although the Bosniaks have an entity "veto" in the House of Representatives, the Caucus of Croat people used this right 2 times, although only the Croats have no entity veto, while the Caucus of Serbs

did not use this option because they have a double veto in the House of Representatives and the House of Peoples.

There is equal number of delegates from each of the three constituent peoples in the upper houses – Bosnjaks, Croats and Serbs; five delegates at the state level 17 delegates at the level of BiH Federation and eight delegates at the level of Republika Srpska.

15 delegates in the House of Peoples at the level of BiH is certainly not an optimal number. By increasing the number of delegates in the House of Peoples, we would improve the efficiency and dynamics of the work of this House as well as of the entire Parliament, since some delegates from the House of Peoples are members of several committees, which directly affects the quality of their work.

The last attempt to change the numerical structure of the House of Peoples at the state level was in 2012.

Proposed amendments were not adopted, although in this way we tried to implement the judgement of European Court for Human Rights from Strasbourg which required the same possibility of candidacy, but not necessarily the election to the House of Peoples and the Presidency of BiH, as the representatives of constituent peoples, as well as those who do not declare themselves as members of one of the constituent peoples.

From current perspective, it is difficult to believe that the role of upper houses in the legislative process at the entity and state level could change, but increase of number of delegates in the House of Peoples at the state level is not only useful, but necessary.

However, the biggest problem is the illegitimate election of members of upper houses at the entity level, which directly affects the formation of the executive authorities in the Federation or the House of Peoples at the state level.

The Constitutional Court of BiH, by its decision regarding the election of the delegates for the federal House of Peoples, established the existence of a non-legislative election and declared certain provisions of the Election Law of BiH unconstitutional.

The Decision stated violations of the principle of free and democratic elections and legitimate representation, as delegates to the House of Peoples of the Parliament of BiH Federation are elected from the constituencies where they do not live at all or live in a negligible number.

This has denied the possibility of a legitimate election of delegates from the area in which they actually live and in which they are represented in significant numbers, which leads to domination of majority people who elects political representatives of a less numerous/minority people. Even the European Parliament, in a few resolutions on BiH, emphasized the necessity of legitimate election and representation.

When it comes to Bosnia and Herzegovina, it is necessary to implement the reform of the Constitution and Electoral Law in order to ensure the legitimacy of the election of members of BiH Presidency and the House of Peoples; increased number of delegates in the House of Peoples at the state level would certainly contribute to a better organization and efficiency of the Parliamentary Assembly as a legislative body.

This would ensure better conditions for quality work, especially bearing in mind the importance of the national legislator in the accession of BiH to the European Union.

It is difficult to foresee the real outcome and image of parliamentary structures in the future. Each state has its own specifics according to which it regulates its political system and the structure of parliament.

Therefore, parliamentary democracy should be developed in accordance with tradition, heritage and the specifics of each country, but at the same time, in line with realistic political possibilities in terms of the character and structure of state institutions.

Unicameral system, based on the principle one person – one vote in multinational states in most cases results with majorization of minority people.

Therefore, I am of the opinion that the significance and role of the senate in the parliamentary life, especially in case of the multinational states, should in no way be called into question.

***Milan Stech, President of the Senate of the Parliament of the Czech Republic***

Dear Mr President of the National Council of the Republic of Slovenia, Dear Colleagues, Ladies and Gentlemen.

I would first like to thank you all for the invitation to the meeting of the Association of European Senates in this amazing environment; both nature and this conference center are amazing.

Mr President, I would also like to thank you for the lovely evening and your personal close relationship to culture. I enjoyed performances during the dinner a lot. This also enabled some special insight; it was very interesting to watch the programme.

To present the Czech Senate, I will try to continue where I left off yesterday. We are currently celebrating the 21<sup>st</sup> anniversary of existence. The Czech Senate was first founded in 1920, but the Second World War interrupted its functioning and after the War a Communist regime was established. We have yet again begun activities of the Senate in 1996. To remember Václav Havel, a great democrat and the first elected president of our country – he supported the bicameral system in Czech Republic very strongly. He supported bicameralism because he wanted to make sure that the Czech political system is not controlled only by political parties, as they have some bad characteristics that could clearly be seen during the period between the First and Second World War. Václav Havel wanted the civil society to participate in the decision-making. In this, second chambers are much more successful. Even the Czech Senate is more successful in including the civil society than the first chamber, and with their activities citizens gain points to be placed on electoral lists as candidates. I must say that our Senate has many strong personalities; we have 81 senators from 81 different electoral districts. Any senator that is a member of our Senate is the person who won his respective election. In the first round, 10 candidates generally compete for the position of a senator and a representative of interests of their people. We also have a second round of elections, in this second round only the top candidates from the first round make it to electoral lists. You can see that people respect senators; if someone becomes a senator in Czech Republic, they immediately become a part of a structure that is no longer supported by the greater public as much as in the past. Therefore, as you become a senator or a

delegate of the legislative branch, you become a member of the legislative body that as a whole does not enjoy such broad support compared to that during the elections in particular regions. Hence, when we again formed the Czech Senate in 1996, the respect of the Senate among citizens was not broad. Today, however, this support is much greater when compared with the other chamber of the Parliament. Still, the support is low and the turnout to senators' election is low. These are our issues mostly because whenever general elections to the representative body happen, a campaign takes place throughout the country. In such campaigns participate political parties and their political candidates. At elections to the Senate – which take place every 2 years, because one third of senators get elected every 2 years, there is no broad campaign. People in general believe that elections to the Senate are less important mostly because the Senate cannot vote on the issuing of no-confidence votes to the Government, and because the Senate does not adopt the state budget. The discussion and adoption of state budget are jurisdictions of the other chamber of our Parliament. Still, people's respect and trust in the Czech Senate are growing due to two factors. I have already mentioned the first – senators are individual who are famous and wide-known across the country, a lot are mayors or governors. We also have numerous individuals from the field of education, a lot of professors of universities etc. The Senate enjoys increasing support of the public because senators are usually not parts of scandals. From the very beginning of the Senate we have not had even one corruption scandal that would involve one of the senators. I can only wish this remains so in the future, because, as you all know based on your own experience, corruption scandals always severely rock the trust of people in democracy.

Concerning challenges, I can say that Czech Republic is currently experiencing good times; we have good macroeconomic results, for example unemployment or indebtedness of our country place us in the top of the European Union. Last year, we even had a surplus of revenue in the state budget, amounting to 60 billion of Czech koruna. We also have the lowest unemployment levels in European Union. We currently need work force; Czech companies are turning to the government as they wish workers from abroad. The Czech government must be very careful in doing so, as we all know how the economy works and a recession can always happen. In such case, foreign workers do not wish to return but rather stay in Czech Republic instead.

More than half of a million of foreign migrants came to Czech Republic from Eastern states: Ukraine, Poland, Vietnam, and during the Balkan crisis a lot of people came to Czech Republic. They are all our citizens that have integrated well in our society. We have no problems with such minorities - people live in symbiosis. Migrants, however, are another case. You all know that Czech Republic in agreement with other states of the Visegrad Group had a very strong opinion concerning the reallocation of migrants based on quotas. I can tell you that people who had worked all their lives in syndicates and are very sympathetic of other workers from foreign countries, if any government or political party accepts the idea of quotas, this will mean that such a political party will not receive support for the next general election. Opinions of Czech citizens concerning migrations are very strong and I do not think that could easily be changed. This of course does not mean that the Czech Republic cannot accept people who really are endangered, prosecuted, and under threat in their own home states. When speaking about the Czech Republic it should be noted that we are willing to accept real refugees, but not economic migrants. I believe that the European Union did not respond fast enough to the migration crisis; the most important factor is the different approach of member states. Despite the good economic conditions of our country people are not satisfied with their political position. People are mostly concerned with polarization – we know that great differences among people may cause problems; people are scared. We live in a globalized world and there is a high risk that crisis from other parts of the world could spread to East or Central Europe. People are afraid of what they see on television, the internet, the newspaper. There is a lot of negative news; the media sometimes exaggerates, creating a sense of fear and tension. Consequently, people are afraid of serious challenges before us, for example terrorism. Whenever a greater terrorist attack happens, people are of course sympathetic but they are also growing more fearful. This directly affects our capability to accept migrants.

To conclude this speech, I would like to mention one more thing. At the meeting in Luxembourg, when president of parliaments of member state of the European Union met, some of our colleagues including the President of the French chamber mentioned that Central and Eastern European countries did not act appropriately when dealing with the migration crisis. Czech Republic and countries of the Visegrad Group still receive substantial sources from structured funds. We have a lot of direct

investments that enable modernization of our industry, but these countries have also gained access to more markets and have been doing well in the last decade. We have successfully brought foreign investments to the Czech Republic. Combining this with structured funds, and comparing it with money that foreign companies have earned in Czech Republic, I can assure you that the incoming money to the Czech Republic is lesser than that returning funds back to founding members of the European Union and taxation oasis. Annually, Czech Republic loses 8 billion EUR – the money leaving Czech Republic. I believe that this money should be reinvested into Czech Republic although it is actually some type of a reward for international companies and investments they make in Czech Republic. We need a mechanism that would allow us to change this; otherwise we will create more challenges within the EU. Challenges, that the European Union is currently solving stem from the fact that in the economic field EU does not manage to balance the differences between the North and South. No one wants to admit that these issues divide us even more.

***Colette Melot, Secretary of the Senate of the French Senate***

For France, 2017 will be a «hyper-electoral» year, with an unprecedented succession under the Vth Republic of our three national elections: presidential, legislative and senatorial.

If bicameralism in the French style is no longer called into question, except perhaps by one of the eleven candidates in the presidential election (incidentally a former senator), the senatorial institution is not immune from the crisis of confidence regarding the political community, which, it is true, affects the executive as much as, if not more than, the legislature.

In view of the renewal of half of its members, on September 24, the Senate is faced with three challenges:

- The reduction of territorial divides,
- The institutional response to the crisis of representation,
- The modernisation of the working methods and the governance of the Senate.

**The reduction of territorial divides**

I will endorse the alarming observation of President Gérard Larcher: «The President of the Republic will have to display authority to reduce the territorial divide that exists in our country. A France, which I call «next-door France», suffers in silence. Today some villages and towns in provincial France are more destitute, more deprived of social services, than the suburbs of Paris or Lyon. Yes, we will have to restore hope to that France, the neglected France that feels forgotten, despised as if there only existed a few powerful regions and metropolises that would carry the future of our country alone».

This is the thesis of the French geographer Christophe Guilly: the more one moves away from the metropolises, the more one moves away from a major traffic axis, the more the French feel forgotten, the more they feel forsaken on the roadside, the more they take refuge in electoral abstention or in protest votes.



The daily paper «Le Monde» has even published a substantive article with the revealing title «Urban Macron, Rural Le Pen».

As a senator of Seine-et-Marne, I am aware of the extremist temptations of some citizens in some constituencies of my department, who see immigrants only on television...

What should be done about a peripheral, peri-urban or ultra rural France, a victim of the gradual disappearance of proximity services, with the closure of schools, of post offices, tribunals and pharmacies, not to mention of course medical desertification?

This is an emergency because what is at stake is «living together», the republican model of a supportive France.

This implies fighting against populism of all kinds.

According to the Constitution, the Senate represents the local and regional communities, it is the representative of the territories, it is the guarantor of the fundamental covenant between the Nation and the local and regional communities in the framework of a republic presented by the Constitution as a decentralised republic.

As such, the Senate is in the best position to take stock of the territorial disparities and to look for remedies conducive to restoring the balances between territories.

Far from being élite and out of touch with their communities, the senators can restore the ties between the different territories for greater equality of treatment.

The institutional response to the crisis of representation

In France, as in other European countries, parliamentary democracy has been subjected to attacks, criticisms and challenges aiming at calling into question confidence in the institutions.

Election by universal suffrage, direct or indirect, while it is the essential prerequisite of any democracy, is no longer sufficient and citizens yearn for or say they yearn for a more direct participation in decision-making.

The Senate is paradoxically in a position, perhaps more than the National Assembly, to meet these aspirations, for the senators are in direct and permanent contact with

their electorate, limited certainly, which is made up of the 550,000 local and regional elected officials who are the best reflection of the deep concerns of our fellow citizens.

As President Gérard Larcher often says, representative democracy can be enriched and complemented by participatory democracy.

Digital technology, with its strong potentialities, gives us the possibility to develop the dialogue with citizens.

Within the Senate Bureau and on the proposal of a working group in which I took part, we adopted last February an ambitious action plan: «More digital technology for a better connected Senate and a more interactive citizen dialogue».

Thanks to its website, thanks to Ameli, thanks to the Session base and to the Commission base, the citizen has the possibility of following in real time the progress of the legislative file, which is proof that the citizen is at the heart of our concerns and deliberations.

But we must go further with the multiplication of participatory blogs. No less than 22 participatory spaces between 2012 and 2016, for example on the Macron Law, on the withholding at source of income taxes. For the drafting of a law proposal on the simplification of urban planning procedures, unanimously adopted by the Senate in November 2016, we consulted so many local elected officials that we got 15,000 answers.

For his part, the President of the Senate, besides his interventions in the traditional media, has organised several question and answer sessions and several live chats, especially on Facebook.

In continuation of all these initiatives, we have considered setting up a platform for listening to the 550,000 territorial elected officials on the most important texts or on topical issues.

Recently, the senatorial information mission on representative democracy has recommended «a cooperative democracy», which is halfway between representative and participatory democracy – «an ongoing democracy» that would not stop at the

time of the election, with for example the reactivation of the right to petition, which is often little known and without any real outcome.

All these initiatives illustrate our common desire for openness and the participatory association of the citizens with a concern for genuine proximity democracy, but without calling into question the legitimacy of the representative mandate based on universal suffrage.

For a more efficient, more modern and more transparent Senate

In full agreement with the groups, President Gérard Larcher has initiated a far-reaching reform of our working and governance methods.

Today, the Senate, like the National Assembly, has to cope with a proliferation of legislative work, 3,000 amendments in committees, 10,000 amendments in session, some 1000 hours of work in committees, then in session.

First objective: we must sit less in public sessions in order to work better in committees and further control government action or assess the public policies.

And most importantly find a parliamentary time schedule adapted to the urgency of the economic and social reforms that the country needs.

A «Chamber of Reflection» by definition, the Senate must see to the quality of the law – that is to say, to its clarity and accessibility for the citizen. To this end, we have initiated several substantive tasks with a view to simplifying a legislation that has become too diffuse, weighed down by regulatory provisions and which overcomplicates the daily life of our fellow citizens and companies.

Second objective: more transparency in the accounts of the Senate and of political groups.

All the data is henceforth published on our website, without prejudice to the discussion that we will have on the methods of exercise of the parliamentary mandate in the framework of the bill aiming to raise the moral standards in politics, announced by the Head of State.

In conclusion, I will point out a paradox: the expectations in terms of transparency and ethics are perhaps still greater with regard to the Senate than the National Assembly.

Thus we decided on the publication on our website of the disclosure statement of activities and interests, long before the National Assembly.

As a second chamber, we have an ever-demanding duty to be exemplary because we always have to demonstrate that the Senate occupies a key position in the functioning of public authorities. The institutional credibility of the Senate depends on it.

***Georges Wivenes, President of the Council of State of the Grand Duchy of Luxembourg***

Mister President, Ladies and Gentlemen, I must thank the Senate of Slovenia for the excellent organisation and you, Mister President, for the warm welcome that you are extending to us in Ljubljana.

Before presenting to you, in a few words, the highlights of the ongoing reform of the Council of State of the Grand-Duchy of Luxembourg, allow me to give you a short overview of the missions of the Council of State in the legislative process and the functioning of the institution.

The Luxembourg Council of State, the creation of which dates back to 1856, is an independent institution in relation to the Government and the Chamber of Deputies, that is required to give its opinion on the bills and draft laws at large, and the amendments pertaining to them. Our institution has been invested with an a priori review of the compliance of bills and draft laws with the Constitution, with international conventions and treaties, including primary and secondary European law, and with the general principles of the law.

The Council of State also possesses, in the Luxembourgian unicameral system, a right to a suspensive veto in the legislative procedure. The Constitution provides, indeed, that all laws are submitted to a second vote in an interval of at least three months after the first vote, unless the Chamber of Deputies, in agreement with the Council of State, decides otherwise. This right to a suspensive veto is exercised by the refusal of the Council of State to grant the waiver of the second constitutional vote on the grounds of an incompatibility of the draft text with the higher legal standards or the general principles of the law. This period of additional reflection primarily aims at preventing the disadvantages resulting from the hasty adoption of insufficiently elaborate laws. However, the refusal to grant the waiver does not prevent the Chamber of Deputies from proceeding to a definitive vote after three months. The power of decision-making thus accrues solely to the Chamber of Deputies, which derives its democratic legitimacy from the election of its members by universal suffrage.

The Council of State possesses, furthermore, a power *sui generis* in legislative matters since it is expected to draw the Government's attention to the appropriateness of new laws, or even of changes to be introduced into existing laws.

As for its composition, the Council of State comprises twenty-one councillors, eleven of whom at least must be holders of a master's degree in law. The Councillors of State are appointed by the Grand Duke and proposed alternately by the Government, the Chamber of Deputies and the Council of State. Beyond the predicted number, members of the Grand-Ducal family can also be appointed by the Grand Duke to be part of the Council of State.

To come back to the current topic of this 18th meeting, I would like to give you a brief outline of the main elements of the above-mentioned reform of the Luxembourgian Council of State.

In Luxemburg, the Constitution is currently undergoing a review process. In the proposed texts, the Council of State is acknowledged as a particular constitutional body. Its tasks in the legislative process are maintained. Its particular role in controlling the compliance of draft laws with the higher legal standards is given an institutional foundation.

The reform of the law organising the Council of State has been undertaken in parallel with the work on a constitutional review. The last version of the draft law was finalised by the competent parliamentary committee and should be voted on, at first reading, in the very near future.

This is the third wide-ranging reform of the Council of State since its creation and, after those of 1961 and 1996, it is the most incisive one at the level of the nomination of its members and of its organisation.

The objective of the «democratisation» of the institution, already pursued with the reform of 1961, has fuelled the debates on the origin of the present reform. Numerous political parties and the press have steadily voiced criticism regarding the appointment procedure of councillors and have demanded that the Council of State should be endowed with an increased and transparent political representativeness.

The issue has been raised, in a law proposal originating from a deputy in 2015, of replacing the current system of nomination of the councillors of State with a system where all of the candidates would be proposed directly and exclusively by the Chamber of Deputies.

The Government, which a few months later introduced a draft law, has nevertheless preferred to maintain the current system. The parliamentary committee in charge of the reform of the Council of State has followed the government's project, while ensuring the fair representativeness of the political trends represented in parliament.

The replacement of a councillor of State will always be made either on the proposal of a candidate by either the Government or by the Council of State or the Chamber of Deputies. When designating the candidate in question, the authority invested with the power of proposal will nevertheless have to ensure that the composition of the Council of State takes account of the political parties represented in the Chamber of Deputies, provided these have obtained at least three seats at each of the last two legislative elections.

In the framework of the debate on the reform of the Council of State, the Government, on the initiative of the Council of State, had a practice inserted into the draft law, consisting of the setting up, by the Council of State, of a profile based on the qualifications and professional experiences required for a future Councillor of State. Indeed, the power of the Council of State lies in the quality of its work and, consequently, in the professionalism and thoroughness of the reasoning of the members who constitute it.

Moreover, there are plans to introduce a fairer representation between men and women at the time of designating the candidate and to reduce the term of office of the councillor of State from fifteen to twelve years. The president's term of office, on the other hand, is limited to a maximum duration of three years, non-renewable.

In the framework of this reform, there are also plans to extend and improve the inter-institutional consultation mechanism. The links between the Council of State and the Chamber of Deputies will no longer be exercised through the Government, but will henceforth be direct. The future law will also establish the practice of the

simultaneous submission of draft laws of governmental origin to the Council of State and the Chamber of Deputies.

The publication of the work and votes within the Council of State has also been discussed. The political parties thus declared in favour of an increased transparency in the Council of State's stances, which translated into the publication of the votes. The Council of State's resolutions in the future will have to indicate, without identification, the number of Councillors of State that voted in favour or against an opinion or a decision of the Council of State.

It goes without saying that the current configuration and role of the Council of State are the outcome of a centuries-old evolution. The current reform aims to find a balance between two visions that go back to the origin of the Luxembourgian Council of State, namely an institution fully falling under the legislative power on the one hand, and a politically neutral legal council attached to the executive power on the other.



***Ankie Broekers-Knol, President of the First Chamber of the States General of the Netherlands***

Yesterday we discussed the question whether it is desirable to create a European Senate within the the European Union to bridge the gap between Europe and its citizens. I expressed the opinion that creating another political institution at European level next to the institutions already in existence would make the decisionmaking processes more complicated than they already are and would not contribute to restoring trust of the citizens in the democratic functioning of the European Union. I told you that in my view the core of the problem lies in what the European Union does, in making the right choices on the basis of needs and desires citizens have and on what they expect from the EU and their national governments. I think we can all be very glad that the European Union yesterday demonstrated unanimity in reaction to President Trump's withdrawal from the Paris climate agreement. What we share as members of the Association of European Senate is a constitutional framework in our countries characterized by a bicameral system. As sceptical as I am about creating a Senate at EU level, as passionately I am convinced that within the democratic system of my country, the Netherlands the Senate, the 'Eerste Kamer der Staten-Generaal' , has a substantial role to play on its own, a role distinct from the other House in Parliament, de 'Tweede Kamer der Staten-Generaal'.

The principal function of the Senate in the Netherlands is to give an overall opinion on a bill at the end of the legislative process. The Senate does not have the power to amend a bill. It may, however, reject a bill and to this extent it therefore has the last word. The particular strenght of the Dutch Senate lies in its full veto right over each and every legislative proposal.

What has made the work in the Senate particularly challenging in recent years, is the fact that the government coalition (the second Rutte Cabinet), based on the Liberal Party VVD and the social democrat party PvdA, after the elections for the Senate of 2015 only disposed of 21 out of the 75 seats the Senate counts. Although coalition parties in the Senate never automatically give their support to government proposals, they of course are more inclined to look favorably at those proposals than opposition parties. The government in the last two years had to work very hard to reach a majority for each and every legalislative proposal that was put before the Senate.

That has made the debate in the Senate very lively and dualism between the Government and the Senate has flourished more than it ever did before. With different majorities the Government succeeded in finishing off most of its legislative agenda, and important new laws have been passed, for instance in the domain of social affairs, pensions, taxes, environment, education, media, justice and security.

A topical issue in the Senate has been the ratification of the Association Agreement between the European Union and Ukraine. You may have heard that The Netherlands was the only EU-Member State that had not yet approved the Agreement. In 2015 both houses of the Dutch parliament passed legislation in order to ratify the Association Agreement. In April 2016 this ratification was subject to a national advisory referendum,. an instrument that had never been applied before . Although only 32% of the voters participated in the referendum, the majority of voters voted against the Association Agreement. The Dutch government then proceeded to procure a political statement from the members of the European Council that gave a further explanation of the Association Agreement. Through that statement the government hoped to address the concerns that were voiced by the Dutch public in the advisory referendum.

On the 23rd of May 2017 the Senate held a plenary debate with Prime Minister Rutte and Minister of Foreign Affairs Koenders on the Association Agreement between the European Union and Ukraine. The debate in the Senate focused on the question whether the political statement made by the government leaders in the European Council is an adequate response to the negative outcome of the referendum and what the legal status is of this political statement. The speakers in the debate also discussed the consequences of the Association Agreement for Ukraine and its relations with the EU and Russia.

Last Tuesday the Senate of the Netherlands approved the Association Agreement between the European Union and Ukraine. What was particularly interesting was that the government succeeded in convincing a large majority of the Christian Democratic Party (CDA) which in the House of Representatives unanimously had rejected the approval, to vote in favour of the bill. This example demonstrates that with sound arguments the government can receive the backing of the Senate, in spite of the very small basis of the coalition in the Senate.

In March we had elections for the House of Representatives. The outcome was a very diversified political panorama. Twelve political groups are represented in the House. My party, the liberal party, lost some seats but - with about 22% of the votes - remained by far the biggest party. The greatest loss was for the Social Democrats: they lost 29 seats; they went from 38 seats to 9. At this moment the negotiations for a new government coalition are in full swing. To obtain a majority in the House a new coalition will require at least the support of four political groups. Negotiators certainly will also look at the division of party seats in the Senate so as to avoid the situation that a new coalition again will not have a majority in the Senate.

We live exciting times in Dutch politics. The Senate in the Netherlands with 75 part time Senators, a modest staff and a modest budget, has maintained its relatively powerful position, related to the full veto right it has over each and every legislative proposal. By always focussing on the quality, feasibility and enforceability of draft laws the Senate has kept its distinct role in our parliamentary system and I trust this role to be continued for many years to come.

## ***Stanislaw Karczewski, President of the Polish Senate***

Bicameralism extends the legislative process by at least three readings, but I guess by “time” we should rather understand the present day. On the other hand, it is clear that the second chamber is not supposed to perform the same tasks as the first one or to act in the same way as the lower chamber. But even then, the existence of the senate is not a waste of time. The second chamber is equally useful as *vacatio legis* principle. Or as multiple instances of judicial power.

Senates take on various special tasks and responsibilities. In Poland, it is the custodianship over the Polish diaspora. However, trying to justify our own existence cannot be our main task. These are secondary and particularistic matters.

From our common point of view of upper chambers, there is only one challenge of time: crisis of the principle of the separation of powers, which is crisis of democracy in general. When the legislative primarily appoints executive power from among its members, a shrewdly conceived second chamber can ensure the balance between the legislative and executive power.

All remaining challenges – without any doubt numerous and difficult! – concern also lower chambers and there is no need to concentrate on them at the moment. Let us focus on what truly depends on us and in which no one can replace us.

Full use of the possibilities offered by the very existence of an upper chamber rooted in tradition constitutes a challenge of our time. During the political transformation in Poland, the mere fact that the Senate had once existed turned out to be a missing piece while orchestrating the political compromise of the Round Table. A Senate conceived from scratch would not serve its purpose. This is why having a second chamber is undoubtedly a treasure which should not be abandoned.

An upper chamber can and should reflect something more than just a political majority. It can then have a completely different approach to many issues. Upper chambers should as far as possible differ from lower chambers. In Poland, we are only at the beginning of the road towards optimal functionality of the Senate. Until the

adoption of the constitution in 1997, the Polish Senate had the right of veto over bills of the Sejm and in this sense exercised the role of president. Nowadays we are looking for ways to move out of the Sejm's shadow. The first step, which did not require amendments to the Constitution, was adopting a new Election Act for the Senate based on single-member constituencies. The result of this change was on the one hand a more distinct majority of the governing party in the upper chamber, and on the other, a bigger independence of senators, who are unambiguously identifiable with their constituency, and not only with their party. The next step on the way to optimising the political role of the Senate in the Republic of Poland should be separating election dates of the Sejm and the Senate and establishing a different duration of their terms of office. It seems that by-elections held every two years could be a good solution – as it is the case in France and in the Czech Republic.

Ladies and Gentlemen,

Nothing connected to senates is alien to us in the Polish Senate. As a chamber whose *raison d'être* is often questioned, we listen very carefully whenever someone is speaking about the role and significance of upper chambers. Especially in Europe. One argument put forward against the existence of the Senate in Poland is that Poland is not a federal state. However, this fact does not have to lead to reluctance to the concept of the Senate as a useful political tool. Plurality of representation dimensions is healthy and beneficial for democracy. There are many possible types of upper chambers. Their common denominator is being different from the lower chamber. Therefore, the so-called perfect bicameralism, in other words a system in which both chambers have equal rights, should constitute a negative benchmark for us. Excessive power does not augur well for our senates.

Plurality of representation forms and levels helps the development of the civil society. At this moment, I would like to quote the long-serving Secretary General of the Senate of the French Republic Alain Delcamp: “Arguments made against establishing the second chamber concern problems of bicameralism in general: the second chamber poses a risk of duplicating efforts, delays in decision-making process; also the problems of its legitimacy and difficulties connected with determining the scope of its powers are raised. As usual, the biggest benefit of bicameralism is neglected here: in this historic moment when societies are becoming

less and less homogeneous, diversified representation enables democratic institutions to be more pertinent”.

After Brexit, the parliamentary dimension of the EU is left without the expertise of the House of Lords. It is a great loss for all EU parliaments. No other Member State has a body developed on the basis of experience and competence. Since the Lord Speaker is not among us today, we can speak about certain issues openly. We can openly say that the House of Lords is the only true senate among us. What does it mean? It means that the House of Commons is such an efficient parliament, such a credible, reliable democratic institution that the citizens of the United Kingdom (along with its monarch) can afford to maintain the second chamber which is undemocratic, yet useful.

As a closing remark and somewhat contrarily to my prior reservations, I would like to mention a certain modest project which we wish to undertake together with the upper chambers of France and Germany. It will constitute our contribution to facing specific problems of the present times. In the Weimar format, we want to try to analyse the threats connected with cybercrime and online hate. We suspect that online hate and hacking might be two sides of the same coin. Therefore, as soon as this autumn we are planning to hold the first joint seminar of parliamentarians and experts on this subject with the participation of audience, including youth and non-governmental organisations, organised under the auspices of Three Weimar Senates. Of course you will be able to follow it online. I take this opportunity today to invite you to do so indeed.

**Calin Popescu-Tariceanu, President of the Romanian Senate**

It is indeed a great opportunity for all of us today to reflect on what is still considered a meaningful topic on the agenda of any democratic state in the world. How can we best describe the role and functions of the upper houses of Parliament facing challenges imposed by difficult and complicated times for our countries? This is an essential question for the proper functioning of our democracies, which requires a comprehensive approach. In this context, I personally believe that our meeting provides us with the perfect institutional framework for a fruitful debate on how the second chambers could achieve a new political significance in the present crisis of representative democracy.

Perhaps the most convincing argument for explaining the importance of second chambers in the legislative process is the "senatorial saucer" anecdote. I mention it whenever appropriate because of its relevance. It is said that upon his return, Thomas Jefferson who was in France during the Constitutional Convention, met with George Washington for breakfast. The story goes that Jefferson asked Washington why the Convention chaired by Washington himself had agreed to a second chamber, the Senate. Jefferson protested against the establishment of a legislature with two houses. Washington supposedly asked „*why did you pour coffee into your saucer?*”, „*To cool it*” Jefferson replied, „*my throat is not made of brass*”. Similarly, Washington explained „we pour legislation into the senatorial saucer to cool it”. Even though, there is no proof that such conversation between Jefferson and Washington actually took place, the story of the” senatorial saucer” explains to us the natural function of any upper house, which is precisely to “cool down” the decisions of the legislative body.

Thus, looking closely at the American constitutional arrangement, we will understand that it embodies the principle of moderation vested traditionally in the upper house. American democracy conceived bicameralism as a subset of a different constitutional principle, that of the division of power. The *rationale* is that unlimited power tends to corrupt individuals or groups who are invested with it. Therefore, the power must be limited. The only satisfactory method of limitation is to divide power between different bodies with some sort of scrutiny of each other’s actions. Only respect, if not fear of

another power, can restrain power. To make the system last, the division is made between institutions, not people.

*Dear colleagues,*

Let us reflect for a moment on the following question:

*How exactly could the second chambers strive and finally achieve a new political significance within the context of the current complex challenges facing our democracies?* In order to provide the best possible answer to this seminal question, I will firstly look at the history of Romanian bicameralism and its continuing challenges, and explain at the same time the crucial role embraced by the Senate. Secondly, I will do my best to reflect on how the upper houses in general could embark on a new significant mission.

Romanian bicameralism has an interesting and challenging history. The tradition of the representative forum in the constitutional arrangement has its historical and political roots in a unicameral Assembly. The idea of a second Chamber was introduced only in the nineteenth century through the Organic Regulations referring to the relations between legislative assemblies, as stated in the Developing Statute of the Paris Convention, as well as in the Constitutions of 1866 and 1923, which point to the fact that the Senate had less power attributed to it than the lower chamber. Therefore, on budgetary matters, the power of the Elective Assembly and, respectively, of the Deputy Assembly, in a constitutional regime instituted by the Constitutions of 1866 and 1923 surpassed that of the Senate. True equality between the two Assemblies in legislative matters was established only by the Constitution of 1938.

In the last twenty-five years, Romanian bicameralism was subject to two successive arrangements. In 1990 there was a return to a bicameral Parliament, a solution used by the Constituent Assembly of 1991. Psychologically, this was the natural reaction of rejection of the socialist mode of organizing the legislative power in a unicameral system; politically, this was the result of the return to the political life of certain parties having historical ties to a bicameral Parliament. Today, Romania's legislative power is vested in a bicameral legislature consisting of the Chamber of Deputies and the Senate. The Chamber of Deputies is made up of 402 deputies, while the Senate is



composed of 168 Senators. Both deputies and senators are elected during the same round of parliamentary elections, by universal, equal and direct vote for a mandate of four years. The Romanian bicameralism constitutes a rather rare example in Europe of a symmetric bicameralism in which both Chambers represent the same population.

It is highly significant that since 2007 the Romanian Senate has been up against a qualified populist challenge. In 2009, at the initiative of the President of Romania, a non-mandatory referendum was held on the modification of the size and structure of Parliament from a bicameral one to a unicameral assembly with a maximum of 300 seats. With a majority of 77.78 per cent (50.95 per cent turnout) the electors approved the implicit abolition of the Senate. However, there is no constitutional constraint to implement such an outcome. Ever since, the abolition of the Senate has remained on the agenda of a number of populist pressure groups.

Any pragmatic analyst and observer of parliamentary life cannot deny nowadays that bicameralism is still facing unfounded and arbitrary criticism. The idea of a “replicate chamber” in the organization of Parliament on two levels must be examined in relation with the intensity of social life and, especially, with the dynamics of change in a society in transition, therefore unstable in terms of social interests and their supporting political forces. The critique, from this point of view, of bicameralism did not tarry. As expected, the critique did not come from jurists, but from populist groups or politicians, interested only in the institutional aspect of power and its manifestation through political decisions.

Some specialists whom I disagree with, state that bicameralism has fallen from the good graces of unitary states, as it is no longer commended for its advantages, even if for various reasons some of these states had kept it. In some European countries one finds an egalitarian bicameralism, as both Chambers (the Chamber of Deputies and the Senate) are elected through universal, direct suffrage and have quasi-identical attributions. In other countries, while there are some differences regarding the means of recruiting deputies and senators (the Congress of Deputies is elected through direct suffrage, while the Senate, by combining direct suffrage at a regional level for most mandates with the election of the rest of the mandates by the legislative Assemblies of the autonomous communities), the Chambers share the same prerogatives.

In a unitary state, bicameralism is justified in so far as both Chambers have different roles and functions. If such a differentiation is desired, then a system of recruitment will be found, which offers each Chamber its own legitimacy, according with the role and functions that have been decided for each. If both Chambers have similar legitimacies, then they will have to have similar powers and roles. At the most, a legislative proposal can be discussed by one chamber, and then improved by the other, according to the same procedure. The constitutional principle of bicameralism obliges both legislative Chambers to examine the dispositions of the law passed by Parliament.

For me the theoretical model of bicameralism consists in combining two levels, perfectly balanced and compatible with democracy: the election of an upper Chamber, perhaps numerically inferior, representing local, territorial interests. Such a model would be more functional and allow for a more alert legislative process and a more successful representation in Parliament of the particular interests of territorial communities, both at legislative level and in the relationship between elected officials and their electoral circumscriptions. Of course, nothing can prevent a change in the constitutional law as to alter the current manner in which the Parliament is organized in Romania. One may direct this change either towards the historical unicameral tradition or towards changing the recruitment system of senators and amending some constitutional prerogatives of the upper Chamber.

Therefore, building on these observations and the lessons learned from the challenging evolutions in the history of our democracies, we have to seize every opportunity to defend the upper houses from the populist phenomena while promoting at the same time the importance of bicameralism.

*Dear colleagues,*

I would like to take the opportunity to renew my invitation to the 19<sup>th</sup> Meeting of the Association of the European Senates, which will be hosted by the Senate of Romania, on 14 and 15 June 2018.

It will be indeed a great privilege for us to welcome you in my country next year, when we celebrate the 100th anniversary of the Romanian modern state. We are looking forward to meeting you all in Bucharest!

***Nikolay Fedorov, First Deputy Chairman of the Council of the Federal Assembly of the Russian Federation***

As a process of turning interdependent actors – nation states – into a unified whole, globalization has shaped a fundamentally different historical reality in which it is becoming increasingly difficult to separate national issues from cross-border (regional and global) issues. Global warming, water pollution, migration, hunger, violations of the rights of ethnic minorities. Are these national issues? It depends. The emergence of a global context for every national issue, as well as international implications for practically any action taken at the national level, imply that both these dimensions must be present in the work of parliament too. This means, among other things, that developing inter-parliamentary cooperation is a necessary condition for improving the activities of national senates.

This is particularly important as the functions and objectives of upper chambers are steadily expanding. Their role in the political, social and economic lives of states, as well as their profile as active players in international and inter-parliamentary relations, are rising.

The recent bloody terrorist attack in Manchester has tragically and glaringly demonstrated that terrorism is one of the main problems of the modern age, one that parliaments of all nations should come together to overcome. The world is facing an unprecedented challenge. Not a single nation, however powerful, can meet this challenge on its own. And not a single nation or its citizens can feel 100% protected from new strikes by this global enemy.

Today, the upper chambers of parliaments face the crucial task of fighting this evil, because it is often they who wield special counter-terrorism powers.

The Council of the Federation used those powers to give consent to the President of the Russian Federation to use the country's national Armed Forces in order to fight terrorist groups in Syria. Russia has responded to a request from President of Syria Bashar al-Assad for military aid to his country. I would like to stress that, unlike many other countries, we are using our troops in Syria on wholly legal grounds, because,

obviously, under international law there are only two legal grounds for using force abroad: either at the request of the legitimate authorities of a sovereign state, or under a UN Security Council mandate.

Numerous terrorist attacks in a number of cities, including St. Petersburg, Stockholm, London, Paris, Tanta, Alexandria and now Manchester, have shown on multiple occasions that the task of joining our efforts is turning from a matter that states may wish to handle on their own into a necessary condition for achieving victory over a common enemy, a *sine qua non*.

The Council of the Federation has proposed the establishment of a parliamentary anti-terrorist coalition. This idea is consistent with the initiative on setting up a broad anti-terrorist coalition proposed by President of the Russian Federation Vladimir Putin at the 70<sup>th</sup> session of the UN General Assembly.

I am asking you to support our proposal to join efforts in the fight against terrorism. It is at the level of parliaments that counter-terrorism measures need to be more actively discussed and coordinated, because it is parliaments that wield supreme legislative powers in their home countries.

Developing parliamentary democracy and strengthening the foreign policy functions of upper chambers should become a fitting response to the challenges of our time. With one very important condition: that inter-parliamentary dialogue should not be artificially obstructed in any way, because it is a dialogue between those to whom the people – the source of power in any state – have delegated their authority. This is why we strongly oppose any sanctions or restrictions on inter-parliamentary relations.

Today, Russian MPs successfully participate in the activities of various international parliamentary organizations. The adoption of a resolution proposed by the Russian delegation at the 136<sup>th</sup> Assembly of the Inter-Parliamentary Union in Dhaka was a major milestone. The resolution states that humanitarian considerations cannot constitute grounds for the forcible change of legitimate regimes. MPs from other countries have expressed support for our resolution on the role of parliaments in preventing external interference in the affairs of sovereign states. We hope that this common stance will be translated into practice.

The contribution of upper chambers to inter-parliamentary dialogue and the building of trust among countries and peoples has been substantial.

In an environment of so-called sanctions, international cooperation in the parliamentary sphere has essentially remained the only available public channel to engage in a dialogue with our international partners. We will continue to use international venues to build constructive cooperation with our international colleagues in order to search for common answers to common challenges; this does not mean that we are trying to overcome some kind of “isolation,” something that is impossible in a globalized world in the first place, but it represents our share of responsibility for resolving international problems.

I would like to emphasize the social, human dimension of our work. In a fast-changing world where information is often distorted to serve political interests, the openness, or “transparency,” of the activities of upper chambers play an especially important role. Accurate information on what a parliament is doing is fundamental to developing and maintaining a mutual understanding with civil society.

In recent years, the Council of the Federation has made serious efforts to ensure that information about our work is readily available. Four years ago, at the initiative of our chamber, Russia’s first parliamentary TV channel – Vmeste-RF – went on air. Its audience has already grown to dozens of millions of viewers.

We are using modern capabilities and technology and implementing convenient and accessible ways of sharing information. The chamber’s website has also been completely overhauled and is now interactive. Personal pages have been created for Council of the Federation members to provide the public with ongoing information about their work. All chamber meetings are webcast live.

It is important for the public to learn about decisions made by the Council of the Federation and to see the tangible results of our efforts. This is because receiving objective and up-to-date information on the activities of parliament and other

government bodies is an irrevocable right of the citizens of a country, and a guarantee of the government's legitimacy.

The quality of laws passed by parliaments is particularly important.

The Council of the Federation participates in all stages of the legislative process. Thus, we work on draft bills with the lower chamber of parliament from the very moment they are tabled, which helps us perform quality control at the earliest stages and identify and resolve any issues long before laws passed by the State Duma reach the upper chamber.

To discuss particularly important matters, we hold parliamentary hearings, round table discussions, or meetings of advisory and consultative bodies attached to the Council of the Federation and its Chairperson.

The Council of the Federation is also very serious about monitoring the enforcement practices, including improving legislation and law enforcement and developing recommendations on increasing the effectiveness of the execution of laws.

The function of parliamentary supervision is becoming increasingly important to the work of representative government bodies.

Russia has a special law on parliamentary supervision, which sets out the key mechanisms for its implementation. The Council of the Federation is one of the main actors of parliamentary supervision.

For example, as part of its "government hour," each meeting of the chamber hears reports by heads of government ministries or agencies and adopts resolutions on matters that are important to our country. Our chamber also hears reports by the Prosecutor General, the chairpersons of the Bank of Russia, and the Audit Chamber. All of this has created an efficient mechanism of checks and balances in the state government system.

The role of the upper chambers as guarantors of political stability is also expanding under the present circumstances.

The Council of the Federation is special in that it is politically neutral and is formed on the basis of regional representation, rather than party affiliation. This allows our chamber to remain a legislative body that is free of party disputes and disagreements, and play an important role in ensuring constitutional stability and inter-ethnic peace both at home and internationally.

We strongly believe that MPs must concentrate their efforts on preventing international conflicts of any kind. This is the idea at the root of the 137<sup>th</sup> Assembly of the Inter-Parliamentary Union, which, at the initiative of the Council of the Federation, will take place in St. Petersburg on October 14–18 of this year.

We have proposed a topic for discussion: “From Cultural Diversity to Cultural Pluralism for the Sake of Peace and Security for All.” I am convinced that the all-embracing and non-confrontational agenda of the Assembly will help us achieve the desired outcomes.

I would like to invite you to St. Petersburg, where we promise to welcome our esteemed guests in the warmest manner according to the customs of traditional Russian hospitality.

***Pio Garcia-Escudero, President of the Spanish Senate***

Greetings Messrs. Presidents, it is an honour for me to participate in the 18th Meeting of the Association of European Senates, which brings us together today in Slovenia. For this reason, I want to address my first words of thanks to the president of the National Council for the excellent organization of this event.

The chosen theme deals with current challenges facing the second parliamentary chambers in Europe. And this brings us back, in the first place and, inevitably, to the debate on reforms which have been planned, studied or drawn up in each of our countries to strengthen the political efficacy of the different bicameral systems.

This is a useful discussion for all of us, as it helps us to improve our understanding of our surroundings and learn from different experiences. I would also like to add some reflections on the great importance of parliamentary transparency.

Within the Spanish Senate and almost all legislatures, projects have been set up in the past two decades to study the possibility of a reform of our Chamber of territorial representation. This has also been the case in this current legislature, where we aim to compile and continue the work carried out until now.

To date, our efforts have focused on reforming Senate functions within the model of imperfect bicameralism defined by our constitutional text. That is to say, the reforms would maintain the prevalence of Congress in case of discrepancy, but improve the position of the Senate in exercising its parliamentary functions, especially in their territorial dimension.

In our case, we start with the problem that the differences between the Congress of Deputies and the Senate functions are not clear enough to the public.

This happens because the Senate which, according to its constitutional definition, should be the Chamber of territorial representation tends to reproduce in its work the same confrontation of ideological blocs that occurs in the Congress of Deputies.

This is a reality that logically plays against the Senate, especially in an asymmetric parliamentary system such as ours. If there is a disagreement between these two representative bodies, it is the Congress of Deputies that always prevails.



I would remind you that the general rule that sets our Constitution is that the Senate, in its second reading, can imposed vetoes or amendments to the legislative texts referred to it by the Congress, with a total processing time of two months.

However, when the Senate imposes a veto to a bill approved by Congress, this can be lifted by the lower chamber can overrule it by ratifying the initial text with an absolute majority, or ratify by a simple majority if two months have passed since the imposition of the veto.

Also, if the Senate introduces amendments, these can be approved or rejected by the Congress of Deputies by simple majority.

Based on this, with the goal of strengthening the position of the Senate in the legislative procedure, the following lines of reform have been considered within an eventual reform of the Spanish Constitution:

- First, to provide that laws with autonomous incidence, the Senate performs the first reading. In the event of discrepancy, the legislation goes to mediation procedures between the two chambers.
- Second, that the Senate (and not the Congress of Deputies, as it is now) considers or "accepts" the legislative initiatives proposed by the parliaments of the Autonomous Communities.
- Third, to establish more stringent requirements on the Congress of Deputies for rejecting proposals from the Senate in ordinary legislative procedures.
- It has also been proposed to increase the processing time of the Senate from two to four months in ordinary legislative procedures.
- To the same end, the possibility of prior discussion of legislative texts before they go through the Congress of Deputies has been raised – especially when they affect areas such as health, education and infrastructure that are within the remit of the autonomous governments.

These are all issues on the table, yet to be clarified.

In any case, the great challenge facing the Senate of Spain is the ability to define parliamentary channels that would increase territorial political dialogue between the autonomous governments, and dialogue with central government.

For more than twenty years we have had an ad hoc body inside the chamber, the General Committee of the Autonomous Communities.

This Committee was conceived to hold general discussions on regional policy and sectorial issues, all with the input of the national government. It addresses the specific needs of the autonomous governments, which do not have the opportunity to participate in other commissions, the Senate or the Congress of Deputies.

In a state with a territorial organization as highly decentralized as Spain, there are many issues which, in whole or in part, lie within the jurisdiction of the autonomous governments. And therefore, multi-level cooperation and coordination are more than convenient – it is essential.

Our General Committee of the Autonomous Communities was created with that purpose and it offers great possibilities. Unfortunately, we have not yet been able to take advantage of them.

This is because, like in many other cases, the institutions provide a framework for action, but they require the political will and the agreement of the political actors to give their all in its performance. We must continue to make progress in this line of work.

Finally, I would like to refer briefly to our efforts in recent years to enhance the transparency of our Senate in two fundamental aspects: on one hand, in everything that relates to the economic and administrative affairs of our internal operations; on the other, in relation to purely political activity as a parliamentary chamber.

Citizens' political disaffection with the functioning of democratic institutions is a serious threat that we must combat firmly – especially those of us that are political representatives.

It is necessary to eliminate the distance and the suspicion that undermines confidence, hampering the normal relationship between polity and society.

Thus, the way parliaments approach citizens is a matter of the highest priority in terms of what it can bring to the so-called 'democratic regeneration' and updating representative mechanisms. Also, because of what it means for the strengthening of the legitimacy of the political system.

To this end the Senate of our country launched a transparency portal within its website in 2014. We have done this within the framework of the Law of Transparency and Access to Public Information and Good Governance, adopted in Spain a few years ago

This portal lies at the core of a new culture of transparency that we have strengthened. We are implementing it, day to day, on the basis of a broad consensus among all the political groups represented in the Chamber.

Our goal is to make it accessible and understandable to all citizens, with agility and up-to-date information about parliamentary activity; budgets, planning of works and installations and contracts made by the chamber; the subsidies received by parliamentary groups; the remuneration regime that is applied to the parliamentarians, their statements of assets and income, and their national or international movements.

We aim to extend transparency in this way. And in a more recent development, the Bureau of the Senate of Spain has recently authorized that all the minutes of its meetings are published on the web and thus become a matter of public knowledge.

At a time when so many are trying to cast doubt on the validity of parliamentary democracy, it is vital that senators and deputies both lead to vindicate its irreplaceable value for living together in peace and freedom.

This is, without doubt, one of the major challenges of our time, and we must face it with determination and responsibility. For this purpose, we cannot find a better ally than transparency to eliminate any shadow of a doubt about the work we do at the service of society.

***Géraldine Savary, Vice President of the Swiss Council of States***

Thank you for your invitation. Let me assure you that the Swiss Council of States is very glad to be able to participate at this Meeting of the Association of European Senates.

Ladies and Gentlemen, let me offer regards of the President of our Senate, Ivo Bischofberger. This is my first time at such a meeting, so I really admire your welcome, your country, and contribution of the Prime Minister of Slovenia who honoured us by confirming the dialogue between the legislative and executive branch of authority. I am also grateful for the cultural and gastronomic experiences we enjoyed. Let me say that Slovenia is known as the Switzerland of the Balkans. I was of course very glad to visit it. I would like to suggest that perhaps Switzerland is the Slovenia of the Alps.

You will not be surprised by my initial statement of support for bicameralism as bicameralism as we know it in Switzerland. Of course it cannot be otherwise, I have myself been a senator for the last 10 years, elected with direct general elections and therefore know all benefits of bicameral systems. I would like to show you an example of how the Senate works in Switzerland and what benefits of bicameralism we are experiencing.

At the last federal elections the centrist democratic union – the party of the populist right (UDS) won at elections to the National Council (lower chamber), and now has a majority in the lower chamber. You have all already heard of the dangers that populism causes to democracies. The National Council currently truly reflects the conflict between the left and the right. How can such politics prevent and disable real reform? In the National Council, the balance remains as prior to the election. Why is this so? Members of the Senate are elected with a majority system because they must fend off the following of popular trends. Today we have heard a lot about how citizens of our countries often like to exclude themselves from participating in politics. In Czech Republic, they explained that the crisis of our democracies stems from the lack of trust from our citizens. I am convinced that the manner in which senates may participate in politics by rejecting populism and emotional reactions, is the real defence before populism that threatens our democracies. Of course I do not insist

that our Council of States is a great representation of our citizens, but it is close to the cantons and the people, and hence has great influence over the adoption of laws. Our federal laws are accepted by representatives of people, as well as states, and in this way enable prevention of referendums. This dual activity is really important, because referendums are a constant threat in Switzerland.

Dear colleagues, today as for the time of the French Revolution, it was said that to represent is to do good for the country. Of course, a law is an expression of the general will. Therefore, it is important to efficiently represent the people in order to adopt laws, and adopt laws in order to efficiently represent. For both chambers to cooperate in a suitable manner, appropriate representation is required. For both chambers to cooperate in adopting legislation, they must have the opportunity to propose laws, as well as the opportunity to discuss laws. If the chambers express themselves one after the other instead of expressing themselves together, this can be very problematic. They should work together in the field of legislature, which would enable shared responsibility.

In Switzerland, balance of power and authority of both chambers is very important. Hence, the legislative branch is actually a counterweight to the executive branch of authority.

If senates play their parts from the very beginning, they can cooperate with each other, as well as with the first chambers. Today, we have already heard about different models that exist in your countries, and I understand your hesitation concerning the model I speak of. If chambers have the same jurisdictions concerning everything, will this not lead to unicameralism? I believe that definitely not. In Switzerland, both chambers in the bicameral system efficiently represent suitable political and other interests, which is ensured by their electoral basis. Representation of regions and the civil society are very important. In Switzerland we cannot conclude a voting before decision-making of both chambers. Bicameralism is a rule in a lot of countries, and smaller countries often decide for this system due to the differences in the population and due to constitutional history, as is the case in Switzerland.

Although Switzerland is not a member state of the European Union, we are still Europeans at heart and in our culture. I would like to therefore add that in Europe that questions itself and must take a stand towards globalization, it is even more

important that regions are active, and that different identities, constituting different countries, are highlighted.

As I listened to the Prime Minister of Slovenia, who this morning asked how to speak to our citizens, I believe that representation of regions is the answer.

I am a representative of a region that has 700.000 citizens, the third largest region in Switzerland.

My region speaks the French language, is the headquarters of the Olympic committee, has 40 sports federations etc. The president of the Council of States comes from a canton with 30.000 residents. I represent 700.000 citizens, while my colleague represents 30.000. He speaks German and in his canton, residents still vote by raising their hands at the town square. Do you see what kinds of differences exist in Switzerland? Yet, his vote and my vote are completely equal in the national council.

A strong senate is a guarantee for representation of regions that their votes will be heard and respected. Mr vice president of the Austrian Senate spoke about the challenges of the 21st century, and one of these challenges are the voices of the region. The way to combat them is a national council or a strong senate.

Upper and lower chambers should have differing approaches. This is a legal guarantee and a quality. Throughout intensive dialogues of different committees, legislature can be adopted appropriately. I am sure that you all are experiencing such situations.

We speak a lot about future pensions in Switzerland. This will be a great challenge and recently, bicameralism played a huge part in the Swiss Parliament. The Senate suggested raising the required monthly contribution for retirement insurance in order to respond to the needs of the retirement system. In Switzerland, retirement insurance is an extremely important matter and has contributions to retirement insurance not been increased for the last 20 years. The solution proposed by the Senate won only with a small majority in the mediation procedure. The National Council also approved this solution, though only by only vote. I would like to share a Swiss saying: in Switzerland we have one terrain, two teams, and 246 players, but the National Council always wins.

There is also the problem of expenditure. UDC party claims the Senate is too expensive, that our pays are too high, and therefore that the price of democracy is too high. They together with the media suggest lower pays. It is true, two chambers, the mediation procedures with 13 representatives of each chamber, etc. are all things that cost money. However, do we not know that speed is often connected to imprecision? It is better that laws are given enough time to reach good legislation. If we were to limit the discussion, we would exclude the background and opinions. It is very important that laws are read twice, which solves such issues on this levels.

Senates may be accused of not having representative and legislative competences. Concerning whether the right of a veto or a discussion is really something that is representative of the electoral body, I believe that both chambers should be able to express themselves regarding all questions. I am glad that the Slovenian National Council recently was able to enforce its right of dual reading, and the project of the second tier to the Koper port.

On the contrary to most speakers, I fully support a bicameral system with two chambers with the same jurisdictions. To conclude, this is because upper chambers cannot be responsible for improving the laws only – to be commanders and regulators of constitutionality of laws that speak about parliamentary democracy three times a year. Upper chambers should echo interests that partisan chambers overhear; in this way they will strengthen their position. They must take advantage of all room for manoeuvring. Then, their elections will be more interesting. In Switzerland, citizens elect representatives to both chambers at the same time. Turnout at such general, federal elections is very high, about 50%. Senates will no longer be subjects of criticism when they truly start participating in the legislative process. The greater their jurisdictions, the greater will be the respect. I was glad to hear about the reform of the Spanish Senate, and I believe that such reform in accordance with the Declaration of Rights from 1889 is really significant. I wish the Senate of the Iberian subcontinent to successfully participate in legislative procedures as the chamber of the first reading, and participate in the work of the joint committee to overcome existing differences between chambers.

To conclude, we must together work against constitutional changes that aim to dissolve upper chambers or limit their power. I look forward to future discussions

today and at the next meeting in Romania. Thank you very much for your attention.  
Have a great travel back home.





### **Imprint**

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