

*Check against delivery!*

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**Association of European Senates**

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**THE ROLE OF THE SENATES ON THE EUROPEAN CONTINENT**

**THE COMPETENCES OF THE NATIONAL COUNCIL OF THE REPUBLIC OF SLOVENIA**

(The Hague, 16 -18 April 2009)

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Distinguished Mrs. President  
Distinguished colleagues  
Ladies and Gentlemen  
Dear friends

Allow me, please, to greet you cordially and to thank you, distinguished Mrs. President, for the excellent organization of the conference and a very good sense of the theme choice.

You are very well acquainted with the development and the situation of bicameralism in Europe, so, I would like to limit myself, in this short contribution, only to some interesting comparative findings. Slovenia is one of the 11 European Union member states, having the so called asymmetrical bicameral parliamentary system in which the whole legislative power is entrusted by the Constitution only to one of the two chambers, in the case of Slovenia this is the first chamber – the National Assembly.

The second chamber of the Slovene parliamentary system – the National Council of the Republic of Slovenia is one of those rare second chambers in Europe that is constituted according to the **nonparty principle**. It does not consist of the candidates or councillors of political parties but of the representatives of social structures. The Constitution from the very beginning determines five typical segments of society, having their representatives in the National Council. These segments are: local self-government, non-economic fields, employers, employees, farmers, craftsmen and independent

professions. The structure of these segments has not changed from the adoption of the first Constitution adopted in the independent Slovenia in 1991, or even earlier, from the so called »Writers' Constitution« from 1989, a document of the Slovene intellectuals, scientists and cultural workers in the period of the first concrete steps in the formation of the independent Slovene state.

The above mentioned nonparty principle is in a way a creative answer to the question: «How to ensure greater control of the legislative branch of power over the executive one?» This issue or this principle and criterium is very familiar among the parliamentarians in the European Union. If we ask ourselves a rather provocative question: »How rigorous control over the executive branch of power can be expected from the parliamentary chamber that nominated the concrete government?« the answer is in a certain part quite clear – not too rigorous. The role of the opposition is not to be forgotten but still the question remains to what extent the control and the criticism of the party opposition are motivated by predominantly party motives. From the perspective of the situation analysis in Slovenia one could conclude that alongside the established fundamental role of the deputy chamber, constituted on the basis of the parties and lists, it is useful to have a nonparty chamber as a mechanism of check and balances. We thus contribute to the reduction of democratic deficit.

The issue of the relation corporativism vs. liberalism is closely connected with the above mentioned nonparty concept of the second chamber. If we, in a rather simplified way, extrapole in the time and substance sense the two cited notions into the »enlightened modern« corporativism vs. neoliberalism and take a quick look at the ways in which the contemporary leaderships of states face the global crisis we shall perhaps get an additional argument for the consideration on the neocorporativistic conception of the second chamber of the parliamentary system.

In the Slovene constitutional order there is a substantial difference between the constituting of the first and the second chamber of the legislative body. For the National Assembly the principle of general direct elections is valid and the representatives are elected by all adults according to the principle of the equal suffrage: one person one vote. On the other hand the National Council is constituted on the basis of indirect elections in the interest organizations or respectively in the local communities through electors. Thus the principle of equal suffrage can be respected in the elections to the National Council only in the framework of an individual interest group.

The role of the national councillor is closely connected with the so far described conception. The National Council consists of 40 councillors, of which the majority represent local interests (22), a rather minor part (18) represent the so called functional interests, i.e. the remaining four interest groups. After the election the national councillors continue with their professional work and exercise their task of councillors non-professionally and receive modest financial compensation for their work in the National Council. The Constitutional Court has envisaged the professional leading of the function of a national councillor solely for the president. The non-professional work of the councillors, as a rule, is very important in its substance as national councillors thus bring

in the field of the legislative branch of power fresh and up-to-date knowledge, initiatives and problems.

The competences of the National Council are in accordance with its substantial conception and are the following: legislative initiative, veto, request for a call of a referendum, opinion, request for the introduction of a parliamentary inquiry and request for assessment of constitutionality and legality of acts. Alongside the suspensive veto, the request for a call of a referendum is a very important competence of the National Council. This competence represents a threat to the National Assembly and the Government in the sense that if they do not observe the National Council the latter can demand that the final decision be taken by the electoral body. For the reason of the already mentioned method of indirect elections, the National Council has not such legitimacy as the directly elected National Assembly but it can, if the citizens in a referendum do not confirm the law, opposed by the National Council acquire that legitimacy. So far, the National Council applied this competence only in two cases: the latest in 2007 when it opposed the Ownership Transformation of Insurance Companies and less than 30% of voters voted in favour of the law which meant a vote of non-confidence to the Government and a vote of confidence to the National Council.

From the point of view of contents a very important role of the National Council can be determined in the sphere of its active relation with the civil society in the consultations on the most important social problems, phenomena and dilemmas. The National Council organizes at least two great consultations a month with the participation of professional civil society, non-government organizations as well as the government competences and services. Competent organs of the National Council form conclusions of the consultations and publish them. The National Council starts to more efficiently carry out an active role in the framework of the legislative procedure, most expressively after the concluded legislative procedure in the first chamber, when in case of a disagreement applies the instrument of veto, a request for a call of a referendum or request for the assessment of the constitutionality.

Ladies and gentlemen,

May at the end mention be made of the opinion connected with the idea of the second chamber on the level of the European Union – this vision could be an interesting way of the improvement of the communication between national parliaments and the European parliament. It does not need any complicated and costly institutionalization and would bring the European Union closer to the citizens of Europe.

Thank you for your attention.