

# CHANGE IN THE CONSTITUTIONAL ROLE OF THE PARLIAMENT OF UKRAINE AS A RESULT OF UKRAINE'S ACCESSION TO THE EUROPEAN UNION

## ZMIANA KONSTYTUCYJNEJ ROLI PARLAMENTU UKRAINY W WYNIKU PRZYSTĄPIENIA UKRAINY DO UNII EUROPEJSKIEJ

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### Abstract

The article is aimed at exploring the transformation that the Parliament of Ukraine, Verkhovna Rada of Ukraine (VRU) should undergo as a result of Ukraine's integration into the European Union. In particular, the article focuses on the constitutional functions and powers of the VRU as national parliament of an EU member state. By analysing the role that National Parliaments play in the EU legal system, the study analyses changes to be introduced to the VRU's legislative, scrutinizing and representative functions. The role of the national parliament is undoubtedly defined in the constitution. The article therefore presents an overview of the constitutional provisions of a number of EU member states in order to determine what changes should be introduced to the Constitution of Ukraine. Finally, the overview of possible amendments to the Constitution of Ukraine are discussed in the context of parliamentary control and legislative activity.

**Keywords:** legal system of European Union, Constitution of Ukraine, Constitutional reform, Parliament

### Abstrakt

Artykuł ma na celu zbadanie transformacji, jaką powinien przejść parlament Ukrainy (Rada Najwyższa Ukrainy, RNU) w wyniku integracji Ukrainy

z Unią Europejską. W szczególności koncentruje się na funkcjach konstytucyjnych i uprawnieniach RNU jako parlamentu narodowego państwa członkowskiego UE. Podkreślając rolę, jaką parlamenty narodowe odgrywają w systemie prawnym UE, analizowane są zmiany, które należy wprowadzić do funkcji ustawodawczych, kontrolnych i reprezentacyjnych RNU. Rola parlamentu narodowego niewątpliwie określona jest w konstytucji. Artykuł prezentuje zatem przegląd przepisów konstytucyjnych szeregu państw członkowskich UE w celu określenia, jakie zmiany należy wprowadzić do Konstytucji Ukrainy. Na koniec omówiono przegląd możliwych zmian w Konstytucji Ukrainy w kontekście dokonania kontroli parlamentarnej oraz działalności ustawodawczej.

**Słowa kluczowe:** system prawny Unii Europejskiej, Konstytucja Ukrainy, Reforma konstytucyjna, Parlament

## Introduction

The process of Ukraine's accession to the European Union, which has reached a qualitatively new level with the start of membership negotiations on 25 June 2024,<sup>1</sup> will undoubtedly bring changes to Ukraine's legal system. Ukraine faces the critical task of harmonizing its national legislation with the EU *acquis*. According to the Government Office for the Coordination of European and Euro-Atlantic Integration, Ukraine will need to implement 2,739 EU legal acts into its national legislation during the negotiation period.<sup>2</sup> Given the scale of these changes, they will inevitably impact the functioning of the Verkhovna Rada of Ukraine. This article analyses the role of national parliaments (NPs) within the EU legal system and provides an overview of the constitutional provisions of the Member states. The analysis allows for discussing possible changes that will affect the Verkhovna Rada of Ukraine's role following the country's accession to the EU.

It should be emphasized, that since the full scale invasion of the Russian Federation in Ukraine in 2022, the legal regime of martial law has been

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<sup>1</sup> "EU Opens Accession Negotiations with Ukraine." <https://www.consilium.europa.eu/en/press/press-releases/2024/06/25/eu-opens-accession-negotiations-with-ukraine/> [accessed: 01.03.2025].

<sup>2</sup> Government Office for the Coordination of European and Euro-Atlantic Integration, *Report on the Results of the Initial Assessment of the Progress in the Implementation of EU Legal Acts* (2023), [https://eu-ua.kmu.gov.ua/wp-content/uploads/Zvit\\_EN.pdf](https://eu-ua.kmu.gov.ua/wp-content/uploads/Zvit_EN.pdf) [accessed: 01.03.2025].

in continuous effect.<sup>3</sup> The Constitution of Ukraine<sup>4</sup> directly prohibits introducing changes to the act itself during wartime. Para. 2, Article 157 of the Constitution of Ukraine reads as follows: “The Constitution of Ukraine shall not be amended in conditions of martial law or a state of emergency.” Nonetheless, after the termination of the legal regime of martial law in Ukraine, some changes should be introduced to the Constitution of Ukraine in order to enable becoming an EU member state.

The issue of the role of national parliaments in the EU legal system is addressed by several researchers, particularly in the context of changes introduced by the Lisbon Treaty in 2007.<sup>5</sup> For instance, Winzen provides an overview of the institutional positioning of national parliaments in EU member states, and identifies which parliamentary functions dominate their activities [Winzen 2021]. Another scholars, analysing the application of the Early Warning Mechanism, suggest that NPs should focus on indirect involvement in the decisions of the European Council [Wilde and Raunio 2018, 323]. However, similar studies are primarily situated in the field of political science, while research from a legal perspective remains less developed. The aim of this article is to determine the key changes in the constitutional role and functions of the Parliament of Ukraine that will take place as a result of Ukraine’s accession to the European Union.

## 1. EU legal system trends and the role of national parliaments in the EU

The European Union possesses and exercises, through its institutions, the powers transferred to it by its member states.<sup>6</sup> In particular, the mem-

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<sup>3</sup> Decree of the President of Ukraine, *On the imposition of martial law in Ukraine* (2022). <https://www.president.gov.ua/documents/642022-41397> [accessed: 17.04.2025].

<sup>4</sup> Verkhovna Rada of Ukraine, *Constitution of Ukraine* [hereinafter: Constitution of Ukraine], “The Official Bulletin of the Verkhovna Rada of Ukraine” no. 30 (1996), <https://zakon.rada.gov.ua/laws/show/en/254%D0%BA/96-%D0%B2%D1%80#Text> [accessed: 01.03.2025].

<sup>5</sup> Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007, OJ EU, C 306, 17 December 2007 [hereinafter: Lisbon Treaty], [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C\\_.2007.306.01.0001.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2007.306.01.0001.01.ENG) [accessed: 01.03.2025].

<sup>6</sup> *D’attribution de competence* (the principle of conferral), as outlined in Article 4.1 and Article 5.2 of the Treaty on European Union [hereinafter: TEU]. Consolidated version of the Treaty on European Union, OJ EU, C 202, 7 June 2016, <http://data.europa.eu/eli/>

ber states transfer the legislative powers to the EU in matters that constitute the exclusive competences of the EU.<sup>7</sup> The remaining powers are retained by the member states either fully (EU supporting competences, Article 6 TFEU) or partially (shared competence, Article 4 TFEU).

Despite the existing division of competences, the principles of subsidiarity and proportionality, the European Union and its legal system are dynamic entities that evolve under the influence of both internal and external factors. While EU member states remain influential in the context of lawmaking, their powers have gradually become more restricted over time and throughout the process of European integration [Pierson 1996, 158]. When the Lisbon Treaty came in force, both a democratically elected European Parliament and the NPs gained influence in the scope of European decision-making [Grøn and Wivel 2011, 258; Jančić 2017, 6].

In turn, the legal systems of the EU and the member states are gradually inclining toward unification in response to challenges faced by the EU. For instance, the COVID-19 pandemic posed a threat to the Union's integrity. EU institutions have limited competences in the field of healthcare, being restricted to advisory functions. Consequently, during the three years of the pandemic, situations arose where member states acted uncoordinated, leading to new difficulties and fostering nationalist sentiments [Bulana 2021, 201-204]. In April 2020, the European Commission, while drafting the Joint European Roadmap Towards Lifting COVID-19 Containment Measures (2020), concluded that for overcoming the crisis, a coherent and coordinated action by EU member states should exist – something that had been lacking up to that point. Similarly, centralization

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treaty/teu\_2016/art\_5/oj [accessed: 01.03.2025].

<sup>7</sup> According to Article 3 of the Treaty on the Functioning of the European Union [hereinafter: TFEU], the EU engages in legislative activities related to customs regulation, monetary policy within the Eurozone, competition rules for trade, fisheries policy, and more (exclusive competence of the EU) by creating binding acts for member states. Additionally, the Union has decisive powers in the areas of shared competence (e.g. internal market, energy, consumer protection), based on the provisions of Article 4 TFEU. Consolidated version of the Treaty on the Functioning of the European Union, OJ EU, C 326, 26 October 2012, [http://data.europa.eu/eli/treaty/tfeu\\_2012/oj](http://data.europa.eu/eli/treaty/tfeu_2012/oj) [accessed: 01.03.2025].

of efforts is essential in addressing other crises, such as migration<sup>8</sup> or financial challenges.<sup>9</sup>

As noted by Perepiolkin, Samotuga, and Filianina in their analysis of the CJEU's Opinion 9/21, the Court of Justice of the European Union has developed the concept of the "covered field" in its case law [Perepiolkin, Samotuga, and Filianina 2016, 37]. According to this concept, a field of social relations that is at least significantly regulated by EU rules may fall under the EU's exclusive competence. This implies the existence of a mechanism whereby a field of relations can transition from shared competence between the EU and its member states to the EU's exclusive competence.

To some extent, the EU has the right to act beyond its explicit competences under Article 352 TFEU. According to the provision, in the absence of specific powers in the Treaties to undertake an action necessary for achieving a Treaty objective, the EU may take such action. However, pursuant to Article 352(2) TFEU, this procedure is subject to the principle of subsidiarity, as required by Article 5(3) TEU.

Taking into account the trend toward the unification of European and national legal systems [Savkova 2023, 64; Heidbreder 2022, 287], a question arises regarding the role of national legislative bodies. When discussing the transformations a state undergoes during the EU accession process, some researchers warn about "de-parliamentarization" [Rizzuto 2004]. This phenomenon is associated with a gradual shift in the balance of power

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<sup>8</sup> This specifically refers to the migration crisis, which peaked in 2015 and was associated with a sharp increase in the number of refugees, including those crossing borders or residing in the EU without legal grounds – in the countries of the European Union [Algash and Pittel 2019, 335]. Additionally, Council Decision 2022/382 of 4 March 2022, in response to the full-scale Russian invasion of Ukraine, acknowledged the existence of a mass influx of displaced persons within the meaning of Directive 2001/55/EC on the provision of temporary protection. Council Implementing Decision (EU) 2022/382 of 4 March 2022 Establishing the Existence of a Mass Influx of Displaced Persons from Ukraine within the Meaning of Article 5 of Directive 2001/55/EC, and Having the Effect of Introducing Temporary Protection. Official Journal of the European Union, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32022D0382> [accessed: 01.03.2025].

<sup>9</sup> For example, the Eurozone crisis – a financial crisis, which started in 2009 – arose, among other reasons, from the inability of developing EU member states to repay their external debts [Frieden and Walter, 2017, 376].

between the legislative and executive branches in favour of the government.<sup>10</sup> However, upon a state's accession to the EU, the role of the national parliament expands to some new areas.

The Treaty of Lisbon introduced the extensive legal basis<sup>11</sup> for the role of NPs in the EU [Auel and Neuhold 2016]. The analysis of the treaties provisions allow for concluding, that the NPs focus on their scrutiny<sup>12</sup> function within the system of the EU law.

The parliamentary scrutiny manifests itself in at least two ways. In particular, as provided in Article 69 TFEU: "National Parliaments ensure compliance with the principle of subsidiarity in accordance with the procedure set out in that Protocol."<sup>13</sup> During an ordinary legislative procedure, national parliaments are informed of its start and receive draft laws (Article 12 TEU). The NPs assess, whether the proposed law complies with the subsidiarity principle, and within eight weeks can prepare their reasoned opinion to the Commission and the EU Legislator, if in their opinion the draft law fails to comply (Early Warning Mechanism, EWM).<sup>14</sup> Some scholars emphasize the direct involvement of the NPs in the legislative process in the EU [Kalaitzaki 2025], which is true. However, despite the NPs have the right to scrutinize the draft laws, they are not obliged to, making the providing of the reasoned opinion an optional stage of the law-making process. In addition, providing reasoned opinions does not always lead to introducing changes to the draft law or to withdrawal of the act. The threshold

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<sup>10</sup> During EU accession negotiations, it is the government that bears responsibility for harmonizing national legislation with EU law. This involves submitting EU integration-related draft laws for parliamentary consideration and preparing the necessary subordinate regulatory acts. The government is also responsible for coordinating the overall legislative alignment process.

<sup>11</sup> Despite not being the direct topic of this paper, the importance of the Treaty of Lisbon is worth mentioning. It introduced several institutional changes, e.g. strengthening the role of NPs and the EP; provisions on the citizens' initiative; making qualified majority voting a priority in the Council [Laursen 2012, 287-89].

<sup>12</sup> For the purposes of this paper, the terms parliamentary scrutiny, parliamentary control, and parliamentary oversight are used interchangeably.

<sup>13</sup> Protocol on the application of the principles of subsidiarity and proportionality [hereinafter: Protocol].

<sup>14</sup> Two votes are allocated per each unicameral parliament. Bicameral parliaments have one vote per each chamber.

of quantity of reasoned opinions should be reached,<sup>15</sup> as provided by Article 7(2,3) Protocol 2 TFEU. Only after receiving a sufficient number of reasoned opinions, the Commission is required to review the draft law, and decide whether to withdraw, amend or to retain the original form with the justification on the latter matter provided to the EP and the Council.

The NPs possess the ability to assess the compliance with the subsidiarity principle also after the law is adopted. Despite the NPs are not the privileged applicants before the Court of Justice of the European Union (CJEU) *per se*, they can ask their respective governments to start an annulment procedure before the CJEU on the basis of the Article 263 TFEU.

The latter is connected tightly with another aspect of the scrutinizing role of the NPs. The NPs hold the national governments accountable for representing a Member State in the EU (Article 10 TEU). Let me refer to Bidonko [2024, 35], with limited voice on the EU scale, the parliamentary scrutiny of the national government is the aspect that some parliaments focus on already during the candidacy period.

The NPs also engage themselves in the inter-parliamentary cooperation with other NPs and with the EP, as provided in the Article 12(f) TEU and can make joint declarations, exchange information (e.g. via Conference of Speakers) or conduct parliamentary scrutiny (e.g. via Joint Parliamentary Scrutiny Group for the oversight over the EU agency Europol).

There is an ongoing scholarly discourse, whether the NPs should be granted the power of proposing laws directly (so-called “green card”), as they are the democratic representants of the peoples of the EU [Borońska-Hryniewiecka 2017]. There is also a debate, whether NPs should assess the compliance of EU legislation with the principle of proportionality alongside with subsidiarity. However, the possible changes to the current role of the NPs fall out of the scope of this paper. In this regard, the further analysis will be presented with the assumption, that in time of Ukraine joining the EU, the current provisions will apply.

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<sup>15</sup> Depending on the thematic scope of the draft law, either a quarter of votes of NPs, one third of votes or a simple majority of the votes is needed to trigger the procedure of review. Given that the overall number of votes is 54, at least 13 votes from 6 countries are needed to start EWM.

## 2. Changes in the constitutional role of the Verkhovna Rada as a result of accession to the EU

The Parliament of Ukraine, the Verkhovna Rada of Ukraine (VRU) is a sole legislator in Ukraine.<sup>16</sup> The Parliament of Ukraine is unicameral<sup>17</sup> and functions within the premier-presidential paradigm. Chapter IV of the Constitution of Ukraine is dedicated to the VRU's role, powers, and principles of activity. In addition to its legislative functions, the VRU plays a vital role in forming the national government. In particular, the VRU appoints the cabinet of ministers (Prime Minister, Minister of Defence, and Minister of Foreign Affairs – based on the President's proposal). The government is accountable to the Parliament (Para. 13, Article 85 and Para. 2, Article 113 of the Constitution of Ukraine) and the Parliament can declare a vote of no confidence and conduct the resignation of the Prime-Minister, resulting in dismissal of the Cabinet or make decision on resignation of particular ministers (Para. 13, Article 85 of the Constitution of Ukraine). The VRU also controls the activities of the Cabinet based on provisions of the laws of Ukraine. For example, the newly appointed Cabinet of Ministers of Ukraine creates a Program of Activities of the Cabinet of Ministers of Ukraine (which shall be approved by the Verkhovna Rada of Ukraine) and later reports annually to the VRU regarding the implementation of the plan.<sup>18</sup> The Parliament of Ukraine determines the principles of domestic and foreign policy and approves national programs for economic, scientific and technical, social, national and cultural development, and environmental protection (Article 85 of the Constitution of Ukraine).

In addition, in accordance with Article 229 of the Rules of Procedure of the Verkhovna Rada of Ukraine,<sup>19</sup> parliamentary factions and individual

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<sup>16</sup> Constitution of Ukraine, Article 75.

<sup>17</sup> Some parallels can be drawn between the VRU and some NPs. For instance, there are several unicameral parliaments, e.g. Croatian (Articles 70-93, Croatian Constitution), Hungarian (Constitution of Hungary, Tasks and Powers of the National Assembly).

<sup>18</sup> Verkhovna Rada of Ukraine, *Law of Ukraine "On the Cabinet of Ministers of Ukraine"*, "The Official Bulletin of the Verkhovna Rada of Ukraine" no. 13 (2014), <https://zakon.rada.gov.ua/laws/show/794-18?lang=en#Text> [accessed: 01.03.2025], Article 11.

<sup>19</sup> Verkhovna Rada of Ukraine, *Law of Ukraine "On the Rules of Procedure of the Verkhovna Rada of Ukraine"*, "The Official Bulletin of the Verkhovna Rada of Ukraine" no. 14-15, no. 16-17 (2010), <https://zakon.rada.gov.ua/laws/show/1861-17#Text> [accessed: 15.04.2025], Article 229.



MPs may ask questions to members of the Cabinet of Ministers of Ukraine every week within the “hour of questions to the Government.”

As provided in Article 85 of the Constitution of Ukraine, the VRU approves the state budget and oversees its implementation. The overview of all the forms, in which the VRU conducts its control function over the government, falls out of the scope of this paper.

It is important to note, that besides the legislative function, and the control over the government, the VRU possesses broader supervisory powers by initiating an impeachment procedure of the president (Article 111 of the Constitution of Ukraine) appointing and dismissing the Ombudsman (Article 85 of the Constitution of Ukraine), the half of the members of the Council of the National Bank of Ukraine, granting consent to the appointment and dismissal of the General Prosecutor, appointing one third of the members of the Constitutional Court of Ukraine (*ibid.*). The Parliament schedules municipal and presidential elections; decides on internal territorial arrangement of Ukraine.

The international dimension of the VRU’s powers manifests itself in the declaration of a state of war and conclusion of peace; determining the principles of foreign policy; granting consent/denouncing international treaties of Ukraine; making decisions on granting and receiving international loans.

The role of the Parliament of Ukraine should be undoubtedly be updated in context of EU legal system. Ukrainian constitution should be amended respectively. At least a couple of the current provisions of the Constitution of Ukraine might be in need of amendments. To begin with, Article 75 of the Constitution of Ukraine provides, that “the only legislative body in Ukraine is the parliament – the Verkhovna Rada of Ukraine”. The Article does not take into an account the legislative powers of EU institutions. As respective provision is existent in many constitutions of the member states (e.g. Slovenia<sup>20</sup>, Slovak Republic<sup>21</sup>), the aforementioned Ukrainian

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<sup>20</sup> *Constitution of the Republic of Slovenia* (Consolidated Text) [hereinafter: Constitution of the Republic of Slovenia], “Official Gazette of the Republic of Slovenia” Nos. 33/91-I, 42/97, 66/2000, 24/03, 69/04, 68/06, and 47/13, <https://www.us-rs.si/media/constitution.pdf> [accessed: 01.03.2025].

<sup>21</sup> Office of the President of the Slovak Republic, *Constitution of the Slovak Republic* (Consolidated Text) [hereinafter: Constitution of the Slovak Republic], <https://www.prezi>

provision does not necessarily need to be changed. However, none of the provisions of the Constitution of Ukraine allow for transfer of (legislative) powers to the EU institutions in the area of exclusive legislative competence of the EU.

Moreover, Article 85, which defines the powers of the VRU, does include a provision on the control function of the Parliament. However, it refers solely to the parliamentary scrutiny over the government and does not include the ‘subsidiarity checks’, as described in the previous subchapter. Emphasis on the scrutiny in “EU-related matters” might be useful to introduce to the Constitution.

All the EU member states have faced the need of aligning national legislation to the EU *acquis*, which meant, *inter alia*, introducing changes to the state constitution. For the purposes of this paper, it is important to analyse the provisions of the constitutions of the EU member states. In particular, the most relevant are the states that joined the EU during the last few enlargements (in 2013, 2007 and 2004). In the annex to this paper, the provisions of the constitutions of EU member states are presented, that take into consideration the European dimension of the functioning of the national parliament.

While the introduction of ‘European’ provisions to the constitution is almost unavoidable, the Member states used different approaches to resolving such issue. The legislator may decide to add a separate chapter dedicated to European Integration (e.g. Croatia, Romania), to alter the existing constitutional provisions and add a few new or to adopt a separate constitutional act.

In Estonia, the Constitution of the Republic of Estonia Amendment Act was adopted, which allowed for becoming an EU member state and for direct applicability of EU law.<sup>22</sup> The researchers on the topic emphasize the impact of the historic background that preceded the Estonian EU accession, which could make it harder to introduce amendments to the constitution [Krõõt Tupay 2023].

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dent.sk/upload-files/46422.pdf [accessed: 01.03.2025], Article 72.

<sup>22</sup> Riigikogu, *Constitution of the Republic of Estonia Amendment Act* [hereinafter: Constitution of the Republic of Estonia], <https://www.riigiteataja.ee/en/eli/512122019006/consolide> [accessed: 01.03.2025], Articles 1 and 2, Riigi Teataja.

In accordance to the Para. 7<sup>1</sup> of the Constitutional Review Procedure Act, “the Riigikogu may petition the Supreme Court for an opinion on how to interpret the Constitution in conjunction with the law of the European Union where the interpretation is of decisive importance for the passing of a legislative bill that is needed to fulfil Estonia’s obligations as a Member of the European Union.”<sup>23</sup> Moreover, the Constitution should be interpreted through the lens of the treaty of accession (Article 2, Riigi Teataja of the Constitution of the Republic of Estonia), indirectly recognizing the supremacy of the EU law. Simultaneously, in the recent court practice,<sup>24</sup> the Estonian Supreme Court ruled, that the primacy of EU law applies to the constitution only in the extent, to which it does not contradict fundamental constitutional principles [ibid.].

Similarly, the Constitutional Act *On Membership of the Republic of Lithuania in the European Union* was adopted on 3 July 2004. The Act states the direct applicability of the EU law<sup>25</sup> and emphasizes the accountability of the government to the Seimas (Article 3).

Despite the form, in which member states decide to harmonize domestic legislation with EU law, a number of provisions are common for the majority of the member states. With regard to the constitutional role of the Parliament, and the role of the NPs in the EU, the following issues are of major importance: (1) transfer of legislative powers from the NP to the European legislator; (2) conducting parliamentary scrutiny (including parliamentary oversight over the government, especially in the ‘EU-related matters’, and conducting subsidiarity compliance).

The majority of the analysed constitutions (except for Malta, Cyprus, Estonia, and Lithuania) contain the provisions on the transfer of powers to EU institutions, which implies the transition of legislative powers to the EU. In the analysed constitutions, the norms regarding the direct applicability and supremacy

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<sup>23</sup> Riigikogu, *Constitutional Review Procedure Act*, <https://www.riigiteataja.ee/en/eli/512122019006/consolide> [accessed: 01.03.2025], Riigi Teataja.

<sup>24</sup> Supreme Court of Estonia, *Constitutional Judgment No. 5-19-29*, <https://www.riigikohus.ee/en/constitutional-judgment-5-19-29> [accessed: 01.03.2025].

<sup>25</sup> Seimas of the Republic of Lithuania, *Constitution of the Republic of Lithuania* (Consolidated Version) [hereinafter: Constitution of the Republic of Lithuania], <https://faolex.fao.org/docs/pdf/lit129855.pdf> [accessed: 01.03.2025], Article 2.

of EU law exist, e.g. ‘collision clause’ in the Article 91 of the Constitution of the Republic of Poland.<sup>26</sup> This way the EU law on the role of the NPs applies directly. In particular, there is no need for enshrining in the constitution the provisions similar to those existing in the Protocol on the application of the principles of subsidiarity and proportionality.

Article 9 of the Constitution of Ukraine establishes the place of international treaties within the Ukrainian legal system: “international treaties that are in force, agreed to be binding by the Verkhovna Rada of Ukraine, are part of the national legislation of Ukraine.” The constitutional provision does not imply the superiority of international law neither over the laws of Ukraine, nor over the constitution. The constitution is the highest legal act, and “the conclusion of international treaties that contravene the Constitution of Ukraine is possible only after introducing relevant amendments to the Constitution of Ukraine.” as provided in Para. 2, Article 9 of the Constitution of Ukraine.

Simultaneously, Article 9 allows for recognizing the superiority of international treaties’ law in case of collisions with the laws of Ukraine. In addition, the priority for international treaties’ provisions over the Law of Ukraine can be provided in a particular law [Barabash and Hubar 2021]. Moreover, the norms of an international treaty can be applied by courts directly, in situations when such provisions are formulated as norms of direct effect and if such application falls into the competence of the court<sup>27</sup>. The aforementioned implies, that the Ukrainian legal system is partially ready to recognize European legislation as superior to national laws.

In contrary, some aspects of NP activity on an EU scale does not require introduction of special provisions or altering the existing ones. In particular, the possibility to participate in the inter-parliamentary cooperation (1) derives from the doctrinal role of the Parliament (in particular, its representative function), and (2) the legislative basis for cooperation exists in the Article 12(f) TEU, with the direct applicability of the latter for EU member states.

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<sup>26</sup> Constitution of the Republic of Poland of 2 April 1997, Journal of Laws, No. 78, item 483 as amended [hereinafter: the Constitution of the Republic of Poland].

<sup>27</sup> Plenum of the High Specialized Court of Ukraine for Civil and Criminal Cases, *Resolution on the Application of International Treaties of Ukraine by Courts in the Administration of Justice*, No. 13, 2014, <https://zakon.rada.gov.ua/laws/show/v0013740-14#Text> [accessed: 17.04.2025].

With regard to accountability of national government in the matters, related to the EU, some member states decide to preserve the general provision on the democratic accountability of the government. In such a situation, the accountability in EU-related matters is a special norm to the general one and is implied. However, special emphasis on the parliamentary scrutiny in European matters may be used for strengthening the position of the NP on the EU scale, e.g. as provided by Para. 4, Article 105 of the Constitution of Bulgaria.<sup>28</sup>

## Conclusions

The role of the national parliaments in the European Union is the issue of an ongoing scholarly discourse. On the EU scale, the NPs continue to protect national interest, mostly by conducting subsidiarity control and execution of their scrutinizing functions over the national government. In democratic states in Europe, governments are accountable to their parliaments. In the EU member states, the parliamentary scrutiny constitutes a whole another level of governance, as the member states themselves are presented in the EU institutions by their governments. Some member states decide to additionally emphasize the governmental accountability to the NP in the ‘European’ matters (e.g. Bulgaria,<sup>29</sup> Czech Republic<sup>30</sup>).

In order to join the EU, the need for amending the constitution arises. As a state aspiring to join the Union, Ukraine is no exception. The constitution of Ukraine already provides the legal foundation for the governmental accountability to the Parliament. The overview of ‘European’ constitutional provisions of the EU member states who joined the Union since 2004, allows for a few conclusions.

The member states decide for themselves on how to amend their constitution. Despite the form, at least two approaches to the content of changes seem to be common for the analysed member states. First, the provisions

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<sup>28</sup> *Constitution of the Republic of Bulgaria* [hereinafter: Constitution of the Republic of Bulgaria], <https://www.parliament.bg/en/const> [accessed: 01.03.2025].

<sup>29</sup> *Constitution of the Republic of Bulgaria*, Para. 4, Article 105.

<sup>30</sup> Office of the United Nations High Commissioner for Human Rights, *The Constitution of the Czech Republic* [hereinafter: Constitution of the Czech Republic], [https://adsdatabase.ohchr.org/IssueLibrary/CZECH%20REPUBLIC\\_Constitutional%20law.pdf](https://adsdatabase.ohchr.org/IssueLibrary/CZECH%20REPUBLIC_Constitutional%20law.pdf) [accessed: 01.03.2025], Article 10b.

on the supremacy and direct applicability of the EU law are added, allowing for ‘automatically’ apply the norms regarding the role of the NPs, especially those, that derive from the doctrinal nature of the Parliament itself. Second, the provisions on the transfer of powers occur frequently in the analysed constitutions. For example, Para. 2, Article 7 of the Constitution of the Slovak Republic reads as follows: “The Slovak Republic may, by an international treaty, which was ratified and promulgated in the way laid down by a law, or on the basis of such treaty, transfer the exercise of a part of its powers to the European Communities and the European Union [...]”

Some insights may be also brought from the experience of the states, that joined the EU before the 2004, and the founders of the EU. For instance, in Italian Constitution, there is a provision on the lawful limitation of the state’s sovereignty (if conducted to “ensure peace and justice among the Nations”<sup>31</sup>). In contrary, the constitutional provisions of some other member states do not indicate sovereignty explicitly, but have it implied, when mentioning the transfer of power to the European Institutions. Another interesting Italian solution is provided in Article 117 of the Constitution of Italy, which provides provisions on division of power, i.e. legislative powers between the national legislator and the EU.

Ukrainian legislator is yet to decide, how to introduce changes to the constitution of Ukraine. The preamble to the constitution already contains provisions on the irreversibility of Ukrainian course for European integration; the government is democratically accountable before the VRU; and the role of international treaties as the part of national legislation derives from constitutional provisions. However, following Ukrainian accession to the EU, the Parliament would execute mostly scrutiny functions on the scale of the Union. In this regard, adding provisions for strengthening parliamentary oversight over the government might be added; as well as direct constitutional basis for transferring particular powers to the EU institutions; and recognizing the supremacy and direct applicability of EU law.

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<sup>31</sup> *Constitution of the Italian Republic* [hereinafter: Constitution of the Italian Republic], [https://www.senato.it/documenti/repository/istituzione/costituzione\\_inglese.pdf](https://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf) [accessed: 01.03.2025], Article 11.

## Annex

Table 1. The provisions of the constitutions of EU member states regarding the national parliaments in the EU

Provision of the constitution	Scope of the provision
<b>Constitution of Croatia</b> <sup>32</sup>	
<p><b>Article 143</b> Pursuant to Article 142 of the Constitution, the Republic of Croatia shall, as a Member State of the European Union, participate in the creation of European unity in order to ensure, together with other European states, lasting peace, liberty, security and prosperity, and to attain other common objectives in keeping with the founding principles and values of the European Union.</p> <p>Pursuant to Articles 140 and 141 of the Constitution, the Republic of Croatia shall confer upon the institutions of the European Union the powers necessary for the enjoyment of rights and fulfilment of obligations ensuing from membership.</p>	<p>Statement of the objectives for being an EU member state.</p> <p>Transfer of (parliamentary) powers to EU institutions.</p>
<p><b>Para. 2, Article 144</b> The Croatian Parliament shall participate in the European legislative process as regulated in the founding treaties of the European Union.</p> <p><b>Para. 4, Article 144</b> Parliamentary oversight by the Croatian Parliament of the actions of the Government of the Republic of Croatia in European Union institutions shall be regulated by law.</p>	<p>Role of the parliament in the EU &amp; parliamentary oversight.</p> <p>Accountability of national government to the parliament.</p>

<sup>32</sup> Constitution of the Republic of Croatia (Consolidated Text), [https://www.sabor.hr/sites/default/files/uploads/inline-files/CONSTITUTION\\_CROATIA.pdf](https://www.sabor.hr/sites/default/files/uploads/inline-files/CONSTITUTION_CROATIA.pdf) [accessed: 01.03.2025].

Provision of the constitution	Scope of the provision
<b>Constitution of Romania</b> <sup>33</sup>	
<b>Article 148</b> (1) Romania's accession to the constituent treaties of the European Union, with a view to transferring certain powers to community institutions, as well as to exercising in common with the other member states the abilities stipulated in such treaties, shall be carried out by means of a law adopted in the joint sitting of the Chamber of Deputies and the Senate, with a majority of two thirds of the number of deputies and senators. (2) As a result of the accession, the provisions of the constituent treaties of the European Union, as well as the other mandatory community regulations shall take precedence over the opposite provisions of the national laws, in compliance with the provisions of the accession act. (3) The provisions of paragraphs (1) and (2) shall also apply accordingly for the accession to the acts revising the constituent treaties of the European Union. (4) The Parliament, the President of Romania, the Government, and the judicial authority shall guarantee that the obligations resulting from the accession act and the provisions of paragraph (2) are implemented. (5) The Government shall send to the two Chambers of the Parliament the draft mandatory acts before they are submitted to the European Union institutions for approval.	Transfer of (parliamentary) powers to EU institutions. Direct applicability and supremacy of EU law. Accountability of national government to the parliament.
<b>Constitution of Bulgaria</b>	
<b>Article 85</b> The National Assembly shall ratify or denounce by law all international treaties which: 9. confer to the European Union powers ensuing from this Constitution.	Transfer of (parliamentary) powers to EU institutions.
<b>Para. 4, Article 105</b> When participating in the drafting and adoption of European Union instruments, the Council of Ministers shall inform the National Assembly in advance, and shall give detailed account for its actions.	Accountability of national government in the matters, related to the EU.
<b>Constitution of the Republic of Poland</b>	
<b>Article 90</b> The Republic of Poland may, by virtue of international agreements, delegate to an international organization or international institution the competence of organs of State authority in relation to certain matters.	Transfer of (parliamentary) powers to EU institutions.

<sup>33</sup> *The Constitution of Romania*, <https://www.presidency.ro/en/the-constitution-of-romania> [accessed: 15.04.2025].



Provision of the constitution	Scope of the provision
<p><b>Article 91</b></p> <p>After promulgation thereof in the Journal of Laws of the Republic of Poland (<i>Dziennik Ustaw</i>), a ratified international agreement shall constitute part of the domestic legal order and shall be applied directly, unless its application depends on the enactment of a statute. An international agreement ratified upon prior consent granted by statute shall have precedence over statutes if such an agreement cannot be reconciled with the provisions of such statutes. If an agreement, ratified by the Republic of Poland, establishing an international organization so provides, the laws established by it shall be applied directly and have precedence in the event of a conflict of laws.</p>	<p>Direct applicability and supremacy of EU law.</p>
<b>Constitution of the Slovak Republic</b>	
<p><b>Para. 2, Article 7</b></p> <p>The Slovak Republic may, by an international treaty, which was ratified and promulgated in the way laid down by a law, or on the basis of such treaty, transfer the exercise of a part of its powers to the European Communities and the European Union. Legally binding acts of the European Communities and of the European Union shall have precedence over laws of the Slovak Republic. The transposition of legally binding acts which require implementation shall be realized.</p>	<p>Transfer of (parliamentary) powers to EU institutions, supremacy of EU law.</p>
<b>Constitution of Slovenia</b>	
<p><b>Article 3a*</b></p> <p>Pursuant to a treaty ratified by the National Assembly by a two-thirds majority vote of all deputies, Slovenia may transfer the exercise of part of its sovereign rights to international organisations which are based on respect for human rights and 2 fundamental freedoms, democracy, and the principles of the rule of law and may enter into a defensive alliance with states which are based on respect for these values.</p>	<p>Transfer of (parliamentary) powers to EU institutions.</p>
<b>Constitution of the Czech Republic</b>	
<p><b>Article 10a</b></p> <p>Certain powers of Czech Republic authorities may be transferred by treaty to an international organization or institution.</p>	<p>Transfer of (parliamentary) powers to EU institutions.</p>

Provision of the constitution	Scope of the provision
<p><b>Article 10b</b></p> <p>1) The government shall inform the Parliament, regularly and in advance, on issues connected to obligations resulting from the Czech Republic's membership in an international organization or institution.</p> <p>2) The chambers of Parliament shall give their views on prepared decisions of such international organization or institution in the manner laid down in their standing orders.</p> <p>3) A statute governing the principles of dealings and relations between both chambers, as well as externally, may entrust the exercise of the chambers' competence pursuant to paragraph 2 to a body common to both chambers.</p>	<p>Accountability of national government in the matters, related to the EU.</p>
<b>Constitution of the Republic of Latvia<sup>34</sup></b>	
<p><b>Article 68</b></p> <p>All international agreements, which settle matters that may be decided by the legislative process, shall require ratification by the Saeima. Upon entering into international agreements, Latvia, with the purpose of strengthening democracy, may delegate a part of its State institution competencies to international institutions. The Saeima may ratify international agreements in which a part of State institution competencies are delegated to international institutions in sittings in which at least two-thirds of the members of the Saeima participate, and a two-thirds majority vote of the members present is necessary for ratification. Membership of Latvia in the European Union shall be decided by a national referendum, which is proposed by the Saeima. Substantial changes in the terms regarding the membership of Latvia in the European Union shall be decided by a national referendum if such referendum is requested by at least one-half of the members of the Saeima.</p>	<p>Transfer of (parliamentary) powers to EU institutions.</p> <p>Approval procedure of the changes regarding EU membership.</p>
<b>Constitution of Malta<sup>35</sup></b>	
<p><b>Para. 1, Article 65</b></p> <p>Subject to the provisions of this Constitution, Parliament may make laws for the peace, order and good government of Malta in conformity with full respect for human rights, generally accepted principles of international law and Malta's international and regional obligations in particular those assumed by the treaty of accession to the European Union signed in Athens on the 16th April, 2003.</p>	<p>Reserving special place for the EU law within the Maltese legal system.</p> <p>Recognizing the supremacy of EU law.</p>

<sup>34</sup> Saeima, n.d., Constitution of the Republic of Latvia, <https://www.saeima.lv/en/legislative-process/constitution> [accessed: 01.03.2025].

<sup>35</sup> Leġislazzjoni Malta, n.d., Constitution of Malta, <https://legislation.mt/eli/const/eng> [accessed: 01.03.2025].

Provision of the constitution	Scope of the provision
<b>Constitution of the Republic of Hungary<sup>36</sup></b>	
<p><b>Article E</b></p> <p>In order to enhance the liberty, prosperity and security of European nations, – Hungary shall contribute to the creation of European unity. With a view to participating in the European Union as a Member State and on the basis of an international treaty, Hungary may, to the extent necessary to exercise the rights and fulfil the obligations deriving from the Founding Treaties, exercise some of its competences set out in the Fundamental Law jointly with other Member States, through the institutions of the European Union.</p> <p>The law of the European Union may stipulate a generally binding rule of conduct subject to the conditions set out in Paragraph (2).</p>	<p>Statement of the objectives for being an EU member state.</p> <p>Transfer of (parliamentary) powers to EU institutions.</p> <p>Direct applicability of EU law.</p>
<p><b>Article 19</b></p> <p>The National Assembly may request information from the Government on the government position to be represented in the decision-making procedures of the intergovernmental institutions of the European Union, and may take a position on the draft placed on the agenda in the procedure. In the course of the decision-making of the European Union, the Government shall act on the basis of the position taken by the National Assembly.</p>	<p>Accountability of national government in the matters, related to the EU.</p>
<b>The Constitution of the Republic of Cyprus<sup>37</sup></b>	
<p><b>Article 1A</b></p> <p>No provision of the Constitution shall be deemed to annul laws enacted, acts done or measures taken by the Republic which become necessary by reason of its obligations as a member state of the European Union, nor does it prevent Regulations, Directives or other acts or binding measures of a legislative character, adopted by the European Union or the European Communities or by their institutions or competent bodies thereof on the basis of the Treaties establishing the European Communities or the Treaty of the European Union, from having legal effect in the Republic.</p>	<p>Direct applicability and supremacy of EU law over constitution.</p>

<sup>36</sup> Constitution of Hungary, [https://www.constituteproject.org/constitution/Hungary\\_2016](https://www.constituteproject.org/constitution/Hungary_2016) [accessed: 01.03.2025].

<sup>37</sup> The Constitution of the Republic of Cyprus, <https://www.law.gov.cy/law/law.nsf/constitution-en/constitution-en?OpenDocument> [accessed: 01.03.2025].

Provision of the constitution	Scope of the provision
<b>Article 179</b> 1. Subject to the provisions of Article 1A, this Constitution shall be the supreme law of the Republic. 2. No law or decision of the House of Representatives or of any of the Communal Chambers and no act or decision of any organ, authority or person in the Republic exercising executive power or any administrative function shall in any way be repugnant to, or inconsistent with, any of the provisions of this Constitution or any obligation imposed on the Republic as a result of its participation as a member state of the European Union.	Direct applicability and supremacy of EU law over laws and secondary legislation.

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