

The Ratification Process in EU Member States

- A presentation with particular consideration of the TTIP and CETA free trade agreements -

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I. Introduction

For many months, the European public has been occupied in numerous debates concerning the necessity for ratification of trade agreements such as the TTIP (*Trans-Atlantic Trade and Investment Partnership*) and the CETA (*Comprehensive Economic and Trade Agreement*) by the individual member states of the European Union. The prerequisite of an additional national ratification represents a significant obstacle to be overcome for the TTIP and CETA free trade agreements. This can be an insurmountable prerequisite for the free trade agreements, particularly where referendums are provided for in place of parliamentary approval. They are, after all, essentially met with fierce rejection among the European population.

Firstly, a short overview of the conclusion of international agreements and the content of the provisions of the TTIP and CETA is presented. Then, this paper shall give an overview of the ratification processes in the individual member states of the European Union. Particular consideration is given here to the issue of whether the possibility of a referendum exists for approval of the TTIP and CETA in the member states.

1) The conclusion of international agreements

An international agreement is any agreement made between two or more states and/or other subjects of international law able to enter into agreements which is subject to international law.¹ The conclusion of an international agreement requires corresponding declarations of intent referring to each other from the subjects of international law concerned.² For the conclusion of such an agreement, either a one-stage or multi-stage process is used. In the simple process, the text of the agreement can be initialled by the parties after the agreement negotiations. The initialling is optional and serves to establish the text of the agreement as official. This is followed by the signing of the agreement and the exchange of documents concerning the conclusion of the agreement. The agreement obtains immediate effectiveness upon signing. This is different in the multi-stage process. For this, the negotiated text of the agreement must still pass through a domestic approval

¹ *Heintschel v. Heinegg*, in Ipsen, Knut 2013: *Völkerrecht*, 6. Edition, § 9 Rn. 1

² *Kempen/Hillgruber*, *Völkerrecht*, 2. Edition, § 13 Rn. 8.

process. Only if this turns out to be positive, can the agreement be ratified. Ratification is understood as the issue of a formal declaration of the state concerned with which it expresses its consent to be bound by an international agreement. The ratification document is signed by the head of state as a rule pursuant to the respective constitutional law.³ If a bilateral agreement is concerned, the ratification document is handed over to the other party. For multilateral agreements, the document is deposited with a depositary of a government specified in the agreement. After the handover and/or deposit, the ratification document obtains binding legal effect.

Ratification must be differentiated from the internal approval process. There is often misunderstanding in this regard. In the internal approval process, the agreement is checked pursuant to the relevant national constitutional law.⁴ Thus, this regularly involves the participation of other national institutions. As a rule, the process involves obtaining parliamentary approval of the conclusion of the agreement, which is why the process is often described as parliamentary ratification.⁵ Since this part of the conclusion process is a purely domestic matter, the states are free as far as possible in its form. There is no obligation to ensure parliamentary involvement nor to involve other national institutions.⁶ If the national approval process does not occur or if it has negative results, the international agreement cannot be ratified.⁷

2) The TTIP and CETA free trade agreements

The TTIP and CETA are two economic and/or trade agreements, which the European Union concludes as a legal entity with the USA and/or Canada. Through both agreements, various different regulatory areas are affected such as investment protection (and therein the establishment of its own arbitration), customs and entrance limitations, transport, energy, raw materials, public procurement, occupational safety, to name but a few.

³ *Kempen/Hillgruber*, Völkerrecht, 2. Edition, § 13 Rn. 1; *Nettesheim*, in: Maunz/Düring, GG-Kommentar, as of Januar 2009, Art. 59 Rn. 76.

⁴ *Kempen/Hillgruber*, Völkerrecht, 2. Edition, § 13 Rn. 17

⁵ *Heintschel v. Heinegg*, in Ipsen, Knut 2013: Völkerrecht, 6. Edition, § 9 Rn. 17.

⁶ *Nettesheim*, in: Maunz/Düring, GG-Comment, as of January 2009, Art. 59 Rn. 75.

⁷ *Heintschel v. Heinegg*, in Ipsen, Knut 2013: Völkerrecht, 6. Edition, § 9 Rn. 17.

The European national governments could be prevented from enacting laws on the protection of people and the environment by the TTIP and CETA. Furthermore, a future financial burden can also be associated with the trade agreements.⁸

It is decisive whether investment protection agreements involve bilateral trade agreements pursuant to Art. 207 TFEU [Treaty on the Functioning of the European Union] between the European Union and its respective trade partner or whether a mixed agreement is concluded here.⁹ In the second case, for the conclusion of the investment protection agreement, it requires the ratification not only of the Union as the subject of international law with its own legal personality but also of all member states after the following domestic approval processes.¹⁰

II. The domestic approval process

Below, the ratification processes of the member states are presented as they follow from the respective national constitutional law. This firstly addresses the domestic approval process and casts a glance over to what extent a referendum can be provided for. Furthermore, it will briefly be presented how the international agreement must ultimately be ratified. In the presentation, it will be assumed that the TTIP and CETA trade agreements are compliant with the respective constitutional law.

1) Belgium

In federal Belgium, international agreements must obligatorily be agreed in a two-chamber process pursuant to Art. 78 Section 1 (2) of the Constitution. In principle, since 1993, it has been possible for the governments of communities and regions, in addition to the federal government, to manage international relations within their areas of jurisdiction

⁸ To CETA, *Mayer, Franz*: Stellt das geplante Freihandelsabkommen der EU mit Kanada (Comprehensive Economic and Trade Agreement (CETA), ein gemischtes Abkommen dar?, Rechtsgutachten für das Bundesministerium für Wirtschaft und Energie vom 28.8.2014, p. 26.

⁹ *Pernice*, in: Dreier, Horst 2006: Grundgesetz-Kommentar, Band II, Art. 59 Rn. 9; This ist the view of TTIP inter alia from the German Government, cf. Bundestags-Drs. 17/14821, S. 35; Deutscher Bundestag, Plenarprotokoll 18/7 from 15 January 2014, Attachment 21, p. 387.

¹⁰¹⁰ On the consequences of a failed ratification, see *Rathke, Hannes* 2014: Fragen zur Zuständigkeitsverteilung zwischen EU und Mitgliedsstaaten sowie zur Ratifikation des Abkommen über eine Transatlantische Handels- und Investitionspartnerschaft (TTIP) [Issues on the distribution of jurisdiction between the EU and member states as well as on the ratification of the agreement on a trans-atlantic trade and investment partnership (TTIP)]. Deutsche Bundestag [German Parliament], Europe Department, PE 6 – 3000 – 49/14, 19 March 2014, p. 15 et seqq.

and to conclude international agreements through parliamentary approval. Art. 127 et seq. of the Constitution, in which the jurisdiction of the governments of communities is set out, are not relevant, however, for the TTIP and CETA agreements. A parliamentary approval of the communities and regions is therefore not necessary. Through the TTIP and CETA, the jurisdictions of the federal state are affected which is why the adoption of an act of assent by the Chamber of Deputies and the Senate is necessary. Within the framework of this obligatory two-chamber process, both the Chamber of Deputies, in which the elected Deputies of Belgium sit, and the Senate, in which the elected representatives of the communities and regions sit, must approve the law. After the legislative initiative of the King for the approval of the agreement, the international agreement is deposited in the Chamber of Deputies pursuant to Art. 75 of the Belgian Constitution. The draft or proposal submitted here is discussed here. The competent committee firstly deals with the text and proposes amendments where necessary before it comes to a vote in the committee. If the committee votes with a majority in favour of the draft or proposal, this shall be discussed again and voted on in a plenary session. If the text has been able to be passed in the Chamber of Deputies, it is forwarded on to the Senate. The Senate decides on the text submitted in the same way as the Chamber of Deputies, firstly in a committee and then in a plenary session. If the Senate does not approve and amend the text sent by the Chamber of Deputies, it is sent back to the Chamber of Deputies. The latter can accept or reject the proposed amendments, make further amendments and send this back to the Senate. This process is repeated until the same text is passed by the Chamber of Deputies and the Senate. In connection with this, the law is sanctioned by the King and issued through the King and his Secretary signing the law.¹¹ Finally, the law is published in the “Belgian State Gazette”.¹² The law enters into force one day after publication.

Referendums are not provided for according to Belgian law.

¹¹ Art. 109 Belg. Const.

¹² In detail *Senelle, Robert* 1974: Kommentar der Belgischen Verfassung, Sammlung „Ideen und Studien“, p. 129 f.

After the act of assent on the international agreement has been passed, the international agreement must be ratified by the King pursuant to Art. 167 (2) of the Belgian Constitution.

2) Bulgaria

The democratic, constitutional and parliamentary republic of Bulgaria has a single-chamber system with the National Assembly (Narodno Sabranie). In Art. 8 of the Bulgarian Constitution, it is stated that the National Assembly ratifies the international agreements through the law containing the cases listed in Section 1. For the TTIP and CETA agreements, Art. 85 of the Bulgarian Constitution is applicable for various reasons. The reasons from No. 4 (international agreements must involve a financial obligation of the state) or No. 7 (it must require the provision of a law or measures of legislative character for its implementation) are of particular relevance.

Since an international agreement must in principle be ratified *in persona*, however, it must be assumed that the law to be passed by the National Assembly, in this case, also involves an act of assent of the parliament on the international agreement.¹³ Such an act of assent is decreed in two separate readings pursuant to Art. 88 (1) of the Bulgarian Constitution. Pursuant to Art. 81 (1) of the Bulgarian Constitution, the National Assembly is able to pass resolutions with more than half of its members. A legal act is valid as adopted pursuant to Art. 81 (2) if more than half of the present representatives have voted for it, unless otherwise specified in the Constitution. A specific majority ratio is not necessary pursuant to Art. 85 (1) of the Bulgarian Constitution. After the law is passed, it is published in the Bulgarian legal gazette no later than 15 days following its adoption and enters into force three days later.¹⁴

Article 84 (5), Art. 98 (1) of the Bulgarian Constitution aim to prevent the possibility of a national referendum, if there is a resolution of the National Assembly. It is not even stated by the Constitution when the prerequisites for such a referendum exist, and in which case it should be possible.

¹³ This statement is also valid for other constitutions which stipulate that the international agreement must be ratified by the parliament. Hereinafter, the necessity of a parliamentary approval is directly assumed in this case.

¹⁴ Art. 5 (5) Bulg. Const.

Exact prerequisites are set at ordinary law level. From Art. 10 (1) of the relevant law¹⁵, it is clear that 200,000 citizens eligible to vote must take the initiative for this. This must then be a question of national significance.¹⁶ The approval of international agreements must also not be considered as an exception, in which a referendum should not be possible.¹⁷ The referendum is binding. The first and only referendum to date took place in 2013, when the Bulgarians had to decide on the issue of the expansion of nuclear power in their own country. This referendum did not take place, however, on the basis of a resolution of the National Assembly and was therefore not binding. In principle, there is the possibility in Bulgaria, within the framework of a binding referendum, to decide on the approval of the TTIP and CETA.

Pursuant to Art. 92 of the Bulgarian Constitution, the President of the Republic of Bulgaria is the representative in international relations. In Art. 98 (3) of the Bulgarian Constitution, it is stated that the President also has the authority to conclude international agreements. The ratification of international agreements is meant by this.

3) Denmark

From Section 19 (1) of the Danish Constitution, it results that the approval of the Danish parliament, the Folketing, is required for the conclusion of international agreements. Since 1953, the Folketing has consisted of only one chamber in which legislation is adopted. For the Folketing to have a quorum, half of its members must be present and participate in the vote pursuant to Section 50 of the Danish Constitution. Each piece of legislation must undergo three readings.¹⁸ In the first reading, a general discussion on the legislation submitted takes place in the Folketing. In the second reading, improvements of the government or the representatives are discussed and voted on. For this, it is possible for the Folketing to appoint committees from its members for the investigation of generally important matters pursuant to Section 51 of the Danish Constitution. These committees can demand information in writing or orally both from private citizens and public authorities.

¹⁵ Law on direct PArticipation of Citizens in national Government and Local Self-Government. Promulgated, State Gazette No. 44/12.06.2009.

¹⁶ Art. 9 (1) Law on direct PArticipation of Citizens in national Government and Local Self-Government. Promulgated, State Gazette No. 44/12.06.2009.

¹⁷ See Art. 9 (2) Law on direct PArticipation of Citizens in national Government and Local Self-Government. Promulgated, State Gazette No. 44/12.06.2009.

¹⁸ § 41 (2) Dan. Const.

The Folketing can thereby ensure a high degree of expertise in its legislation and more precisely question the public opinion. In the third reading, the final vote on the legislation then takes place. After a piece of legislation has been adopted, it requires the signature of the Queen and the competent ministers to obtain legal force. The signature of the Queen must be provided no later than 30 days after the final acceptance of the law.¹⁹

The Danish Constitution provides for referendums in a number of places.²⁰ Article 20 of the Danish Constitution governs the case of the transfer of the sovereign rights of Denmark to an international organisation. If the draft legislation does not reach the required two thirds majority in the Folketing, a referendum must be held.²¹ Since in the case of the TTIP and CETA, no sovereign rights have been transferred, only Section 42 of the Danish Constitution is relevant for a vote on both trade agreements. In this article, there is the possibility of holding a referendum on a piece of draft legislation. For this, pursuant to Section 41 (1) of the Danish Constitution, after the adoption of a law, a third of the members of the Folketing must apply for a referendum on the proposal, within three working days of adoption of the proposal by members of the Folketing. In Section 42 (6) of the Danish Constitution, the cases whereby a referendum is not possible are governed. This involves, *inter alia*, “laws for the purpose of meeting state treaty obligations”. This description denotes, however, laws which are passed in order to translate European Union law into domestic law. The general conclusion of international agreements is not covered by this. In principle, a Danish referendum on the approval of the TTIP and CETA is possible.

Pursuant to Art. 19 (1) of the Danish Constitution, the King or Queen shall act “on behalf of the kingdom in international matters”. The international agreement is therefore ratified by him or her.

4) Germany

The international agreements negotiated by the Federal government, which govern the political relations of the Federation or relate to subjects of Federal legislation, require the approval or participation of the bodies competent for Federal legislation as well as a law.²² Pursuant to the case law, this comprises cases in which “in the particular case, an enforcement deed is necessary assisted by the legislating body”.²³ This is always the case when the corresponding subject matter is already governed by law.²⁴ Customs and the movement of goods shall be and are governed by law in Germany which is why the approval of the Federal Parliament (Bundestag) and Federal Council (Bundesrat) is required in the form of an act of assent for the approval of the TTIP and CETA.²⁵ The

¹⁹ § 22 Dan. Const.

²⁰ Art. 88 of the Danish Constitution on the obligatory referendum in the case of constitutional amendment; Art. 29 of the Danish Constitution for the change of voting age.

²¹ Art. 20 (2) Dan. Const.

²² Art. 59 (2) GG.

²³ BVerfGE 1, 372 (388).

²⁴ *Pernice*, in: Dreier, Horst 2006: Grundgesetz-Kommentar, Volume II, Art. 59 Rn. 32.

²⁵ See also *Mayer, Franz*: Stellt das geplante Freihandelsabkommen der EU mit Kanada (Comprehensive Economic and Trade Agreement (CETA), ein gemischtes Abkommen dar?, Rechtsgutachten für das Bundesministerium für Wirtschaft und Energie vom 28.8.2014, p. 26.

process follows the fundamental legislative processes of the Federation.²⁶ Where this involves a law requiring approval pursuant to the German Constitution, the approval of the Bundesrat is also necessary for this. In other cases, the Bundesrat can only file objections against the draft legislation. Whether the Bundesrat has finally come to the conclusion that its approval is necessary for the TTIP and CETA remains to be seen. This requirement does not result from the cases provided for in Art. 73 and Art. 74 GG [German Constitution] on exclusive and competitive legislative powers.²⁷

Since the Federal government is the organisation for the most part which was involved in the negotiation of the international agreement, as a rule it is also the organisation which submits the draft text of the agreement. The text of the agreement is then submitted to the Bundesrat and goes to the Bundestag with the statement of the former. In the Bundestag, ratification initiatives are carried out in two readings. In the first reading, as a rule, it is decided to send the draft on to the competent committees. Through the statement of the committees, it is then decided and voted on. In the parliamentary process, no applications to amend the text of the agreement may be made pursuant to Section 82 (2)

²⁶ Art. 59 (2) GG.

²⁷ Pursuant to Art. 73 (2) GG, laws pursuant to Art. 73 (2) (9a) GG and pursuant to Art. 4 (2), and laws pursuant to Art. 74 (25) and (27) GG require the approval of the Bundestag. The circumstances specified here are not relevant for the TTIP and CETA.

GOBT [German Bundestag Rules of Procedure]. This prevents the agreement negotiated by the Bundestag being brought into question. There is the possibility, however, that applications for amendment of the act of assent may be submitted. After the acceptance by the Bundestag through a simple majority, the draft goes back to the Bundesrat.²⁸ Where this involves an act of assent pursuant to the German Constitution, this requires the approval of the Bundesrat. Contrary to the law on objections, the Bundesrat can file an objection after conclusion of the conciliation process through a conciliation committee. The objection of the Bundesrat can be rejected with a simple majority in the Bundestag.²⁹ After pronouncement of the act of assent to the international agreement, this is issued by the Federal President pursuant to Art. 82 (1) of the German Constitution and pronounced together with the international agreement in the Federal Legal Gazette Part II.

Although referendums are provided for by the Constitution in Art. 20 (2) of the German Constitution, the prevailing opinion in Germany assumes that referendums beyond the case governed in Art. 29 (2) (1) of the German Constitution are not possible.³⁰ A referendum on the agreements of the TTIP and CETA is therefore not carried out in Germany.

Pursuant to Art. 59 (1) of the German Constitution, the Federal President represents the Federal Republic of Germany in international law. He concludes agreements with foreign states, groups of states or also the United Nations. Ratification occurs after the act of assent has been made by the Federal President or by the Foreign Minister, secretary or a German ambassador authorised by him for this purpose.

5) Estonia

The Republic of Estonia has a one-chamber system. In Art. 65 (4) of the Estonian Constitution it is provided for that the State Assembly, the Riigikogu, ratifies and pronounces international agreements. In Section 121 of the Estonian Constitution, it is set out which types of international agreement must be ratified. Only No. 4 (international agreements with which the Republic of Estonia assumes military or substantive obligations) is relevant here. It is questionable what is understood by “substantive”. This could, on the one hand, concern the decree of substantive law or, on the other hand, substantive investments and financial burdens could be meant. The conclusion of the TTIP and CETA would fall under both categories. Whether this is actually the case is, however, subject to the general constitutional understanding of this terminology and the understanding in the particular case. Pursuant to Section 115 of the rules of procedure of the State Assembly, for the decree of an act of assent, only two readings are required in the Riigikogu. This is unless the management committee considers a third reading to be appropriate. If this is not the case, the vote shall take place in the second reading. The Riigikogu adopts laws through a majority of the given votes, unless otherwise specified in the Constitution. Before the President pronounces the law, it must be substantively checked by him.³¹

²⁸ § 75 ff. GO BT.

²⁹ Art. 77 (3) and 4 GG.

³⁰ To this also *Preußler, Lukas* 2015: Question prioritaire de constitutionnalité, Perspektiven konkreter Normenkontrolle in Frankreich. Kölner Schriften zu Recht und Staat, Volume 55, p. 44 f.

³¹ In detail *Wiegand, Manfred H.*: Grundzüge der estnischen Verfassung von 1992, in *Jahrbuch des öffentlichen Rechts* 1997 (45), p. 170 f.

In Section 56 (2) of the Estonian Constitution the fundamental possibility of a referendum is governed. This possibility is also presented in Section 105 of the Estonian Constitution for the vote on draft laws. However, Section 106 of the Estonian Constitution must be considered in this context which sets out expressly that a referendum on the ratification of international agreements is not possible.³² In Estonia, therefore, the TTIP and CETA cannot be decided by a referendum.

After the Riigikogu has issued its approval for the ratification of the international agreement by law, the agreement is finally ratified by the President of the Republic of Estonia.³³

6) Finland

The Republic of Finland has a one-chamber system.³⁴ From Sections 93 (1) (1) and 94 of the Finnish Constitution, it is clear that the approval of the Finnish parliament, the Eduskunta, is necessary before an international agreement is ratified. Approval of the parliament is necessary pursuant to Section 9 (1) of the Finnish Constitution if the international agreement contains obligations which fall in the field of legislation, are incidentally of considerable significance or require the approval of the parliament for any other reason pursuant to the Constitution.³⁵

³² *Wiegand, Manfred H.*: Grundzüge der estnischen Verfassung von 1992, in *Jahrbuch des öffentlichen Rechts* 1997 (45), p. 173.

³³ § 78 Est. Const.

³⁴ § 24 Finn. Const.

³⁵ *Kulovesi, Kati*: International Relations in the New „Constitution of Finland“, in *Nordic Journal of International Law* 2001, p. 519.

The Finnish government considers in this category, *inter alia*, agreements which concern foreign and security policy or significant economic and trade agreements.³⁶ Since, from a general perspective, the TTIP and CETA are probably significant economic and trade agreements, both of these international agreements shall require the approval of the parliament in Finland. For such a parliamentary vote, the competent committees must first prepare the matter.³⁷ After this, two readings take place.³⁸ In the first reading, as a rule the reports of the committees are heard and discussed. At the end of the reading, the final content of the draft legislation is set out. In a second reading, the draft legislation is only accepted or rejected by the Eduskunta.³⁹ Pursuant to Section 94 (1) of the Finnish Constitution, the majority of the vote is sufficient for the acceptance of an act of assent. The act of assent adopted must be presented to the President for confirmation so that it enters into force. The President must decide on the law within three months. If the President does not confirm the law, it must again be referred back to the parliament and put to vote. If it is again accepted with the same content, it enters into force without the confirmation of the President.⁴⁰ The international agreement must still be implemented into national law in the two-tier system after it has entered into force.⁴¹

Section 53 of the Finnish Constitution provides for the possibility of carrying out a consultative referendum. This option must in principle be adopted in a law and regulated more precisely. A referendum of the Finnish population on an approval of international agreements therefore only is of a non-binding nature and would under no circumstances be able to replace the parliamentary decision. A consultative referendum can only serve to give an impression of the opinion in the population. Finland first made use of this possibility when it implemented a referendum concerning its entry into the European Union in 1994.

³⁶ Doc. HE 1/1998, p. 50f. Finish Government.

³⁷ § 40 Finn. Const.

³⁸ § 41 Finn. Const.

³⁹ § 72 Finn. Const.

⁴⁰ § 72 Finn. Const.

⁴¹ *Kulovesi, Kati*: International Relations in the New „Constitution of Finland“, in *Nordic Journal of International Law* 2001, p. 520.

In Section 93 of the Constitution, it is set out that foreign policy is managed by the President and the State Council. The State Council consists of the Prime Minister and a number of ministers.⁴² In practice, international agreements are either ratified by the President of Finland or by a minister authorised thereby.⁴³

7) France

The parliament of the French Republic consists of two chambers. The National Assembly (directly elected representatives) and the Senate (senators elected indirectly by representatives and local politicians).⁴⁴ Pursuant to Art. 53 of the French Constitution, an international agreement requires the approval of parliament where it concerns peace treaties, trade agreements, agreements on state finances, agreements on civil status or agreements on the amendment of legal provisions. Parliamentary approval for the TTIP and CETA shall therefore be necessary in particular since they are agreements which are intended to govern trade between the contractual parties in general.⁴⁵ In France, the parliament also issues its approval through a law which has materialised through the simple legislative process. After the legislative initiative which occurs mostly through the government in the case of international agreements, the draft legislation is sent on to the eight competent committees. After the committee work, there are debates in a plenary session in the National Assembly. The representatives firstly vote on each article and subsequently on the whole text. The adopted draft is then sent to the Senate where it undergoes the same process. The draft legislation must be adopted in the same wording by both chambers.

⁴² § 60 Finn. Const.

⁴³ Similar *Kulovesi, Kati*: International Relations in the New „Constitution of Finland“, in *Nordic Journal of International Law* 2001, S. 519.

⁴⁴ Art. 24 Fr. Const.

⁴⁵ This opinion is also held by the French government, provided the TTIP and CETA concern mixed agreements, see in this regard: <http://www.senat.fr/questions/base/2014/qSEQ140712514.html>.

In addition to a referendum in case of constitutional amendment, Art. 11 of the French Constitution⁴⁶ provides for the optional referendum on draft legislation.⁴⁷ At the proposal of the government or at the joint proposal of both chambers of the parliament, the President can bring any draft legislation to a referendum which concerns the organisation of public authorities as well as reforms of economic and social policy and the public services contributing thereto or aim at the authorisation for ratification of an agreement which, without infringing the Constitution, would have effects on the functions of the institutions. In this mandatory referendum, the President pronounces the law within 14 days following announcement of the results of the referendum.⁴⁸ If the prerequisites specified by the Constitution are not met, a referendum for the approval of the TTIP and CETA would be possible in France.

The President of the French Republic is responsible for the ratification of international agreements pursuant to Art. 52 (1) of the French Constitution.

8) Greece

The parliamentary democracy of Greece has a one-chamber system. Pursuant to Art. 36 (2) of the Greek Constitution, international agreements concerning “trade and tax, economic cooperation and participation in international organisations or associations as well as agreements with concessions which cannot be ordered without law pursuant to other provisions of the Constitution or which burden Greece personally” require a formal ratification law for their validity. A formal ratification law as a rule means any parliamentary law. The necessity of such a law for the approval of the TTIP and CETA is clear due to the fact that they concern agreements which primarily concern state trade. A parliamentary act of assent is therefore necessary pursuant to Greek constitutional law. After the draft legislation has been sent to the competent parliamentary committee⁴⁹, discussions take place in a reading in parliament, once on the draft legislation in principle, once on its articles and once as a whole.⁵⁰

⁴⁶ Art. 89 (2) Fr. Const.

⁴⁷ Critical to this *Jouanjan* in: Bogandy, Armin/Villalón, Pedro Cruz/Huber Peter M. 2007: Handbuch Ius Publicum Europaeum, Volume I, Grundlagen und Grundzüge staatlichen Verfassungsrechts, p. 116 f.

⁴⁸ In detail *Preußler, Lukas* 2015: Question prioritaire de constitutionnalité, Perspektiven konkreter Normenkontrolle in Frankreich. Kölner Schriften zu Recht und Staat, Volume 55, p. 46 f.

⁴⁹ Art. 74 (2) Greek Const.

⁵⁰ Art. 76 (1) Greek Const.

If at the beginning of the discussions in principle a third of the representatives is required, a second reading can be scheduled as an exception. The act of assent is discussed in a plenary session.⁵¹ It is questionable whether an absolute majority pursuant to Art. 38 (3) of the Greek Constitution or whether only a simple majority is necessary for this. Article 28 (3) of the Greek Constitution requires an absolutely majority for cases in which a restriction to national sovereignty is coupled with the international agreement.⁵² No sovereign rights of Greece are given or transferred by the agreement, however. A simple majority is therefore sufficient.

In Art. 44 (2) of the Greek Constitution, the implementation of a referendum is governed. Such a referendum can either be provided for in cases of significant national issues or significant social issues on already adopted legislation. In the latter case, the referendum must be decided by three fifths of the total number of representatives at the proposal of two fifths pursuant to the rules of procedure of the parliament. Although provided for constitutionally, since 1974 there have been no further referendums. A referendum for the approval of the TTIP and CETA could, in principle, however, be implemented in Greece.

Pursuant to Art. 36 (1) of the Greek Constitution, the President of Greece acts as the international representative and is therefore also competent for the ratification of international agreements.

9) Ireland

The parliament of Ireland, the Oireachtas, consists of two chambers, the Senate (Seanad Éireann) and the House of Representatives (Dáil Éireann) and the President.⁵³ Draft legislation must pass through various stages in both chambers before a binding law can result therefrom. The House of Representatives is the significant house for this. The international agreement must also be presented to this house for approval.⁵⁴ The Senate can only delay the decree of a law but may not prevent this. Both chambers decide on the question of an approval with the majority of the present members. The President is obliged to sign a law accepted by both chambers.

⁵¹ Art. 72 (1) UStr. 1 Greek Const.

⁵² *Filos, Altano*: Die neue griechische Verfassung, in *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 2002, p. 1019.

⁵³ Art. 15 (1) no. 2 Irish Const.

⁵⁴ Art. 29 (5) no. 1 Irish Const.

After the international agreement has entered into force, the parliament must also decide on whether the agreement should also be a part of national law.⁵⁵

In Art. 46 et seq. of the Irish Constitution, a binding referendum is provided for in the case that constitutional amendment is implemented. A referendum on the basis of Art. 46 et seq. of the Irish Constitution has already been held 38 times. Since such a referendum for the approval of the TTIP and CETA would not be necessary provided that this is compliant with the Constitution, this can be based solely on Art. 25 of the Irish Constitution. This governs the case of a referendum on a proposed piece of legislation. Pursuant to Art. 27 of the Irish Constitution, a proposed piece of legislation [...] which is considered accepted by both houses, if the majority of the members of the Senate and no less than a third of the members of the House of Representatives ask the President not to sign the draft legislation yet, without the will of the people being sought beforehand. The subject of the draft legislation must present a particular significance for the nation. If this is the case, it is at the discretion of the President. A referendum on the basis of Art. 27 of the Irish Constitution has not yet taken place to date in Ireland. In principle, an approval of the TTIP and CETA through a referendum would be possible constitutionally with corresponding initiatives of the parliament and the approval of the President.

The international agreement is ratified by the President of Ireland or by a foreign minister authorised thereby.

10) Italy

The parliament of the Republic of Italy consists of a two-chamber system. On the one hand, there is a Chamber of Deputies, in which the directly elected representatives sit, and there is the Senate which is elected on a regional basis. Article 80 of the Italian Constitution stipulates that an act of assent is required for international agreements if these are of a political nature or contain arbitration proceedings, provisions on the administration of justice, territorial changes, financial burdens or amendments of laws.

⁵⁵ Art. 29 (6) Irish Const.

For the TTIP and CETA agreements an act of assent is therefore necessary since these have arbitration clauses but can also bring about financial burdens or a change of laws.⁵⁶For the approval of international agreements, the process from Art. 72 of the Italian Constitution is applied.⁵⁷ Within this approval procedure, the act of assent is reviewed by a committee within both chambers and by the chambers themselves.⁵⁸ Both chambers must adopt the same legal text. If amendments are made by a chamber, the respective other chamber must approve the amended legal text again. The act of assent approved by both chambers is pronounced by the President, published and enters into force 15 days following publication.⁵⁹

The Italian Constitution provides for three different forms of referendum. In addition to a consultative referendum in Art. 132 of the Italian Constitution, which concerns regional reorganisation, and confirmative referendum in Art. 138 of the Italian Constitution in the case of constitutional amendment, the Italian Constitution also provides for an “abrogative” referendum, which serves to remove a law or a legislative measure with the force of law.⁶⁰ In Art. 75 (2) of the Italian Constitution, it is clearly standardised, however, that such a referendum is not admissible for the removal of an act of assent on an international agreement. Therefore, the people in Italy do not have any possibility to have an influence on the approval of the TTIP and CETA.

The international agreement is ratified by the President of the Republic of Italy.⁶¹

11) Croatia

The parliament of the Republic of Croatia, the Sabor, has a one-chamber system. Pursuant to Art. 139 of the Croatian Constitution, international agreements are decided by the Sabor, the President of Croatia and the government. Article 140 of the Croatian Constitution stipulates that the Sabor must approve international agreements which require the decree or amendment of a law, which are of a military and political nature or commit the Republic of Croatia financially. The fact that the decree or amendment of a law accompanies the approval of the TTIP and CETA is not necessarily the case but is very close thereto.⁶² Should such an approval of the Sabor in the form of a law not be necessary, the international agreement can be concluded by the President at the proposal of the government or by the government itself.⁶³For the approval of the Sabor, a simple law is required which is pronounced by the President after the vote in the Chamber⁶⁴ and published in the legal gazette.⁶⁵

⁵⁶ See chapter I. 2.

⁵⁷ See Art. 72 (4) Ital. Const.

⁵⁸ Art. 72 (2) Ital. Const.

⁵⁹ Art. 73 Ital. Const.

⁶⁰ Art. 75 Ital. Const.

⁶¹ Art. 87 Ital. Const.

⁶² To this see again chapter I. 2.

⁶³ Art. 140 (4) Croat. Const.

⁶⁴ Art. 89 Croat. Const.

⁶⁵ Art. 90 Croat. Const.

The Sabor can decide on a binding referendum on a proposed piece of legislation.⁶⁶ The Referendum must be requested by more than ten percent of the eligible voters beforehand. A referendum on the approval of the TTIP and CETA is therefore possible.

Pursuant to Art. 140 (3) of the Croatian Constitution, the President signs the ratification documents.

12) Latvia

In Art. 68 of the Latvian Constitution, it is stipulated the international agreements which concern legislative matters require the confirmation of the Latvian parliament, the Saeima. The Saeima consists of a one-chamber system. The approval of international agreements is granted through a simple law. This comes exceptionally in two readings in the case of international agreements⁶⁷ after consulting a competent committee. As soon as the approval is granted by the Saeima through a simple law, the law is published by the President no earlier than 10 days and no later than 20 days after adoption.⁶⁸

In the Latvian Constitution, referendums are provided for in various places.⁶⁹ A referendum is required pursuant to Art. 68 (2) of the Latvian Constitution in particular when, for example, further responsibilities are given to the European Union or significant amendments are made to the membership conditions. An approval of the TTIP and CETA agreements would not concern any of the cases mentioned. Instead, in this case, Art. 73 of the Latvian Constitution would be relevant in which it is stipulated that agreements with foreign states cannot be presented to the people for a decision.

⁶⁶ Art. 87 Croat. Const.

⁶⁷ Art. 11 (2) no. 3 Rules of Procedure of the Saeima.

⁶⁸ Art. 69 Latv. Const.

⁶⁹ See Art. 48 or Art. 68 (2) Latv. Const.

Since free trade agreements concern international agreement which must not only be ratified by the European Union but also by the member states, there is a binding force for the member states directly through European Union law and indirectly as independent contractual parties. As Latvia is an independent contractual party to the agreement, it is concluding an agreement with the foreign state. A referendum on the approval of the TTIP and CETA is therefore not possible in Latvia.

Pursuant to Art. 41 of the Latvian Constitution, the Latvian President executes the Saeima resolutions on the ratification of international agreements.

13) Lithuania

In the parliamentary democracy of Lithuania, the Seima is responsible for the ratification and therefore the approval of international agreements, as a one-chamber parliament.⁷⁰In Art. 138 of the Lithuanian Constitution, the cases in which an approval is needed are listed. Pursuant to Art. 138 (6) of the Lithuanian Constitution, this is the case *inter alia* with multilateral or long-term economic agreements. Trade agreements such as the TTIP and CETA must clearly fall into this category which is why the approval of the Seima is necessary for the ratification of the agreements. After the initiator has briefly presented the draft legislation to the Seima, the Chairman of the Seima sets out the work and recommendations of the committees and puts the proposals to a vote. For the adoption of an act of assent, the majority of the present representatives is required which may not be less than two fifths of all representatives.⁷¹The law enters into force when it is signed and pronounced by the President.⁷²

The Lithuanian Constitution also permits laws to be decreed through a referendum.⁷³So that such a referendum may be carried out, the Seima must firstly decide on its admissibility.⁷⁴

⁷⁰ Art. 67 no. 16 Lith. Const.; *Hollstein, Andreas* 1999: Das staatsorganisatorische Modell der neuen litauischen Verfassung, Ein dritter Weg zwischen präsidentialem und parlamentarischem System?, p. 95.

⁷¹ Art. 181 no. 1 Rules of Procedure of the Saeima; in detail *Hollstein, Andreas* 1999: Das staatsorganisatorische Modell der neuen litauischen Verfassung, Ein dritter Weg zwischen präsidentialem und parlamentarischem System?, p. 93 ff.

⁷² Art. 70 Lith. Const.

⁷³ Art. 69 (4) Lith. Const.

⁷⁴ Art. 67 no. 3 Lith. Const.

A binding referendum is admissible and must be implemented if 300,000 signatures from the people are collected for the implementation of a referendum⁷⁵ or if the Seima is joined by a quarter of the representatives in this.⁷⁶ The referendum is binding if at least half of the eligible voters participate therein.⁷⁷ Subject-related restrictions for a referendum arise from the relevant provisions. In Lithuania, a referendum could therefore be held on the approval of the TTIP and CETA.

Pursuant to Art. 84 (2) of the Lithuanian Constitution, the international agreement is ultimately ratified by the President.⁷⁸

14) Luxembourg

Pursuant to Art. 37 of the Luxembourg Constitution, international agreements cannot enter into force before they have been approved by a law. In Luxembourg, the parliament, the Chambre des Députés, as a one-chamber system is responsible for legislation.⁷⁹ The chamber has the right to have draft legislation examined by various committees.⁸⁰ Furthermore, each piece of draft legislation is approved by the State Council which checks the draft for its constitutionality. It is not a second chamber since its members are not legitimised by voters. If the State Council declares its approval of the draft legislation, the Chambre can vote on this. If not, a revision of the draft and a new submission to the State Council is necessary. The vote on the law as a whole⁸¹ takes place in a plenary session in which the majority of members must be present in order to have quorum. The law must be accepted with an absolute majority.⁸²

⁷⁵ Art. 4 (2) Law on Referendum.

⁷⁶ Art. 4 (2) Law on Referendum.

⁷⁷ Art. 7 No. 1 Law on Referendum.

⁷⁸ *Hollstein, Andreas* 1999: Das staatsorganisatorische Modell der neuen litauischen Verfassung, Ein dritter Weg zwischen präsidentialem und parlamentarischem System?, p. 109.

⁷⁹ See. Art. 46 Luxem. Const.

⁸⁰ Art. 64 Luxem. Const.

⁸¹ Art. 65 Luxem. Const.

⁸² Art. 62 Luxem. Const.

It is pronounced and published within three months by the Grand Duke⁸³ and enters into force three days after its publication.

In the Luxembourg Constitution, a referendum is only provided for in the case of constitutional amendment and only when this has been applied for by the voters beforehand.⁸⁴ A referendum on the approval of the TTIP and CETA is therefore precluded in Luxembourg.

The international agreement is ultimately ratified by the Grand Duke.⁸⁵

15) Malta

As a one-chamber system, the Maltese parliament consists of a House of Representatives and the President.⁸⁶ It does not result directly from the Constitution that international agreements require the approval of the parliament in Malta. Instead, the obligation for this is based on the “Ratification of Treaties Act”.⁸⁷ From Art. 3 of the Ratification of Treaties Act, it results that a parliamentary approval is necessary for international agreements which concern Malta’s status, security, sovereignty, independence or territorial integrity, or Malta’s relations with a multinational organisation. The TTIP and CETA trade agreements can firstly clearly not be subsumed under these prerequisites. For this reason, a parliamentary approval is probably not necessary in Malta. If the Maltese government were to come to the conclusion that the TTIP and CETA fall under Art. (1) of the Ratification of Treaties Act, the approval would be necessary in the form of an “Act of Parliament”. For this, the approval of the parliament and the President is required. The proposed piece of legislation submitted by the government is presented to the House of Representatives after stakeholder consultations. There, three readings take place in which the proposed piece of legislation is checked by committees⁸⁸ and, where necessary, proposed amendments can be made before the law is adopted. The law enters into force on the same day after approval and pronouncement by the President.⁸⁹

⁸³ Art. 34 Luxem. Const.

⁸⁴ See Art. 114 Luxem. Const.

⁸⁵ Art. 37 Luxem. Const.

⁸⁶ Art. 51 Malt. Const.

⁸⁷ Chap. 304. Ratification of Treaties Act, To provide for the ratification of certain treaties, 9th March, 1983.

⁸⁸ Art. 120A Rules of Procedure of maltese parliament

⁸⁹ Art. 71 ff. Malt. Const.

Art. 6 (3) of the Maltese Constitution provides for a referendum in case of various constitutional amendments. The possibility of holding a referendum on the approval on a general “Act of Parliament” is governed in Malta outside the Constitution in the “Referenda Act”.⁹⁰In order to hold a referendum on the approval of the TTIP and CETA, this must be approved in principle by an “Act of Parliament”. Only if the necessity of a referendum is accepted by the Maltese government can a referendum on the issue of approval take place. Only one referendum has been held to date, concerning entry to the European Union.

The international agreement is ratified by the President of Malta or a competent minister.⁹¹

16) Netherlands

The Dutch parliament, the Generalstaaten, consists of two chambers. In the first chamber the representatives elected by the provincial parliaments sit, while the second chamber, which is set up through direct votes, is a Chamber of Representatives.⁹² International agreements in principle require the approval of both chambers in the legislative process unless otherwise specified by law. If the content of the agreement deviates from the constitutional provisions, the Generalstaaten must make a decision with a majority of two thirds.⁹³In the legislative process, the draft legislation is firstly presented to the Council of Ministers, which discusses the draft and sends this onto the State Council. After the State Council has revised the draft, it shall send it back to the Council of Ministers who shall again revise the draft and sent this to the King. The King presents the draft to the second chamber, in which a preliminary investigation takes place, which again sends the draft on to the competent minister in order to provide a statement thereon.

⁹⁰ Chap. 237., Referenda Act, ACT XXXIII of 1973, as amended by Acts XXXV and LVIII of 1974, XI of 1975, XIII of 1983, VIII of 1996 and XIX of 2002; and Legal Notices 411 of 2007 and 426 of 2012, 20th July, 1973.

⁹¹ Art. 5 Ratification of Treaties Act.

⁹² Art. 51 Const. of Neth.

⁹³ Art. 91 Const. of Neth.

The minister sends the statement back to the second chamber in which a committee discusses whether the draft has been prepared sufficiently. If yes, there is a deliberation in the chamber on each article in detail and the draft as a whole. If the draft is rejected, it goes back to the competent ministry. In the event of acceptance, it is sent to the first chamber which proceeds in exactly the same way as the second chamber. If the first chamber has also accepted the draft, it is sent on to the King who signs the draft legislation with the competent minister.⁹⁴The ratified agreement is then an integral part of Dutch law.⁹⁵

The Dutch Constitution expressly provides for a referendum in the case of constitutional amendment in Art. 137 et seqq. of the Dutch Constitution. Direct democracy is not provided for in other cases. Thus, the non-binding vote on a European Constitutional Treaty has to date been the only referendum in the Netherlands.⁹⁶In July 2015, a law entered into force in the Netherlands with which a non-binding referendum on an already existing law is possible at the request of 300,000 citizens.⁹⁷ Article 5 e) of the law stipulates that laws which serve to implement agreements and resolutions of international organisations should be excluded from the possibility of a referendum.⁹⁸This type of law particularly includes those which are decreed for example on the basis of a European guideline. The act of assent of the TTIP and CETA can be voted on through a referendum in a non-binding manner in the Netherlands after the entry into force of the law and at the corresponding request of the citizens.

The international agreement is ratified by the King or by a minister authorised thereby.

⁹⁴ Art. 47 Const. of Neth.

⁹⁵ Schäfer, Michael 2002: *Verfassung, Zivilgesellschaft und Europäische Integration*, p. 76 f.

⁹⁶ in detail Nijeboer, Arjen: *The Dutch Referendum*, in *European constitutional law review* 2005, S. 393 ff.

⁹⁷ The law is exclusively valid for the European part of the Netherlands and not for the BES Islands. The Dutch Caribbean constitutes an autonomous legal territory in which Dutch laws do not have automatic application. Furthermore, the BES countries are currently also still not members of the European legal community (see. Art. 355 TFEU on the geographical scope of European agreements).

⁹⁸ See draft as submitted to the first chamber, available at:

<https://zoek.officielebekendmakingen.nl/kst-30372-A.html?> (last access 2.6.2015).

17) Austria

In Austria, the State Council (Parliament) together with the Federal Council (representing the states) are responsible for the legislation. According to Art. 50 of the Austrian Constitution, the conclusion of an international treaty requires either the approval of the National Council or the National Council and the Federal Assembly. TTIP and CETA are treaties with the federal government according to Art. 10 Par. 1 No. 2, 50 Par. 1 No. 1 of the Austrian Constitution. Moreover, the two treaties are not international treaties amending the contractual basis of the European Union in line with Art. 50 Par. 1 No. 2 of the Austrian Constitution, so only the State Council's approval is needed to consent to ratification. As with the adoption of a simple federal law, it is adopted in three sessions. At least one-third of the members must be present for the vote and decide by a simple majority.

Art. 43 ff. of the Austrian Constitution govern cases when a referendum is possible in Austria. Pursuant to Art. 44 of the Austrian Constitution, an initiative is required to amend the constitution, provided it is a total revision of the Constitution or a partial revision and the referendum is requested by a third of the National Council or the Federal Council. However, any enactment of the law may undergo a referendum if the National Council decides so or the majority of the National Council request this.⁹⁹ The vote on the approval of TTIP and CETA would indeed be optional, but possible. Two referendums have been held in Austria so far, one was optional and the other mandatory.

An international agreement is ratified by the President of Austria.¹⁰⁰

18) Poland

The legislative power in Poland is comprised of the Sejm (directly elected representatives) and the Senate (allocation of seats by a simple majority in the constituencies). Article 89 of the Polish Constitution regulates the cases in which a consent statute for the conclusion of an international treaty is necessary. The trouble is that the options listed here do not prescribe any specific criteria, which is why there are always problems in practice.¹⁰¹ However, No. 6, which mentions matters regulated in the law or for which a law is required by the Constitution, may easily be relevant here. Commercial law, customs and the flow of goods are regulated by law in Poland.¹⁰² Therefore, a consent statute is necessary for the TTIP and CETA treaties. The Constitutional provisions apply to the adoption of the law, which can be modified by a simple law.¹⁰³ A simple law is passed in Poland by the Sejm, with the support of the relevant committee¹⁰⁴ in three sessions and requires the

⁹⁹ Art. 43 Austr. Const.

¹⁰⁰ Art. 65 Austr. Const.

¹⁰¹ *Banaszak, Bogusław/Milej, Tomasz* 2009: *Polnisches Staatsrecht, Grundrisse des Polnischen Rechts*, Volume 20, p. 44.

¹⁰² See: <http://www.lexadin.nl/wlg/legis/nofr/eur/lxwepol.htm> (last access 2.6.2015).

¹⁰³ See Art. 89 no. 3 Pol. Const.

¹⁰⁴ See again *Lammich, Siegfried* 1982: *Die Staats- und Verwaltungsordnung der Volksrepublik Polen*, p. 157.

Senate's consent.¹⁰⁵ Basically a simple majority in the presence of half of the representatives suffices for acceptance in the Sejm and the Senate. It would be otherwise, if national competencies were handed over by the international treaty. In this case, a two-thirds majority would be required.¹⁰⁶ The President must sign the adopted law, so it can enter into force 14 days after its publication in the Official Gazette.¹⁰⁷

The Polish Constitution provides referendums in different sections. However, they are always optional. Pursuant to Art. 235 No. 6 and Art. 90 No. 3 of the Polish Constitution, referendums may be held in Constitution amendment procedures or to approve an international treaty transferring national competencies to an international organisation. As none of these options are relevant for consent to the TTIP and CETA treaties, the general provision on referendums in Art. 125 of the Polish Constitution must be resorted to. According to this, a referendum is possible if the matter is of special importance for the state.¹⁰⁸ If this is the case, Sejm and the President with the Senate's consent have to order of a referendum.¹⁰⁹ If more than half of the electorate vote, it becomes binding.¹¹⁰ There has not been a case of special importance for the state until now. The referendums in Poland were always tied to a Constitutional amendment.¹¹¹ However, a referendum for approval of TTIP and CETA would be possible in general.

An international agreement is ratified by the President of Poland.¹¹² However, before that he must turn to the Constitutional Court and have the agreement checked for compatibility with the Polish Constitution.¹¹³

19) Portugal

The Portuguese Parliament, Assembleia de República (Assembly of the Republic), is a unicameral parliament. Pursuant to Art. 161 i.) of the Portuguese Constitution it has the competency to approve international agreements, if they concern matters of exclusive legislative competencies, agreements about Portugal's membership in international organisations, if these are friendship, peace, defence, border correction and settlement agreements that concern military matters, as well as other agreements presented to it by the government. Art. 164 f.) of the Portuguese Constitution governs cases of exclusive legislation of the Assembly of the Republic. However, none of the cases mentioned there can be thematically transferred to the TTIP and CETA treaties. Moreover, Art. 165 of the Portuguese Constitution regulates the exclusive legislative competencies that the Parliament

¹⁰⁵ *Tuleja* in: Bogandy, Armin/Villalón, Pedro Cruz/Huber Peter M. 2007: Handbuch Ius Publicum Europaeum, Volume I, Grundlagen und Grundzüge staatlichen Verfassungsrechts, p. 467.

¹⁰⁶ *Tuleja* in: Bogandy, Armin/Villalón, Pedro Cruz/Huber Peter M. 2007: Handbuch Ius Publicum Europaeum, Volume I, Grundlagen und Grundzüge staatlichen Verfassungsrechts, p. 492 f.

¹⁰⁷ Art. 88 no. 3 Pol. Const.

¹⁰⁸ Art. 125 no. 1 Pol. Const.

¹⁰⁹ Art. 125 no. 2 Pol. Const.

¹¹⁰ Art. 125 no. 3 Pol. Const.

¹¹¹ See *Marczewska-Rytka, Maria*: Direct democracy at the national level in Poland. The case of referendum, in *Annales UMCS, Sectio K (Politologia)*. Volume 20, Issue 1, p. 115, Abstract.

¹¹² Art. 133 no. 1 Pol. Const.

¹¹³ Art. 133 no. 2, Art. 188 Pol. Const.; *Banaszak, Bogusław/Milej, Tomasz* 2009: *Polnisches Staatsrecht, Grundrisse des Polnischen Rechts*, Volume 20, p. 44, 71 ff.

and also the Government may convey. Within this regulation, legislative competency on agricultural policy (n.) may be used as the basis in particular. Other competencies could also drawn upon with appropriate substantiation (e.g. determination of crimes, fundamentals of national healthcare, fundamentals of order for the protection of nature or means and sorts of state expropriation). If it is assumed that the Parliament has the legislative competency, it must give its approval in form of a simple law. For this purpose, the draft law is published in the Official Gazette of the Parliament, after it is introduced in Parliament, and its content is assessed by committees.¹¹⁴ Thereafter, there is a debate about general aspects and specific aspects before a vote it taken about the draft on the whole, the individual points, and the final vote is taken.¹¹⁵ The President must examine the adopted law for legitimacy.

The Portuguese Constitution, according to Art. 115, allows for a referendum if it is expressly defined in the Constitution or another law and it is a matter of substantial national interest. The extensive regulation of Art. 115 Abs. 4 of the Portuguese Constitution also includes cases when a referendum should not be allowed. This includes also the regulation described in Art. 161 of the Portuguese Constitution (c.). As Art. 161 i.) regulates the Parliament's approval of international agreements, the possibility of a referendum about the issue of approval is omitted. Therefore, in Portugal, approval of TTIP and CETA is possible only through a Parliamentary resolution.

Pursuant to Art. 135 b.) of the Portuguese Constitution the international agreement is ratified by the President after its proper adoption. If the President has doubts about the adoptability of the agreement, he may demand preventive scrutiny of constitutionality according to Art. 278 of the Portuguese Constitution.

20) Romania

The Romanian parliament consists of the Chamber of Deputies and the Senate. According to Art. 11 Par. 2 and 91 of the Romanian Constitution, conclusion of international agreements requires the approval of Parliament. As the approval law is neither a constitutional law nor an organic law in line with Art. 72 of the Romanian Constitution, the approval law is passed as a regular law by way of a simple legislative procedure. Both chambers are strictly equal in the legislative procedure. Art. 75 Abs. 1 of the Romanian Constitution stipulates that approval laws on international treaties are submitted by the government¹¹⁶ first to the Chamber of Deputies,¹¹⁷ before going to the Senate for the final vote.¹¹⁸ The draft approval law must be approved in both chambers by a majority of votes of those present.¹¹⁹ The law is proclaimed by the President of Romania¹²⁰ and enters into force after publication in the Official Gazette.¹²¹

The Romanian Constitution stipulates a referendum in Art. 90. According to it, the President may ask the people, after consulting the Parliament, to express their will on a matter of national interest. Therefore, to call a referendum in Romania, it must be a matter of national interest. Till now,

¹¹⁴ For Committe work, Art. 35 ff. Rules of procedure oft the Portuguese Parliament.

¹¹⁵ Art. 168 Port. Const.

¹¹⁶ See Art. 91 (1) Rum. Const.

¹¹⁷ Art. 75 (1) Rum. Const.

¹¹⁸ Art. 75 (3) Rum. Const

¹¹⁹ Art. 76 (2) Rum. Const

¹²⁰ Art. 77 (1) Rum. Const.

¹²¹ Art. 78 Rum. Const.

referendums have been held in Romania always only in connection with a constitutional amendment in line with Art. 151 of the Romanian Constitution and suspension of the President in line with Art. 95 Par. 3 of the Romanian Constitution. It is questionable whether approval of TTIP and CETA constitutes such national interest. In this context, it is worth keeping in mind that a people's initiative in line with Art. 74 Par. 2 of the Romanian Constitution is not possible for approval or cancellation of international treaties. Obviously the Romanian President transfers these considerations to the possibility of approval of TTIP and CETA by referendum. However, a referendum is basically possible.

The Romanian President ratifies the international treaty.¹²²

21) Sweden

Sweden's unicameral parliament, the Riksdag, is the legislative body. In essence, the government is responsible for approving international treaties.¹²³ In the cases regulated in Chap. 10 Section 3, the government requires the approval of Parliament. This includes, among other things: (1.) cases when a law is amended or cancelled or a new law needs to be passed; or (2.) treaties concerning matters on which the Parliament must pass a resolution. The Parliament must pass resolutions, in particular, about laws concerning Sweden's trade and commerce legislation.¹²⁴ An approval of the Parliament is thus needed to approve TTIP and CETA. The initiative for the draft law usually comes from the government in cases of international treaties.¹²⁵ Commissions, committees, and regional officials are entrusted with the examination of the law.¹²⁶ If the results of the examination are positive, the draft is further submitted to the government administration and the responsible minister, who revises the proposal further. If the results of the examination are negative, the draft is rejected. After preparation by the government administration, the draft is sent to the Legal Council, which assesses the legitimacy of the drafts.¹²⁷ Then, there are two plenary sessions of Parliament, during which the law is adopted. The resolution issued by Parliament is enforced by the government. Generally, it is specified in the law itself when it is to enter into force.

The possibility of holding a referendum in Sweden exists only in the scope of a constitutional amendment. Based on the fact that TTIP and CETA are in conformance with the Constitution in Sweden, no referendum can be held to approve the two commercial treaties.

The constitutional treaty is ratified by the King or his authorised member of government, usually a Minister.

22) Slovakia

The National Council of the Republic of Slovakia, as the unicameral Parliament, must grant its consent to international political treaties, general international commercial treaties, and

¹²² Art. 91 Rum. Const.

¹²³ Chap. 19 § 1 Swed. Const.

¹²⁴ Overview of parliamentary law in Sweden: <http://www.lexadin.nl/wlg/legis/nofr/eur/lxwezwe.htm> (last access 3.6.2015).

¹²⁵ Chap. 10 § 1 Swed. Const.

¹²⁶ Chap. 4 § 5 Swed Const.

¹²⁷ Chap. 8 § 20 ff. Swed. Const.

international treaties that require a law in order to enter into force, in accordance with Art. 7 Par. 4 of the Slovak Constitution. The TTIP and CETA treaties have immediate effect in Slovakia as *acquis communautaire* of EU law,¹²⁸ and therefore the third alternative of Art. 7 Par. 4 of the Slovak Constitution is excluded. For this reason, only the second alternative can be relevant in the need of a consent law for both the trade agreements, in that they are seen as general commercial treaties. After a draft law is submitted to Parliament, committees are consulted¹²⁹ and a vote is taken. The constitutional committee must check the international agreement for conformance with the Constitution. Two or three sessions are held for international agreements.¹³⁰ Article 84 Par. 3 of the Slovak Constitution requires the acceptance of a draft by an absolute majority, for which more than half of the members must be present. The consent law is signed by the President, the Chairman of the National Council, and the Prime Minister.¹³¹ The law and the agreement are later published in the Official Gazette of Slovakia. In cases when no Parliamentary approval is required, the approval of the government or individual members is sufficient.¹³²

In Art. 7 Par. 4 and Art. 93 Par. 1 the Constitution of Slovakia provides for a mandatory referendum in the event of accession to or exit from an international organisation. In addition, according to Art. 93 Par. 2 of the Slovak Constitution, there is a possibility of an optional referendum in case of other important matters of public interest.¹³³ The Constitutional Court of Slovakia has ruled that this may concern draft laws as well.¹³⁴ Whether or not something is an important matter of public interest is decided either by a people's petition or a resolution of the National Council. Thereafter, the President must present the issue to the Constitutional Court for a decision. The Court checks whether the decision about a specific issue is in conformance with the Constitution. If these requirements are fulfilled, a referendum may be held in Slovakia on the approval of TTIP and CETA. If half the electorate participate, the outcome would be binding for the National Council as well.¹³⁵

The treaty requiring approval is ratified by the President according to Art. 102 of the Slovak Constitution.

23) Slovenia

The Parliament of the Republic of Slovenia is a bicameral system, consisting of a National Assembly and a National Council. Directly elected representatives sit in the National Assembly, whereas the National Council is a representative body for social, economic, professional and local interests.¹³⁶ International agreements may be ratified in Slovenia after the National Assembly has approved them.¹³⁷ The legislative initiative comes from the government of the Republic of Slovenia.¹³⁸ The legislative procedure in the National Assembly takes place in three sessions, with the involvement of

¹²⁸ See. Art. 7 (2) Slovak Const.

¹²⁹ Sec. 61 ff. Rules of Procedure National Council of the Slovak Republic.

¹³⁰ Sec. 88 Rules of Procedure National Council of the Slovak Republic.

¹³¹ Art. 87 (3) Slovak. Const.

¹³² Art. 102 Slovak. Const.

¹³³ *Krošlák, Daniel* 2013: Introduction to the Slovak Constitutional System, p. 57.

¹³⁴ Constitutional Court Slovakia File Ref. I. ÚS 35/00, 22.6.2000.

¹³⁵ Art. 98 (1) slovak. Const.; *Krošlák, Daniel* 2013: Introduction to the Slovak Constitutional System, p. 60.

¹³⁶ Art. 96 Slov. Const.

¹³⁷ See Art. 169 Rules of Procedure of the National Assembly Slovenia.

¹³⁸ Art. 169 (2) Rules of Procedure of the National Assembly Slovenia.

committees.¹³⁹ The consent law is approved by a majority vote of the representatives present, provided the Constitution or the law stipulates no other regulation. The National Assembly has quorum if the majority of the representatives are present.¹⁴⁰ In contrast, the National Council does not have any extensive competencies in terms of legislation. It may merely make a request to the National Assembly to decide again about a law that was already adopted.¹⁴¹ The law is proclaimed by the President and published in the Official Gazette.

In Slovenia, optional referendums are allowed in the event of constitutional amendment¹⁴² on request of Parliament and in case of approval of an international treaty that transfers national competencies to an international organisation. Neither case is relevant for the TTIP and CETA treaties. Pursuant Art. 90 Par. 1 of the Slovenian Constitution, the National Assembly may call for a binding referendum on matters governed by law. According to this rule, a referendum on the approval of TTIP and CETA would be initially permissible. However, paragraph two regulates all the cases when a referendum in accordance to paragraph one is inadmissible. This includes also laws to ratify international agreements. Due to this exclusion clause, a referendum about the approval of TTIP and CETA may not be held in Slovenia.

The international agreement is ratified by the President of the Republic of Slovenia.¹⁴³

24) Spain

The Spanish Parliament (Cortes Generales) is a bicameral system, comprised of a House of Deputies (Congreso de los Diputados) and the Senate (Senado). The House of Deputies is elected by direct election in the electoral districts. The Senate is based on an indirectly elected regional representation. Art. 94 of the Spanish Constitution regulates the cases when the approval of Parliament is needed for conclusion of international agreements. For the trade agreements TTIP and CETA in particular lit. a.) (agreements of political nature) or lit. e.) (agreements that require the amendment or repeal of a law or require legislative measures for their implementation) could come under consideration. It remains to be seen how the Spanish government will classify the trade agreement. Here in particular, lit. e) may be pertinent.¹⁴⁴ If this is the case, the draft law will first be adopted by the House of Deputies with the involvement of committees, and then forwarded to the Senate. The Senate may veto it within two months by absolute majority or submit an amended law to the House of Deputies by a simple majority, which the House of Deputies will have to review once again. The suggested amendment may be accepted or rejected by the House of Deputies by a simple majority. A veto by the Senate may be overruled by the House of Deputies by an absolute majority. The Senate will be consulted only once during the procedure.

The Spanish Constitution stipulates a referendum solely in case of a constitutional amendment.¹⁴⁵ Therefore, a referendum on the approval of TTIP and CETA is not possible in Spain.

¹³⁹ Art. 89 Sloven. Const.; Art. 114 ff. Rules of Procedure of the National Assembly Slovenia.

¹⁴⁰ Art. 86 Slov. Const.

¹⁴¹ Art. 97 (1) Slov. Const.

¹⁴² Art. 170 Slov. Const.

¹⁴³ Art. 107 Slov. Const.

¹⁴⁴ See Chapter I. 2.

¹⁴⁵ Art. 167 (3) Span. Const.

The king is the representative in international relations.¹⁴⁶ He is therefore empowered to ratify international agreements.¹⁴⁷

25) Czech Republic

The Parliament of the Czech Republic is a bicameral structure, comprising the Chamber of Deputies and the Senate.¹⁴⁸ Both chambers are elected by popular vote in direct elections. Art. 49 of the Czech Constitution stipulates the cases in which the approval of both chambers is required for ratification of an international agreement. It is reserved, among other things, for general commercial agreements¹⁴⁹ and in matters governed by law¹⁵⁰. Both options make parliamentary agreement with TTIP and CETA a necessity. As soon as the consent law for the international agreement is passed by the House of Deputies, the draft law is forwarded to the Senate.¹⁵¹ The Senate will either approve or reject the draft. A negative stance of the Senate may be overruled by the House of Deputies by an absolute majority of votes.¹⁵² The adopted law is signed by the Speaker of the House of the Deputies, the President and the Vice President of the Republic¹⁵³ and enters into force once it is announced.¹⁵⁴

According to Art. 2 Par. 1 of the Czech Constitution, the people are the source of all state power. Paragraph two specifies that the Constitution establishes when the people exercise state power directly. The Czech Constitution provides for the possibility of a referendum solely in the case when national competencies are transferred to an international organisation.¹⁵⁵ This regulation provided the foundation for a referendum on the accession to the European Union. Other referendums have not taken place in the Czech Republic until now. Therefore, there will be no referendum on the approval of TTIP and CETA in the Czech Republic.

The President represents the Czech Republic externally and ratified international treaties.¹⁵⁶ Before the treaty can be ratified by the President, the Constitutional Court has to decide on the constitutionality of the Treaty.¹⁵⁷ Without the consent of the Constitutional Court the agreement may not be ratified.

26) Hungary

The Hungarian Parliament consists of one chamber. According to Art. 1 Par. 2 d.) of the Hungarian Constitution, the approval of Parliament is required for all matters that fall within the scope of its

¹⁴⁶ Art. 56 Span. Const.

¹⁴⁷ Art. 63 (2) Span. Const.

¹⁴⁸ Art. 15 Czech Const.

¹⁴⁹ Art. 49 d.) Czech Const.

¹⁵⁰ Art. 49 e.) Czech Const.

¹⁵¹ Art. 45 Czech Const.

¹⁵² Art. 46 ff. Czech Const.

¹⁵³ Art. 51 Czech Const.

¹⁵⁴ Art. 52 Czech Const.

¹⁵⁵ See. Art. 10a (1), 62 I.) Czech Const.

¹⁵⁶ Art. 63 a.), b.) Czech Const.

¹⁵⁷ Art. 87 (2) Czech Const.

governance. The legislative jurisdiction covers all areas of regulation that can be adopted only by law.¹⁵⁸ This is the case with the trade and customs regulations.¹⁵⁹ International treaties that require no parliamentary approval are pronounced by the government by a legal decree.¹⁶⁰ Within the parliamentary approval procedure, Parliament decides by simple majority and the involvement of consultative committees on the adoption of the law.¹⁶¹ The laws adopted by Parliament must be confirmed by the President of Parliament¹⁶² and signed by the President. If the President does not agree with the law, he may revert it for review to the Constitutional Court or Parliament.¹⁶³ After the international treaty enters into force, it still needs to be declared a part of Hungarian legal order through another law.¹⁶⁴

Section entitled THE STATE/Art. 8 of the Hungarian Constitution stipulates the option of a referendum. An initiative of 200,000 voters or 100,000 voters with the Presidential or government proposal is needed for this. In the second case, it is at the Parliament's discretion whether to allow a referendum or not.¹⁶⁵ The vote is binding if half of the electorate cast a ballot.¹⁶⁶ The third paragraph regulates all cases when a referendum is not possible. Along with constitutional amendments, it is also the case when a law on customs is adopted. TTIP and CETA may be affected by this exception. However, according to Article 6 Par. 1 a.) of the simple legal regulation on referendums¹⁶⁷, this is specifically referring to stamp duties, which differ from general customs. The TTIP and CETA trade agreements thus do not fall within the exceptions of THE STATE/Art. 8 Par. 3 of the Hungarian Constitution. Therefore, a referendum on approval is possible.

The international agreement is ratified by the President of Hungary.¹⁶⁸

¹⁵⁸ *Dezső, Márta* 2010: Constitutional Law in Hungary, S. 53; *Küpper, Herbert*: Völkerrecht, Verfassung und Außenpolitik in Ungarn, in Zeitschrift für ausländisches öffentliches Recht und Völkerrecht 1998, p. 259.

¹⁵⁹ See parliamentary laws in Hungary: <http://www.lexadin.nl/wlg/legis/nofr/eur/lxwehun.htm> (last access: 2.6.2015).

¹⁶⁰ *Dezső, Márta* 2010: Constitutional Law in Hungary, p. 54; *Küpper, Herbert* 2012: Ungarns Verfassung vom 25. April 2011, Einführung – Übersetzung – Materialien, Studien des Instituts für Ostrecht München, p. 101.

¹⁶¹ Sec. 31 ff., 102 Rules of Procedure of the Hungarian Parliament; *Küpper, Herbert* 2011: Einführung in das ungarische Recht, p. 51.

¹⁶² DER STAAT/Art. 6 (3) Hung. Const.

¹⁶³ DER STAAT/Art. 6 (4,5) Hung. Const.; *Küpper, Herbert* 2011: Einführung in das ungarische Recht, p. 47.

¹⁶⁴ *Bodnár, László*: in Acts Juridica Hungarica 2002, Constitution, International Treaties and Contracts, p. 282 ff.

¹⁶⁵ More accurately regulated in Act XVII of 1989 on Referendum and Popular Initiative.

¹⁶⁶ *Küpper, Herbert*: Völkerrecht, Verfassung und Außenpolitik in Ungarn, in Zeitschrift für ausländisches öffentliches Recht und Völkerrecht 1998, p. 266.

¹⁶⁷ Act XVII of 1989 on Referendum and Popular Initiative.

¹⁶⁸ DER STAAT/Art. 9 (3a) Hung. Const.; Constitutional Court Hungary 4/1997 (I. 22.); See in detail *Küpper, ZaöRV* 1998, p. 259; *Küpper, Herbert* 2012: Ungarns Verfassung vom 25. April 2011, Einführung – Übersetzung – Materialien, Studien des Instituts für Ostrecht München, p. 101.

27) United Kingdom

In the United Kingdom it is not the people who have sovereignty, but the parliament, comprised of two chambers: the House of Lords (Upper House) and the House of Commons (Lower House). As there is no codified constitution, the approval of international treaties is based on customary law, enacted laws with constitutional status, and the Common Law. The Constitutional Reform and Governance Act (CRaG) of 2010 stipulates that in the UK international agreements, as long as they, among other things, do not give further competencies to the European Parliament,¹⁶⁹ can be concluded by the government through a legal decree. The idea behind this “Negative-Procedure” is that it is the government which gains rights and accepts obligations through the conclusion of international agreements. Nonetheless, the council is encouraged to present the legal decree to Parliament. Both Houses then have 40 days to discuss the statutory instrument. If one House declares the legal decree void, it cannot be enacted.¹⁷⁰ So far, in the United Kingdom, this “Negative-Procedure” has been applied to all international agreements which pertained to trade and investment.

The constitutional principle of parliamentary sovereignty¹⁷¹ demands, however, that in cases in which additional competencies are transferred to the European Union, the council has to present the draft agreement with explanatory comments to Parliament. As part of this “Affirmative Procedure” the approval law for the ratification will be passed using a secondary legal act. The proposed piece of legislation from the council has to be discussed in a committee of enquiry in both Houses, before both Houses also have to agree to it.¹⁷²

After the international treaty enters into force, it still needs to be declared a part of the legal order of the United Kingdom through another law.

Even though, because of the significant importance of TTIP and CETA, the government is currently being called on to apply the “affirmative procedure”, due to the legal basis, it is highly likely that the “negative procedure” will be used.¹⁷³

Until now, 12 non-binding referendums have been held in the United Kingdom.¹⁷⁴ Essentially, they have always concerned constitutional issues. The decision about a referendum on approval of TTIP and CETA is at the discretion of Parliament, but is essentially possible. The next referendum is planned for 2017 and will address the exit from the European Union.

¹⁶⁹ See Sec. 12 of the European Parliament Election Act 2002 or Sec. 5 of the European Union (Amendment) Act 2008.

¹⁷⁰ The procedure at length House of Commons Information Office, Statutory Instruments, Factsheet L7 Legislative Series Revised May 2008, p. 4.

¹⁷¹ On the concept *Loughlin* in: Bogandy, Armin/Villalón, Pedro Cruz/ Huber Peter M. 2007: Handbuch Ius Publicum Europaeum, Band I, Grundlagen und Grundzüge staatlichen Verfassungsrechts, p. 227, 256 f.; *de Smith, Stanley/Brazier, Rodney* 1994: Constitutional and administrative law, p. 75 ff.; *Clarke, H.W.* 1971: Constitutional and administrative law, p. 20 ff.

¹⁷² *Miller, Vaughne*: EU External Agreements; EU and UK procedures, Briefing Papers CBP 7192, 19 May 2015, p. 5; House of Commons Information Office, Statutory Instruments, Factsheet L7 Legislative Series Revised May 2008, p. 5.

¹⁷³ On how rarely this procedure is used House of Commons Information Office, Statutory Instruments, Factsheet L7 Legislative Series Revised May 2008, p. 5.

¹⁷⁴ See <http://www.parliament.uk/get-involved/elections/referendums-held-in-the-uk> (last access 3.6.2015).

International agreements are ratified by the Queen of the United Kingdom or her authorised foreign minister.¹⁷⁵

28) Cyprus

The House of Deputies of Cyprus is a unicameral Parliament, formed on the basis of proportional representation in general elections. The President is also the Head of State and Head of Government. According to Art. 169 Par. 2 of the Cyprus Constitution, international agreements must be ratified by law and published in the Official Gazette. Moreover, according to Par. 1, the Council of Ministers must be consulted on economic and financial matters. This would be the case with the approval of TTIP and CETA. The draft law for parliamentary approval is introduced by the Minister. There is firstly a debate in the competent parliamentary committee,¹⁷⁶ before it is discussed in the plenary session. The law is enacted by a simple majority of those present and voting.¹⁷⁷ The Parliament then forwards the draft to the President, who enacts it by publishing it in the Official Gazette or reverses it to the House of Deputies for further review. If the House of Deputies passes the law again with the same content, the President has the right to permanently repeal it.¹⁷⁸

No referendum is stipulated in the Constitution of Cyprus.

According to Art. 37 of the Constitution of Cyprus, the President of Cyprus is responsible for ratification of the agreement.

III. Summary

Table 1 presents a general overview of the need for a parliamentary approval procedure, the structure of national parliaments, and the possibility of a referendum on the approval of TTIP and CETA.

In Tables 2 and 3 it is worth noting that the terms shown in *italics* are subject to the respective understanding of the Constitution or discretion of the national government and parliaments. It is uncertain whether the TTIP and CETA free trade agreements will actually be classified under the terms shown in *italics* by the national governments and parliaments. The assumption is often evident, however.

Table 1: General presentation of results

Country	Parliamentary approval is required	Parliament Structure	Referendum possible
Belgium	yes	Bicameral	no

¹⁷⁵ *de Smith, Stanley/Brazier, Rodney* 1994: Constitutional and administrative law, p. 152; *Clarke, H.W.* 1971: Constitutional and administrative law, p. 91.

¹⁷⁶ Art. 73 Cyp. Const.

¹⁷⁷ Art. 78 Cyp. Const.

¹⁷⁸ Art. 50 a.) (ii.) Cyp. Const.

Bulgaria	yes	Unicameral	yes
Denmark	yes	Unicameral	yes
Germany	yes	Bicameral	no
Estonia	yes	Unicameral	no
Finland	yes	Unicameral	no
France	yes	Bicameral	yes
Greece	yes	Unicameral	yes
Ireland	yes	Bicameral	yes
Italy	yes	Bicameral	no
Croatia	yes	Unicameral	yes
Latvia	yes	Unicameral	no
Lithuania	yes	Unicameral	yes
Luxemburg	yes	Unicameral	no
Malta	no	Unicameral	no (only if “Act of Parliament”)
The Netherlands	yes	Bicameral	yes
Austria	yes	Bicameral	yes
Poland	yes	Bicameral	yes
Portugal	yes	Unicameral	no
Romania	yes	Bicameral	yes
Sweden	yes	Unicameral	no
Slovakia	yes	Unicameral	yes
Slovenia	yes	Bicameral	no
Spain	yes	Bicameral	no
Czech Republic	yes	Bicameral	no
Hungary	yes	Unicameral	yes
United Kingdom	yes	Bicameral	yes
Cyprus	yes	Unicameral	no

1) The need of an approval law

The presentation has led to the conclusion that a parliamentary approval process will likely be necessary in all member states, with the exception of Malta. The table below examines the requirements in the constitutions and shows how the competencies are distributed within multicameral systems. Bicameral systems are systems where the legislative power comprises two chambers or houses.

Table 2: Requirements for and participation in the parliamentary approval process

Country	Requirements	Participation in Parliament
Belgium	no further requirements in the Constitution	bicameral, equal rights
Bulgaria	Art. 85 Par. 1, international treaty results in <i>financial obligations of the state</i>	unicameral
Denmark	no other requirements in the constitution	unicameral
Germany	Art. 59 Par. 2, international treaty concerns political ties of the federal government or the <i>object of federal legislation</i>	bicameral, unequal rights
Estonia	Section 121 No. 4, international treaty results in military or <i>material obligations</i>	unicameral
Finland	Section 94 Par. 1, international treaty falls under <i>legislation</i> or <i>has another significant meaning</i>	unicameral
France	Art. 53, international treaties that are peace or <i>trading agreements</i> or agreements on state finance, civil status or changes of legal regulations	bicameral, equal rights
Greece	Art. 36 Par. 2. international treaties concerning <i>trade and taxes, economic cooperation and participation in international organisations or associations and agreements with concessions that could not be disposed of according to other regulations of the Constitution without a law or that personally encumber the Greek people</i>	unicameral

Ireland	no further requirements in the Constitution	bicameral, unequal rights
Italy	Art. 80, political international agreements, agreements on <i>arbitration</i> , regulations about justice, territorial changes, financial burdens or the amendment of laws	bicameral, equal rights
Croatia	Art. 140, international treaties that result in the <i>enactment or amendment of a law</i> , of military or political nature, financial obligate the Republic of Croatia	unicameral
Latvia	Art. 68, the international treaty must concern a <i>legislative issue</i>	unicameral
Lithuania	Art. 138, particularly No. 6: international treaty is a <i>multilateral or long-term economic agreement</i>	unicameral
Luxemburg	no further requirements in the Constitution	unicameral + review by the State Council
Malta	Art. 3 Ratification Act, international treaty must concern Malta's status, Malta's security, sovereignty, independence, or territorial integrity, or Malta's relations with a multinational organisation	unicameral
The Netherlands	no further requirements in the Constitution	bicameral, equal rights
Austria	Art. 10 Par. 1 No. 2, 50 Par. 1 No. 1, Ratification by the National Council	bicameral, unequal rights
Poland	Art. 89 No. 6, <i>Matters that have been regulated in the law</i> or for which a law is provided for in the Constitution	bicameral, unequal rights
Portugal	Art. 161 i.), international	unicameral

	treaties, if they concern <i>issues of exclusive legislative competency</i> , agreements on the participation of Portugal in international organisations friendship, peace, defence, border correction and settlement agreements that concern military matters	
Romania	no further requirements in the Constitution	bicameral, equal rights
Sweden	Chapter 10 Section 3, international treaties <i>requiring a change or repeal of a law or enactment of a new law</i> , that concern an issue within the scope of Parliament's duties	unicameral
Slovakia	Art. 7 Par. 4, international political treaties, international <i>general commercial treaties</i> , international treaties requiring a law in order to enter into force	unicameral
Slovenia	no further requirements in the Constitution	bicameral, unequal rights
Spain	Art. 94 e.), international treaties that require a <i>change or repeal of a law or necessitate legislative measures</i>	bicameral, unequal rights
Czech Republic	Art. 49, international treaties, which affect the rights or obligations of a person, peace treaties, political treaties under which the Czech Republic is a member of an international organisation, <i>general economic agreements</i>	bicameral, unequal rights
Hungary	Art. 1 Par. 2, international treaties fall under the	unicameral

	<i>legislative competency of Parliament</i>	
United Kingdom	Part 2 Constitutional Reform and Governance Act; government can conclude treaties, Parliament can comment	bicameral, unequal rights
Cyprus	Art. 169, in <i>economic and financial matters</i> , additional consultation of the Council of Ministers	unicameral

2) The possibility of a referendum

Table 3 demonstrates the general possibility of a referendum on approval of international treaties in the member states and the requirements in which such a referendum for approval of TTIP and CETA would be possible.

Table 3: Referendums in the EU on approval of international treaties

Country	Referendum possible	Requirements
Belgium	no	-
Bulgaria	yes	Art. 84 No. 5, 98 No. 1 decision of the National Assembly, if an initiative of 200,000 eligible voters, a <i>matter of national significance</i>
Denmark	yes	Section 42 Par. 1, application of a third of the Folketing members, three days after the law is passed
Germany	no	-
Estonia	no, expressly excluded for international treaties	-
Finland	no	Section 53, only consultative referendum is possible
France	yes	Art. 11, on a proposal of the government or of the two chambers, proclaimed by the President for <i>economic</i> or social policy, the

		contributing public services, <i>to authorise ratification of a treaty</i>
Greece	yes	Art. 44 Par. 1, on <i>important national matters</i> or adopted draft laws on <i>important social matters</i> , if three-fifths of the members of Parliament decide on proposal of two-fifths of the deputies
Ireland	yes	Art. 25, 27, if the resolution of the majority of members of the Senate and not less than one-third of the members of the Chamber of Deputies on a <i>matter of particular importance for the nation</i>
Italy	no, expressly excluded for international treaties	-
Croatia	yes	Art. 87, Sabor <i>can</i> decide if requested by at least 10% of the electorate
Latvia	no, expressly excluded for international treaties	-
Lithuania	yes	Art. 67 No. 3, Seimas decides about admissibility, admissible if there are 300,000 signatures from the population or on suggestion of one-fourth of the members of Parliament
Luxemburg	no	-
Malta	no	There is a provision for a referendum for “Act of Parliament”, evidently not needed for approval of CETA
The Netherlands	yes	At the request of 300,000 citizens
Austria	yes	Art. 43, referendum must be requested by a decision of

		the National Council or by the majority of the National Council
Poland	yes	Art. 125, decree of Sejm and the President, if <i>the case is of special importance for the country</i>
Portugal	no, expressly excluded for international treaties	-
Romania	yes	Art. 90, on request of the President after consulting Parliament for <i>matters of national interest</i>
Sweden	no	-
Slovakia	yes	Art. 93 Par. 2, important matter of public interest, on petition of the citizens or resolution of the National Council + review of the Constitutional Court
Slovenia	no, expressly excluded for international treaties	-
Spain	no	-
Czech Republic	no	-
Hungary	yes	THE STATE /Art. 8, Initiation by 200,000 voters or 100,000 + proposal of the President (admissibility is then left to the discretion of Parliament)
United Kingdom	yes	so far only in <i>constitutional</i> issues
Cyprus	no	-

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Die Verfassungen der Mitgliedstaaten sind abrufbar unter:

Belgien, http://www.senate.be/deutsch/const_de.html.

Bulgarien, <http://www.verfassungen.eu/bg/verf91.htm>.

Dänemark, <http://www.verfassungen.eu/dk/>.

Estland, <http://www.verfassungen.eu/ee/>.

Finnland, <http://www.verfassungen.eu/fin/verf99-i.htm>.

Frankreich, <http://www.verfassungen.eu/f/verf46-i.htm>.

Griechenland, <http://www.verfassungen.eu/griech/verf75.htm>.

Irland, <http://www.verfassungen.eu/irl/verf37-i.htm>.

Italien, <http://www.verfassungen.eu/it/ital48.htm>.

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Spanien, <http://www.verfassungen.eu/es/verf78-index.htm>.

Tschechien, <http://www.verfassungen.eu/cz/verf93-i.htm>.

Ungarn, <http://www.verfassungen.eu/hu/>.

Vereinigtes Königreich, keine geschriebene Verfassung vorhanden.

Zypern, <http://www.verfassungen.eu/cy/verf60-i.htm>.