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THE STORTING LEGISLATIVE PROCESS: PRAGMATISM OF SOLUTIONS AND THE QUALITY OF LAW

Abstract

The purpose of this paper is to analyse the impact of changes in the internal structure of the Storting and nature of the legislative process on the quality of laws passed. The authors point out the essential elements of this process in the Storting, but also in the pre-parliamentary phase, defining the legislative process more broadly than is traditionally done. They also emphasize the importance of consensus in political culture and political pragmatism in making high-quality laws. Both of these features are present in Norwegian parliamentarism and are its distinguishing features compared to other European countries. The amendment to the Basic Law of the Kingdom of Norway in 2007 established a unicameral structure of the Storting on pragmatic grounds. Contrary to the fears of some researchers and politicians, this has not resulted in a decrease in the quality of legislation, especially in the provisions of laws. At the same time, it has put in order and streamlined the legislative process in parliament, giving deputies the opportunity

to focus on other matters related to fulfilling their mandate as representatives. The unicameral Storting is nowadays, in the unanimous opinion of researchers, one of the most efficiently and effectively functioning parliaments in Europe in carrying out its functions.

KEYWORDS

Basic Law, the Storting, legislative process, pre-parliamentary phase, quality of law, financial effects of regulation, consensus

SŁOWA KLUCZOWE

ustawa zasadnicza, Storting, proces ustawodawczy, faza przedparlamentarna, jakość prawa, skutki finansowe regulacji, konsensus

I. INTRODUCTION

Much of the Polish studies, especially from the 1990s, presented a mythical idea of the role of the unicameral and bicameral parliament in carrying out the legislative function and the belief that the bicameral parliament in Poland would pass better laws by having a 'chamber of reflection'. What was once emphatically expressed about the bicameral parliament by Emmanuel-Joseph Sieyès, stating that if the second chamber of parliament does the same thing as the first, it is superfluous, while if it does something else, it is harmful, was forgotten or considered erroneous. Especially if it involves a unitary state. All parliaments in the Nordic countries, with the exception of the Norwegian Storting, had a unicameral structure already in the 20th century. Iceland had the latest parliamentary reform. In Norway, proposals to change the structure of the Storting were made as early as in the interwar period, but attachment to the solutions contained in the Basic Law of the Kingdom of Norway (*Kongeriket Norges Grunnlov*) of 17 May 1814, and the established tradition and practice of the system did not allow the political groups of the time to make an effective decision. Of all the tasks carried out by the Storting, only the work on draft laws, and for that matter not all of them, took place within a different structural framework than the implementation of the other functions of parliament. The Norwegians, having a long and good history of developing customary law and the rule of written law, have not been willing to make any significant changes in this regard.

The primary purpose of the paper relating to modern Norwegian parliamentarism is to identify and analyse the strong components of the legislative process

in and out of the Storting, which affect the high quality of the legislation produced, especially laws. It could be assumed that this is determined by legislative techniques, but the studies of Nordic scholars strongly emphasize the idea of Nordic Community Law, which significantly influences its content. In principle, however, we do not equate high-quality law and good law.[1] By high-quality Norwegian law we mean its coherence and unquestionability in the rulings of the Supreme Court, which has the authority to test the compatibility of laws with the Basic Law and the provisions of lower government acts with laws. Therefore, we link the quality of the law directly and indirectly to the style of government or political regime practised, as this study is mainly political rather than legal science. Hence, we base the main hypothesis of the paper on the belief that the 2007 amendment to the Norwegian Basic Law, resulting, among other things, in a structural reform of the parliament to establish the unicameral Storting, did not reduce the quality of laws passed. On the contrary, based on pragmatic considerations (in neo-institutional methodology, this means aiming for structural and functional optimisation of existing legal and political institutions), ordering of the legislative process makes it possible, on the whole, to make more efficient use of deputies' time devoted to working on drafts both in standing committees and in parliament, which has given them the opportunity to effectively focus on other issues related to the implementation of their mandate. Another hypothesis is that the quality of the laws passed in the Storting is not determined solely by the legislative process in parliament itself. In the case of Norway, the pre-parliamentary phase is crucial in the preparation of laws and the participation of a wide range of stakeholders.[2] In this phase, the essential content of the regulations is formulated, as well as a preliminary assessment of the financial impact of a regulation in question. The analyses in the paper are based on the assumptions and categories of neo-institutional methodology using original documents and literature on the subject, mainly by Norwegian authors.

II. EVOLUTION IN THE ORGANIZATION OF THE LEGISLATIVE PROCESS IN THE STORTING AND THE QUALITY OF LAW

The historical Norwegian Kingdom Assembly (*Riksforsamlingen*) in 1814 resolved that the *Storthinget* (the name proposed by Nicolai Wergeland) would

[1] See Stanisław Kaźmierczyk, 'O trzech aspektach jakości prawa' (2015) 1(5) Studia z Polityki Publicznej 81.

[2] Christine Guy-Ecabert, 'The Pre-parliamentary Phase in Lawmaking: The Power Issues at Stake' in Andreas Ladner and others (eds), *Swiss Public Administration* (Governance and Public Management series, Palgrave Macmillan 2019) 87–103.

consist of two divisions (*to Afdelinger*): *Lag-thing* and *Odels-thing*, and not – as proposed in the basic draft by Johan G Adler and Christian M Falsen – of two chambers or Houses (*to Kammer*). The two divisions were elected and constituted at the first session of parliament after the elections, so that a quarter of the elected members would form the Lag-thing, while the remaining three-quarters of the deputies would constitute the Odels-thing.[3] The selection was not to be determined by any additional conditions, and the uniform criteria for selection were set forth in the then Section 50 of the Basic Law. A number of earlier Polish studies treated the Norwegian parliament as bicameral, but this was not justified by the genesis of the Storting or the provisions of the Basic Law.[4] In contrast, significant arguments pointing to its unicameral structure were offered in the Scandinavian literature on the subject.[5] It was stressed that the Storting was elected in a unified election, while the division into the Lagting and the Odelsting members was made by the deputies themselves at the first meeting of parliament. There were no additional criteria for membership in one section of parliament, except for membership in the Storting itself. Parliament met in session and finished its deliberations as a single, homogeneous body. The term of office of the Lagting and the Odelsting was identical due to the fact that the term of office referred to the Storting as a whole. The appointed standing committees, which were committees of the Storting, were composed of deputies from both divisions. The entire work of the parliament was directed by its presidium, although both divisions also had their own leadership bodies. The Storting deliberated *in pleno* on the vast majority of matters within its competence, with the exception of discussing and passing draft laws (though not all of them) and in the case of activities related to the election of judges of the Kingdom Court from among the members of the Lagting (Section 87 of the Basic Law).[6]

The genesis of the Storting indicates that its founders saw it as a unicameral body, albeit with a specific design.[7] The arguments cited thus suggested describing the Storting, unique in its structure and functioning, as a modified unicameral

[3] See Sverre Steen, 'Hvordan Norges Storting ble til' in CJ Hambro and others (eds), *Det Norske Storting gjennom 150 år*, vol 1 (Oslo 1964) 13–14.

[4] See Marian Grzybowski, *Prawnoustrojowe przesłanki formowania rządów w Szwecji i Norwegii* (Uniwersytet Jagielloński 1981) 62.

[5] See James A Storing, *Norwegian Democracy* (Houghton Mifflin 1964) 73; Johannes Andenæs, *Statsforfatningen i Norge* (Oslo 1984) 142–43ff.

[6] In accordance with the analysed content, the relevant paragraphs are cited after: The Basic Law of the Kingdom of Norway enacted at Eidsvoll on 17 May 1814; see *Konstytucja Królestwa Norwegii* (Joachim Osiński tr, Introduction, Wydawnitwo Sejmowe 1996) or The Basic Law of the Kingdom of Norway as last amended on 13 January 2023, *Kongeriket Norges Grunnlov* <https://lovdata.no/dokument/NL/lov/1814-05-17> accessed 12 March 2023.

[7] For more on the nature of second chambers in various countries, see Eugeniusz Zwierzchowski (ed), *Izby drugie parlamentu* (Białystok 1996).

parliament.[8] The modification was expressed in the fact that in constitutionally defined situations it functioned differently from unicameral parliaments, in a manner similar to bicameral parliaments, although not identical to them.[9] Its separation into two internal divisions was intended mainly to serve the legislative process, in which the Lagting acted as a sort of 'upper house', fitting into the activity of making the best possible law and correcting any shortcomings of the draft law initiated and passed in the Odelsting. The evolution of the legislative function emphasized that the ability to reflect on a pending draft law in the Lagting allowed better laws to be passed in the end, which was particularly highlighted in the 19th century. This was confirmed by constitutional practice, in which a challenge by the Norwegian Supreme Court (*Norges Høyesterett*) to a statutory provision on the grounds that it was inconsistent with the provisions of the Basic Law did not, in principle, occur, since the '*Eidsvoll* constitution', according to the state of legal science at the time, did not contain a relevant provision.[10] However, this was to happen, as in the US, through partial decisions by the Supreme Court itself in the 1860s and 1870s, with the first Supreme Court decision formulated *expressis verbis* on the issue in question dating back to 1890.[11] In the 20th century, from the 1920s to the 1960s, the Court's activity in reviewing legislation was negligible, and it was not until 1976 that the Supreme Court issued a negative ruling in the *Klofta* case (*Klofta saken*).[12] On the other hand, the substantive work of the Storting's standing committees and the very good pragmatic cooperation between parliament and the government aimed at improving the content of draft laws were emphasized as the main factors behind the high quality of legislation.[13] This cooperation was fostered by both the provisions of the Basic Law and customary law (*Sedvanerett*), as well as relations between political factions. In addition, constitutional practice and the provisions of the first chapter of the Storting's Session Regulations (*Stortingets forretningsorden*) after the 17 December 1920 election law, the introduction of multi-member districts and proportional elections to the Storting,[14] resulted in the need to preserve the proportional arrangement of

[8] See Joachim Osiński, *Storting. Parlament Królestwa Norwegii* (Warszawa 1993) 9–10.

[9] In some legislative activities, the Storting functioned as a unicameral parliament, for example, by passing amendments to the Basic Law, in accordance with Section 110 of its original wording (later Section 112).

[10] Eivind Smith, *Høyesterett og folkestyret* (Universitetsforlaget 1993) 158–59.

[11] Carsten Smith, *Judicial Review of Parliamentary Legislation: Norway as a European Pioneer* (2000) 32 Amicus Curiae 11, 11–13.

[12] Norges Høyesterett, *Kløftadommen – prøvingsretten i utvikling*, <www.domstol.no/no/hoyesterett/om/historie/hoyesterett-200-ar/kloftadommen---provingsretten-i-utvikling> accessed 15 March 2023.

[13] See Joachim Osiński, *Parlament i rząd w Królestwie Norwegii* (Monografie i Opracowania: 390, Szkoła Główna Handlowa 1994) 165–87.

[14] Lov om stortingsvalg av 17. desember 1920, Norges Offisielle Statistikk, VII 66., Stortingsvalget 1921 (Kristiania 1922).

seats found in the Storting as a whole when electing members of the Lagting. Thus, the majority or minority government in the composition of the two divisions was identical. In addition, the composition of the Lagting after the elections was unchanged, and those filling any vacancies of deputies entering parliament became members of the Odelsting, even if a vacancy arose in the Lagting. Over time, especially since 1945, during the period of the Norwegian Labour Party's dominance in the Storting, the quality of draft laws was sometimes unsatisfactory, and the Lagting was treated as a convenient alibi for the authors of some of the government drafts submitted in the Odelsting, which in the Lagting 'could be improved'. When describing and analysing the position and functioning of the Storting, it is impossible ignore the Norwegian constitutional practice, as we will not find a legal basis for many parliamentary behaviours and procedures or it will be partial, and it will be an evolutionary parliamentary custom. In such a situation, we can analyse the institution in question in a form in which it does not exist in the system practice, being only our perception. The continuity and tradition of Norway's constitutional institutions make it often necessary to go back to their origins to understand the present.[15]

The existence of the Lagting and the Odelsting, as two sections of parliament that fundamentally affect the quality of law-making, was most widely questioned with the development of the neo-institutionalist theory in economics and political science in the late 1970s and early 1980s.[16] However, the discussion by Norwegian researchers was initiated earlier by Fredrik Hiorthøy posing a fundamental question: 'Isn't the Lagting an Anachronism?'[17] According to the canon of neoliberalism, all institutions, and especially those in democratic states, had a price, which was the result of financial and non-financial inputs and outputs of their operation. If the actual figures were clearly lower than the amount of outlays a proponent of the aforementioned theory would certainly advocate its modernization, if possible, or liquidation, if the first solution was impossible. The discussions pointed out, among other things, the complexity of the legislative process, its lengthening in time, the involvement of significant resources in situations where laws were passed without amendments and sometimes by acclamation, indicating the redundancy of the Lagting, as an ostensible 'upper house', just to meet the 19th-century requirements of the idea of parliamentarism. However, the question of tradition

[15] For example, without going back to the events of the early 19th century in Norway, it is difficult to explain why, even today, the state budget, national budget and social security budget take the form of a resolution of the Storting and not, as in other countries, the form of a law.

[16] Cf. Johan P Olsen and Per Lægreid, 'Byråkrati, representativitet og innflytelse' (1979) 4 Nordisk Administrativt Tidsskrift 428–38; Johan P Olsen, *Organized Democracy: Political Institutions in a Welfare State – The Case of Norway* (Universitetsforlaget 1983); James G March and Johan P Olsen, *Rediscovering Institutions: The Organizational Basis of Politics* (The Free Press 1989; in Polish: *Instytucje: Organizacyjne podstawy polityki*, Dariusz Sielski tr, Scholar 2005).

[17] Fredrik Hiorthøy, 'Lagtinget – en anakronisme?' (1963) Samtiden 375–83.

and attachment to the solutions contained in the Eidsvoll's Basic Law, a value in itself for Norwegian political history, was also raised, and doubts were expressed about the effectiveness of adopting other solutions to guarantee the enactment of high-quality laws.

Synthesizing the provisions of Sections 76, 77, 78, 79 and 81 of the Basic Law of the Kingdom of Norway in the 1980s and 1990s, as well as the provisions of the Storting's Session Regulations and established parliamentary customs, the legislative process would formally begin with the initiation of a draft law (*Lovforslag*) vested in the Odelsting deputies and the government by the relevant minister (Section 76).[18] The Lagting deputies and individual ministers did not have such a right, as it was for the benefit of the government as a whole (formally: for the King in the Council of State). The draft laws were submitted first to the Odelsting, which should have happened just after the opening or before the closing of the session. Government drafts were called 'royal proposals' or 'proposals for the Odelsting' (*Odelstingproposisjoner* or *Ot. prp.*) and prepared in the form of a law. The deputies' proposals were drawn up in the form of written legislative proposals and could not be signed by more than ten Odelsting deputies. The proposals were initially addressed to the government, which took the appropriate initiative to the Odelsting if it felt there was a need for statutory regulation of a particular matter. Such routine was met with criticism from deputies, who saw it as a way to reject any 'private' draft.[19] Based on Section 30(3) of the Session Regulations, such proposals were referred to one of the standing committees, which made a recommendation (*Innstilling*) on the future fate of the draft. The procedure for considering government draft laws was proposed by the Odelsting Presidium, and ultimately decided by *ting* deputies. There were many options for further handling of the draft: (1) there was the possibility of sending the proposal to the government for additional comments or proposals, or to one or more of the Storting's standing committees for detailed discussion and preparation of recommendations to the Odelsting; (2) the proposal could be made available to the Odelsting deputies for more than a day and then placed on the agenda for plenary debate; (3) the proposal could be submitted to plenary debate immediately, unless opposed by the Odelsting President or a fifth of the deputies present; (4) the proposal could be sent back to the initiator; (5) it could be excluded from debate and not considered at all. In the case of both government and private drafts that have been forwarded to the government after initial approval by the Storting's standing committee, the lead role in piloting the draft was played by the ministry concerned, which forwarded the draft to the Legal Department of the Ministry of Justice. The legal department gave the, often loose and deviating from the canons of a normative act, legal form required for a law. In addition, the motives of the regulation undertaken were

[18] See the diagram of the legislative process in the Storting in Osiński, *Storting* (n 8) 21.

[19] Andenæs (n 5) 210.

specified and the relationship of the draft under development to legislation that already existed in the field was determined. All draft laws and normative resolutions passed obligatorily through the said department, which, among other things, in the absence of a permanent legislative committee in the Storting at the time, seemed the most rational solution.[20]

In the case of draft laws of special importance for the economy, social security, environmental protection, regulating citizens' property and tax affairs or emergencies, etc., the ministry overseeing the draft law could appoint experts and have them prepare a special report on the most important issues in the field related to the draft. The role of experts could be fulfilled by individual research and academic institutions or by individually appointed researchers and practitioners in the field. The final result of their work was in the form of a public report (*Norges offentlige utredninger* or NOU), which was discussed in interested circles, government agencies and subjected to public debate.[21] Such reports, along with a motivation indicating the need to regulate a particular issue, could be forwarded to particularly interested organizations: trade unions, employers' unions, environmental or regional civil society organizations (*Sivilsamfunnsorganisasjoner*, i.e. apolitical civil society organizations, as opposed to environmental organizations, effectively 'annexes' of political parties) in order to learn their opinions and gather possible proposals and conclusions.[22] Over time, such a procedure was referred to as a 'hearing' (*høring*) and was considered the pre-parliamentary phase of the legislative process. It sought to establish more precisely the purpose of the regulation, define the interests of the draft's most significant beneficiaries, and make a preliminary determination of the financial impact of the regulation. The aforementioned reports (NOUs) fostered closer cooperation between the scientific community and the institutions of the political system, as dozens of such reports were commissioned annually from research bodies, from 37 in 1985 through 42 in 1988 and 33 in 1993.[23]

In 1970s, yet another interesting solution became popular in the pre-parliamentary phase of the legislative process to improve the quality of laws. It dealt with topics that were controversial in society and clearly differentiated the positions of political parties. Prior to drafting the law, the government directed

[20] See Osiński, *Parlament i rząd* (n 13) 174–75.

[21] For example: NOU 1986: 5 *Konkurransen på finansmarkedet*; NOU 1986: 6 *Erstatning til fiskere for ulemper ved petroleumsvirksomheten*; NOU 1986: 14 *Om grunnlaget for inntektsoppgjørene*; NOU 1986: 17 *Landbruksfagskolene – Videregående opplæring i landbruksfag og naturbruk*; NOU 1986: 23 *Livslang læring.*

[22] 'Civil society is understood as an arena in which citizens, alone or with others, can promote interests and needs on behalf of themselves and others. A diverse and dynamic civil society assists in correcting the exercise of power in key areas of the society's life.'; see Norad <www.norad.no/tilskudd/sok-stotte/sivilt-samfunnfrivillige-organisasjoner> accessed 15 March 2023.

[23] Regjeringen.no <www.regjeringen.no/no/dokument/nou-ar/nou-samandrag/id425855> accessed 15 March 2023.

information to parliament announcing such activities (*Stortingsmelding*). The information included a list of problems, the resolution of which could guide and determine the course of the draft, and was presented at a plenary meeting of the Storting, sometimes preceded by a recommendation from an interested standing departmental committee. The resolution adopted by the Storting in a vote, which was a response, or rather the parliament's position on the matter, laid down the essential rules on which the draft being prepared by the government should be based. Among the issues that were subjected to a similar procedure were the liberalization of abortion legislation,[24] the democratization of commercial banks,[25] the main trajectories of further construction and use of cable television,[26] and some issues concerning the taxation of oil extraction and refining[27]. It used to be the rule that government drafts and private legislative proposals, after being drafted in government agencies, were forwarded to the Ministry of Finance. The ministry was tasked with determining the *financial impact* of enacting a new statutory regulation, particularly on the state budget, but also on citizens, communities or regions, and presented its position. The ministry's opinion was obligatorily attached to the draft law and sent with it to the Odelsting. Submitted drafts were referred after the Odelsting's initial decision to one (less frequently, to several) of the Storting's standing committees for discussion and the committee's *recommendation* to the Odelsting (*Innstilling til Odelstinget* or *Innst. O.*). If the initiator of the draft wished to withdraw it, they had to do so at a plenary meeting of the Odelsting (in the case of a draft law) or the Storting (in the case of a draft resolution). Drafts for amendments to the Basic Law could not be withdrawn after parliament decided to print them and make them public (Section 33 of the Session Regulations).

The committee's work on the recommendation for the Odelsting, its mode and duration depended on the size of the draft and the regulated matter. The committee could establish a subcommittee and consult experts.[28] As a rule, the pace of work was faster when the matter concerned the introduction of amendments to already existing laws. However, also in the case of drafts of new laws, work proceeded smoothly and in a disciplined manner, in accordance with the work plan set by the committee. If a departmental committee did not present a recommendation by the established deadline, the Presidium could refer the matter to another standing committee for an opinion. Some of the significance for the effectiveness of the work of the committees was the small number of members

[24] *Stortingsmelding nr 51 (1973–74).*

[25] *Stortingsmelding nr 99 (1973–74).*

[26] *Stortingsmelding nr 57 (1986–87).*

[27] *Stortingsmelding nr 41 (1986–87).*

[28] There was also a possibility of setting up a special commission. However, the Odelsting could not appoint it on its own and should refer the matter to the Storting (Section 14 of the Session Regulations).

of the standing committees, ranging from 10 to 16. This made it easier for the chairmen to convene them, and the frequency depended on the number of issues referred to the committee for opinion. Sometimes, committee meetings were even convened between the Storting sessions. Each case under consideration had its own spokesperson selected from among the committee members, who presented the draft and tried to obtain additional information and answer questions posed by committee members. As a result, the spokesperson wrote down the content of the recommendation, which he or she signed together with the chairman and secretary of the standing committee. The committee's recommendations could be presented to the Odelsting or the Storting (in the case of resolutions) in written or oral form. The oral form was more applicable to resolutions of a repetitive nature on which the committee was in agreement. The written form was the rule for legislative drafts. The recommendation had to be concise and primarily contain the opinion of the committee.[29] If the committee proposed amendments and additions, they had to be put together on a separate page with an indication of who was presenting the amendment during the plenary debate in the Odelsting or the Storting. The committee's recommendation had to be immediately reproduced by the Storting Secretariat and distributed to deputies. The debate on the draft and recommendation could not begin earlier than two days after the content of the recommendation had been submitted, although in special cases the Odelsting or the Storting (in the case of resolutions) could decide by a simple majority to deal with the matter earlier (Section 32 of the Session Regulations).

The *Odelsting's first debate* on the draft law began with a discussion of the general principles of the draft. Before the debate, the President of the Odelsting usually agreed with the chairmen of the party factions on the order in which the representatives of the factions would speak. *Ting* could, after an initial discussion, suspend the draft, dismiss it or accept it, moving on to discussing individual paragraphs. During the first debate, deputies could propose changes and additions to or deletions from the draft without restriction and at their own discretion. Proposals were put to a vote, and a simple majority of votes was needed to pass them. Each deputy could speak twice in the debate, while the committee spokesman and the minister who piloted the draft could speak more than once. The first speech was limited to an hour, while the second speech was limited to 20 minutes (Section 36 of the Session Regulations). At any point during the discussion of details, the Odelsting could, by majority vote, postpone debate on the draft until the next session of parliament or reject it in its entirety. The rejection could be in the form

[29] In practice, the recommendations of the committees did not exceed six pages of print, and only in exceptional cases were they more extensive, for example, the recommendation of the Justice Committee on the law 'On the Sámi Assembly and the state of other Sámi laws' was 26 pages long. See Lov om Sametinget og andre samiske rettsforhold (sameloven), Ot. prp. nr 33, Innst. O. nr 79, besl. O. nr 84 for 1986–1987.

of: suspension, non-acceptance or failure to forward for further consideration.[30] If a draft law was postponed or rejected in its entirety (which was exceptional), its run in parliament was over. When the draft received the approval of a majority of the Odelsting's deputies (the majority present during the debate) and was voted on (*Odelstingets vedtak* or *Besl. O.*), it had to be forwarded in its adopted form to the Lagting for further processing.[31]

The *Lagting debate* began with a discussion of the general provisions of the draft, and once these were approved, subsequent paragraphs would discussed and voted on. If the Lagting agreed with the Odelsting's decision on the content and shape of the draft and expressed this in a vote, it sent it, in accordance with Section 77 of the Basic Law, to the King for his signature and sanction. The Lagting deputies could decide that certain amendments were necessary in the draft adopted by the Odelsting and could adopt them by vote. In this case, the draft, together with the comments, had to be resubmitted to the Odelsting (*Lagtingets anmerkninger til Odelstingets vedtak* or *Besl. L.*). In connection with this solution, the literature raised the issue of the limit to which the Lagting could go in formulating its comments on the draft.[32] The prevailing opinion, which was first formulated by Bredo Morgenstierne, indicated that the limit of the amendments made by the Lagting in the draft law adopted by the Odelsting was set by the constitutional provision under which a draft law could be brought by the 'King in the Council' (the government) or by an Odelsting deputy and was considered by the Odelsting first.[33] The Lagting deputies could not, therefore, propose such new provisions in the draft that would expand the matter of statutory regulation and cause a presumption that deputies were exercising their 'limited' right of initiative. Nor could they submit additions or changes that were completely different from those adopted by the Odelsting. Instead, they were able to spot formal and legal errors from a certain distance, as well as point out references to other acts and the financial implications that escaped the Odelsting deputies' attention. Such activities could have a significant impact on the quality of the draft. However, the literature highlighted the limited nature of the Lagting's activities in the legislative process, and thus the redundancy of its existence.[34]

In addition to expressing approval of the draft or sending it back to the Odelsting with comments, the Lagting could decide to reject the draft in its entirety. The rejection in such a case meant suspending of the draft or referring it to the government for rework. However, such a decision could not be made by the Lagting alone but took the form of a proposal contained in the comments on the draft sent back to the Odelsting. The final decision to reject the draft, after reviewing

[30] Andenæs (n 5) 212.
[31] Osiński, *Parlament i rząd* (n 13) 177.
[32] See Frede Castberg, *Norges Statsforfatning*, vol 1 (Oslo Universitetsforlaget 1964) 301–02.
[33] See Bredo Morgenstierne, *Lærebog i den norske Statsforfatningsret* (Oslo 1926/1927) 119.
[34] Hiorthøy (n 17) 380–83.

the Lagting's comments, was made by the Odelsting. As the latter in practice not always approved of the Lagting's suggestions, the evolution of the legislative function led to a pragmatic solution in this regard. Its essence was the fact that the Lagting made two kinds of remarks: substantive comments (*prinsipalt anmerkninger*), which then included a proposal to reject the draft in its entirety and a brief justification for it, and alternative comments (*subsidært anmerkninger*), which contained substantive amendments and additions to the draft and which had to be taken into account in the event that the Odelsting did not reject the draft (i.e. suspend it or send it back to the government for reworking) while undertaking further work on it.[35]

The *Odelsting's second debate* began with a review of the Lagting's position, and the Odelsting itself had several possible options in this phase. If the Lagting's decision was negative, it could decide to suspend the draft, which meant that the draft completed its run in parliament. However, if the Lagting formulated amendments to the draft in its 'comments', the Odelsting could not decide during the second debate to reject the draft, because that was the form in which it accepted it during the first debate. Thus, the Odelsting's activities were no longer entirely arbitrary, as in the first debate. Regardless of the Lagting's comments, the Odelsting could decide to keep the form and content of the draft as it was given during the first debate. In such a case, it would send the draft back to the Lagting without changes. Alternatively, the Odelsting, after reviewing the Lagting's comments, could decide to accept them in full and make appropriate changes to the draft. Such a revised draft would be sent back to the Lagting, where it would not be subject to further consideration but would be forwarded directly to the monarch for signature and sanction. The Odelsting could also make corrections to the Lagting's proposals contained in the comments or accept some and reject others. However, in this case, too, it could not make changes without restriction. The limits were the content and shape of the draft, which was adopted by the Odelsting during the first debate, and the content of the amendments proposed in the Lagting's comments. In the case at hand, the new revised draft law should fall between these two determinants. In any case, those parts of the draft that the Lagting accepted could not be changed at that time, without proposing other solutions. All in all, the second Odelsting debate was generally short-lived, and several drafts could be decided in a single meeting. A new draft or a draft without changes would be resubmitted to the Lagting. The starting point for the second debate was to hear the arguments of the Odelsting, which sent the draft in its first, unchanged version, or incorporated the Lagting's comments in part. No more changes could be made to the draft during the second debate, and deputies had the alternative of accepting or rejecting the Odelsting's draft in its entirety. If they decided to adopt it, the draft would be sent to the monarch for signature. Rejection

[35] Andenæs (n 5) 213.

of the draft, passing it back to the Odelsting, made it necessary for the Storting to meet in plenary and decide the draft's fate, pursuant to Section 76(3) of the Basic Law.[36]

Incidents of disputed draft laws being considered in *plenary session in the Storting* were very rare, and there were few such cases throughout the 20th century. The Basic Law formulated two requirements that had to be met in such a situation: a decision on the draft would be taken by a qualified majority of two-thirds of the deputies relative to the number present at the meeting, and there had to be a break of at least three days between the last debate in the Lagting and the plenary debate in the Storting. A similar requirement also applied to the individual Odelsting and the Lagting debates (Section 76(4)). The Storting *in pleno* had no right to make any changes to the disputed draft and decided to pass or reject the draft in the form and content in which it was last submitted to the Lagting. If at least two-thirds of the deputies voted in favour of the draft, it was forwarded to the Lagting, who sent it to the King for his signature and sanction. If a draft did not receive the required number of votes, it was considered rejected. In practice, the outcome of votes in both parts or in the plenary session of the Storting was determined by the current party line-up in parliament, rather than the Odelsting-Lagting controversy. Formally, given that the Odelsting was three-quarters of the Storting, in plenary voting *en bloc*, this part would always get the required two-thirds vote in favour of the draft law, effectively nullifying the Lagting's efforts to improve the draft law and calling into question its usefulness. A draft law passed by both divisions of parliament or in a plenary session of the Storting was sent to the King for sanction. The Basic Law, in Sections 78–81, regulated various aspects concerning the King's signature or lack thereof on draft laws passed by the Odelsting and the Lagting and, exceptionally, by the Storting. Finally, all laws (with the exception indicated in Section 79 of the Basic Law) were made in the name of the King, and the granting of sanctions followed the traditional constitutional formula enshrined in Section 81 of the Basic Law.[37]

A problem in the Norwegian constitutional practice, known from the subject literature and the constitutional practice of other countries, is the *delegation of the Storting's legislative powers* to other organs of the state: the government, ministers, provincial assemblies, local government bodies or even social and professional organizations. The delegation of the legislative powers is a constitutional fact that, in the opinion of most Norwegian researchers, does not have the effect of lowering the authority of the parliament, nor does it automatically lead to a deterioration in the quality of legal regulations.[38] It rather stems from

[36] Osiński, *Parlament i rząd* (n 13) 179.

[37] The King's refusal to sanction a draft law was rare and always took place at the initiative of the Council of State (government).

[38] See Torkel Opsahl, *Delegasjon av Stortingets myndighet* (Johan Grundt Tanum 1965) 29–32; Andenæs (n 5) 31–32; Castberg (n 32) vol 2, 46–47ff.

parliamentary pragmatism and the desire for professionalization and efficiency of normative solutions, being within the general constitutional competence of the Storting. Therefore, it will be appropriate to conclude that the delegation of legislative powers is due to professional considerations and the reluctance of the Storting to deal with 'technical' issues, and concerns matters on which there is almost complete consensus between the ruling party (coalition) and the opposition. In the political practice, we have seen an increase in the number of matters delegated this way in Norway, especially during the post-war expansion of executive power associated with the establishment of institutions and mechanisms of the welfare state (*Velferdsstaten*). The subject of research and analysis by Norwegian lawyers and political scientists was the material and temporal scope of the delegation of legislative powers. On this basis, significant constitutional limitations on the substantive scope of the delegation were pointed out. One of the fundamental issues that had to be resolved in light of the Basic Law provisions and principles was whether the Storting could delegate all legislative authority to itself sitting *in pleno*,[39] albeit the problem whether the Storting exceeded the limits of legislative delegation was decided in the last instance by the Supreme Court, which tested the compliance of lower-level acts with laws and the latter with the Basic Law provisions and principles. The delegation of legislative powers occurred (and occur today) in two main forms: in the form of proxy laws (*fullmaktlover*) and framework laws (*rammelover*), which correspond to the 'skeletal legislation' familiar from the British constitutional practice. The first may have included a delegation to supplement statutory provisions or an authorization to issue norms necessary to implement the law in question.[40] Framework laws containing general principles and regulatory frameworks were filled with normative ordinances of the government and individual ministers (*forskrifter*, defined as 'acts concerning the rights or obligations of a certain number or an indefinite circle of persons'). Normative ordinances enter into force as soon as they are enacted or at the time specified in the ordinances themselves. They are subject to mandatory publication in *Norsk Lovtidend*, as are laws of parliament, although this is not a condition for their validity.

In summary, the implementation of the legislative function was an important mechanism in the *cooperation between the parliament and the government*. Their interaction in law-making was also evidenced by the Storting's relatively frequent use of the institution of delegation of legislative powers. This was an expression of pragmatism, dictating that the parliament, sitting in session, should not waste time regulating issues of lesser importance, instead focusing only on controlling the use of delegated powers by the executive bodies. However, even a concise

[39] Opsahl (n 38) 116–23.

[40] For example, of the 250 laws enacted between 1960 and 1963, 74 contained legislative delegations, including: 43 delegations to supplement the laws and 31 authorizations to issue normative ordinances necessary to bring the laws into force. See Opsahl (n 38) 40–42.

presentation of the course of the legislative process in the bicameral Storting reveals its complex nature, unjustifiably so in the context of the improvement of draft laws. If, in the past under the 'gentlemen's legislature', the relationship between the Odelsting and the Lagting was conducive to the objective optimisation of the work on drafts, together with the development of political parties, the generalisation of elections to the Storting and the introduction of proportionality in the staffing of both divisions of the parliament, the standing committees and the governing bodies of the Storting, this relationship all but crumbled. Instead, it has been replaced by relationships between party factions (groups) of the coalition or the ruling party and opposition groups with mostly the largest and most important party in the lead.[41] In contemporary Norwegian parliamentarism, consensus-based relationships between political groups during debates on draft laws play a crucial role. In these relationships, all parties seek an acceptable substantive consensus. This continues to be particularly important during the long periods of governments having minority support in the Storting. Of the 25 Norwegian governments that operated between 1945 and 2021, as many as 15 were minority governments, of which 9 were governments with single-party support, while 6 had the support of minority coalitions.[42]

A qualitative change in the structure of the Storting had its effective beginning on 30 September 2004, when five deputies: Jørgen Kosmo – President of the Storting (A), Berit Brørby (A), Siri Hall Arnøy (SV), Olav Gunnar Ballo (SV) and Kjell Engebretsen (A) moved a motion to amend (Sections 17, 49, 73, 74 and 76–78), seeking to repeal the division of the Storting into two sections: the Odelstinget and the Lagtinget.[43] The authors of the motion stated in their explanatory memorandum that, inter alia:

> In Norway, the members of both divisions of the parliament are elected in the same elections and the Storting has long been split in such a way that the balance of power between the parties is the same in both divisions. If they do not have their own committees, then it becomes even less likely that the Lagting will have something of value to contribute to what has already been achieved by the actions in the relevant standing committee and in the Odelsting. Therefore, the quality of the legislative process must be ensured in other ways. In this context, it is not surprising that the sittings of the Lagting in recent years have mostly taken place without any debate or vote. This has not had a positive impact on the handling of different matters. At the same time, the formal organisation may have given outsiders the false impression of added value through additional scrutiny in the two *tings*. The current arrangement

[41] For further details, see Joachim Osiński, *Parlamentaryzm skandynawski. Norwegia: Studium ustrojowe* (Elipsa 2021) 281–365.

[42] ibid 376.

[43] Grunnlovsforslag fra Jørgen Kosmo, Berit Brørby, Siri Hall Arnøy, Olav Gunnar Ballo og Kjell Engebretsen om endringer i Grunnloven §§ 17, 49, 73, 74 og 76–78 med sikte på å oppheve inndelingen av Stortinget i to avdelinger (Odelstinget og Lagtinget) Document no 12:14 (2003–2004).

> also brings about some inconveniences in the day-to-day operation of the Storting. Indeed, it raises problems for the members of the standing committees, who sit concurrently in the Lagting and have to act as rapporteurs (spokespersons) in legislative work in areas in which they have considerable knowledge and involvement. In practice though, they will not participate in the open debate on laws, which takes place almost exclusively in the Odelsting.[44]

The draft was subjected to the procedure provided for in Section 112 of the Basic Law and referred to the Control and Constitution Committee, which unanimously formulated its recommendation for the Storting (*Innstilling til Stortinget*) on 12 December 2006.[45] The committee voiced a positive opinion on the draft amendments to the Basic Law to the extent indicated in the draft and stressed in its justification that:

> [T]he separation of parliament into two divisions produces consequences in two respects. Firstly, the Odelstinget is the prosecuting authority when ministers, members of the Supreme Court and deputies of the Storting are indicted before the Kingdom Court, while members of the Lagting judge the defendants in this process. Secondly, formal laws must be discussed and passed in both divisions of the Storting before being submitted to the King for signature.[46]

It was clear that both these issues had to be regulated, with the first one – the amendments to Sections 86 and 87 of the Basic Law – addressed by the parliament marginally earlier as items 1 and 2 of the Storting's session agenda on 20 February 2007, together with another extremely important issue, namely the *constitutionalisation of the principle of political accountability* of the government and ministers.[47] The starting point was a legislative initiative to amend the provisions of the Basic Law (Sections 20, 30, 86 and 87) and new ones (Sections 15 and 82) by a group of deputies: Jørgen Kosmo – President of the Storting (A), Inge Lønning (H), Lodve Solholm (FrP), Ågot Valle (SV), Odd Holten (KrF), Berit Brørby (A) and Carl I Hagen (FrP) on 18 June 2004. This initiative was historic and ground-breaking in that it regulated in the Basic Law an issue that had hitherto stemmed from constitutional custom. According to the draft, it would be now formulated in Section 15 as follows: 'Anyone who is a member of the Council of

[44] Document no 12:14 (2003–2004) 1.

[45] Innstilling til Stortinget fra kontroll- og konstitusjonskomiteen om grunnlovsforslag fra Jørgen Kosmo, Berit Brørby, Siri Hall Arnøy, Olav Gunnar Ballo og Kjell Engebretsen om endringer i Grunnloven §§ 17, 49, 73, 74 og 76–78 med sikte på å oppheve inndelingen av Stortinget i to avdelinger (Odelstinget og Lagtinget) Innst. S. nr. 100 (2006–2007).

[46] Innst. S. nr. 100 (2006–2007) 1.

[47] Grunnlovsforslag fra Jørgen Kosmo, Inge Lønning, Lodve Solholm, Ågot Valle, Odd Holten, Berit Brørby og Carl I. Hagen om endringer i Grunnloven §§ 20, 30, 86 og 87 og nye §§ 15 og 82 (Riksretten) Document no 12:1 (2003–2004). For details see O Mestad, D Michalsen and H Ruus, *Grunnloven (Sections 86 og 87)*, Idunn <www.idunn.no/doi/10.18261/9788215054179-2021-104> accessed 16 March 2023.

State shall be obligated to submit a motion to resign after the Storting has passed a vote of no confidence in the given minister or in the Council of State as a whole.

The King shall be obligated to grant the motion to resign. Once the Storting has passed the vote of no confidence, only those actions that are necessary for proper administration may be carried out.'

The motion moved by the representatives of the most prominent parties in the Storting also met with approval on other issues and the resolution on the matter was adopted unanimously by 160 deputies.[48] This was a historic milestone, although it did not quite conclude the process of transition from negative to positive parliamentarism, as sought by some deputies. It does, however, represent an important first step on this path and opens up the possibility of future amendments concerning, for example, the dissolution of the Storting before the end of the parliamentary term, which has already been moved in the parliament several times, albeit with little chance of actually being passed.[49]

The amendments to the Basic Law proposed in the legislative initiative by a group of deputies resulting in the introduction of a 'purely' *unicameral parliament* were debated and passed in the plenary session of the Storting on 20 February 2007 under item 3 of the session's agenda. The discussion was opened by the deputy spokesman for the draft law, Svein Roald Hansen (A), who made reference to the historical circumstances surrounding the establishment of the Storting structure still in place, and pointed out the inconveniences for the deputies and the weaknesses of such an organisation of the parliament. Next, the floor was taken by party group representatives: Carl I Hagen (FrP), Inge Ryan (SV), Ola T Lånke (KrF), Magnhild Meltveit Kleppa (Sp), Odd Einar Dørum (V), Berit Brørby (A) and Inge Lønning (H).[50] In the debate, it was pointed out, among other things, that already on 15 January 1932 the issue of the continued existence of the Odelsting and the Lagting had been raised and discussed in the Storting and that the parliament had also considered proposals for constitutional amendments similar to the one under consideration in 1932, 1937, 1951 and 1954. Usually, the proposal to abolish the bicameral structure of the Storting was presented together with proposals to change the constitutional accountability mechanism. After discussion, the President of the Storting ordered a vote on the final version of the amendments to Sections 17, 49, 73, 74 and 76–78 of the Basic Law proposed in the committee's recommendation and included in the plenary resolution (*Grunnlovsvedtak*). In the

[48] Stortinget – Møte tirsdag den 20. februar 2007 kl. 10, Sak nr. 2 <www.stortinget.no/no/Saker-og-publikasjoner/Publikasjoner/Referater/Stortinget/2006-2007/070220/2> accessed 20 March 2023. Cf. Trond Nordby, *Grunnlov og styreform: Norge 1814*–2010 (Universitetsforlaget 2010) 43–52.

[49] Osiński, *Parlamentaryzm skandynawski* (n 41) 355–56.

[50] Stortinget – Møte tirsdag den 20. februar 2007 kl. 10, Sak nr. 3 <www.stortinget.no/no/Saker-og-publikasjoner/Publikasjoner/Referater/Stortinget/2006-2007/070220/3> accessed 20 March 2023. It was a stimulating, substantive debate of a historical nature, given the intrinsic value of the Basic Law of 1814 drafted in Eidsvoll for the national identity of Norwegians.

roll-call vote, 159 deputies were 'for', 1 'against' (Sverre Myrli – A), while 9 deputies were absent.[51] The adopted amendments to the Basic Law entered into force on 1 October 2009 and changed the legislative process in the Storting, significantly improving its efficiency. Moreover, the provisions of the Storting's Session Regulations were amended to bring them into line with the new constitutional regulations, while the comprehensive amendment of the Rules of Procedure was carried out by a resolution of the Storting on 7 June 2012, which came into force on 1 October 2012.[52] The establishment of a unicameral Storting was a tangible demonstration of a consensual political culture[53] and concerted action by the political class to optimise the parliament's legislative function.

As a result of the changes, the legislative process has become more transparent and efficient due to the elimination of apparent or sometimes phantom procedures and activities that did not actually contribute to formally and substantively better law-making. It allows the full participation of all deputies at every stage of the draft-making procedure, starting with the legislative initiative, which previously only members of the Odelsting were entitled to, up to the final vote in the Storting plenary session on a draft law. Proposals from the government (ministers) for the Storting containing draft laws are referred to as *Prop. L* (*Proposisjon til Stortinget (lovvedtak)*), while those containing a draft law and other draft legislative act: *Prop. LS* (*Proposisjon til Stortinget (lovvedtak og stortingsvedtak)*). The deputies' legislative proposals are: Representatives' drafts *Representantforslag L* (*Representantforslag (lovvedtak)*), while together with another draft legislative act: *Representantforslag LS* (*Representantforslag (lovvedtak og stortingsvedtak)*). The recommendations of the standing committees for the Storting are of two types depending on whether they relate to a draft law: *Innst. L* (*Innstilling til Stortinget (lovvedtak)*) or another draft legislative act: *Innst. S* (*Innstilling til Stortinget (stortingsvedtak)*). Consideration of the draft law takes place in two readings, between which there must be a three-day break.[54] In the first reading, the recommendation of the standing committee and the draft to which it relates are submitted for discussion, and there is an opportunity to submit amendments, which are voted on. At the end, a vote is taken on the draft as a whole, and a posi-

[51] Stortinget – Møte tirsdag den 20. februar 2007 kl. 10, Voteringer <www.stortinget.no/no/Saker-og-publikasjoner/Publikasjoner/Referater/Stortinget/2006-2007/070220/voteringer> accessed 20 March 2023.

[52] Vedtatt av Stortinget 7. juni 2012, jf. Innst. 350 S (2011–2012), Ikrafttredelse 01.10.2012, Lovdata <https://lovdata.no/dokument/STV/forskrift/2012-06-07-518?q=stortingetsforretningsorden> accessed 20 March 2023.

[53] The discussion and findings still recognised in the literature on this subject arose in the 1980s and 1990s (e.g. A Lijphardt, P Mair, J Steiner, and with regard to Northern states, e.g. D Arter, N Elder, AH Thomas, L Lewin, R Heffernan, O Petersson) and we draw on them in this paper.

[54] *Stortingets forretningsorden*, Kapittel 6: *Stortingets arbeidsordning* (the Storting's mode of work), Oktober 2022, Bokmål, §§ 38–42.

tive result of the vote is necessary to proceed to the second reading. The President of the Storting decides how to vote, taking into account the provisions of Chapter 7 of the Storting's Session Regulations (*Om avstemninger*). For draft laws on each reading, decisions are made by a simple majority. In the second reading, there is no re-recommendation from the committee and the discussion is about the decision taken by the Storting in the first reading. If the parliament's decision on the first reading of the draft is taken again unchanged (*Lovvedtak*), the second reading is completed and the Storting's decision, together with the final draft law, is sent to the 'King in the Council' for signature and sanction (Section 77 of the Basic Law). The monarch's signature is a formality (so unlike in the previous regulation, when the King had the right to suspend the veto twice (*suspensivt veto* or *utsettende veto*) and must be countersigned by the prime minister, after which the documents are forwarded to the ministry that piloted the draft law. In the event of a disagreement between the content of the Storting resolution from the first reading and the second reading involving the addition of comments in the resolution on the draft (*anmerkning til lovvedtaket*) during the second reading, the draft is referred to the third reading. In the third reading (after a break of at least three days), the Storting has two options to choose from (Section 76(2) of the Basic Law): the first is to recognize the content of the comments made on the draft and approve the draft with the amendments made in the comments (*Lovanmerkning*),[55] after which the draft is sent to the King in the Council; the other is to decide to suspend the draft law (*Lovsaken henlegges*). Data on the number of laws passed during the Storting sessions in recent years is provided in Table 1.

Table 1. Draft laws passed by the Storting between 2012 and 2022

Session of the Storting	Drafts passed		Session of the Storting	Drafts passed	
	Approval at first reading	With comments at the second reading		Approval at first reading	With comments at the second reading
2012–2013	131	0	2017–2018	112	0
2013–2014	94	0	2018–2019	105	0
2014–2015	122	2	2019–2020	156	2
2015–2016	121	1	2020–2021	200	7
2016–2017	146	4	2021–2022	115	1
Total:	614	7	**Total:**	688	10

Source: **S**tortinget Lovvedtak og lovanmerkninger <www.stortinget.no/no/Saker-og-publikasjoner/Vedtak/Beslutninger/?pid=2021-2022&dt=Lovvedtak#primaryfilter> accessed 21 March 2023

[55] By way of example, cf. the Storting 2014–2015, Lovanmerkninger <www.stortinget.no/no/Saker-og-publikasjoner/Vedtak/Beslutninger/?pid=2014-2015#primaryfilter> or Storting 2016–2017, Lovanmerkninger <www.stortinget.no/no/Saker-og-publikasjoner/Vedtak/Beslutninger/?pid=2016-2017#primaryfilter> accessed 21 March 2023.

The data shows that the vast majority of draft laws, after receiving a positive assessment in the first reading, receive a similar assessment in the second reading and are sent to the King for signature and sanction, according to Section 77 of the Basic Law. This is indicative of the high quality that draft laws achieve in the pre-parliamentary stage. This is due to the agendas and people (usually highly competent civil servants) in the ministries piloting the various draft laws, as well as in the Ministry of Justice and the Ministry of Finance, which are responsible for the legal and financial side of the new laws. In the Storting, the most important thing is the work in the standing committees and special committees, and the participation in their meetings of competent representatives of the mentioned ministries. Close cooperation between parliamentary committees and relevant departments in ministries results in the formulation of very good draft laws even before the first reading in the Storting.[56] The mere activity of deputies in the legislative function and the pragmatic organization of work on draft laws in the Storting would be clearly insufficient if they were not preceded by knowledge, competence of those working on the legislative initiative in government agencies, universities, research institutions and civil society organizations. At the same time, it is very important that all of these activities find support in the consensus political culture prevalent among both the political class and the public.

In such a situation, the Supreme Court, which upholds the homogeneity and coherence of the legal system, extremely rarely has the opportunity to correct adopted legislation, especially laws. Such fundamental issues are taken up and decided at its plenary meetings. Thus, between 2008 and 2018, the Supreme Court issued 11 plenary rulings, or one plenary ruling per year. These included: lack of legal basis in jury cases (Rt-2009-750 and Rt-2009-773), the case of taxation of shipping companies and the prohibition of retroactive law in connection with Section 97 of the Basic Law (Rt-2010-143), the case of retroactivity in criminal proceedings against war criminals (Rt-2010-1445), and two expulsion cases in connection with the Convention on the Rights of the Child (Rt-2012-1985 and Rt-2012-2039). In 2020, the plenary session recognized the issue of the so-called climate target (*Det såkalte klimasøksmålet*) in connection with Section 112 of the Basic Law (HR-2020-2472-P). In 2021, the appalling *NAV-saken* (*Trygdeskandalen*) case was heard in the Grand Chamber (*Storkammer*) (HR-2021-1453-S). In addition, for the first time in 75 years, the Supreme Court issued a plenary ruling under Section 83 of the Basic Law on the European Union's 'Fourth Railway Package' (HR-2021-655-P). In 2023, the Supreme Court considered in plenary the issue of the geographic scope of the Svalbard Treaty (*Svalbard-traktakten*, HR-2023-491-P).[57] Of particular social and legal importance was the *NAV-saken*,

[56] *Stortingets forretningsorden*, Kapittel 3. *Stortingets komiteer*, §§ 10–19, Kapitel 4. *Komiteenes arbeidsordning*, §§ 20–32, Oktober 2022, Bokmål.

[57] Norges Høyesterett, *Avgjørelser* <www.domstol.no/no/hoyesterett/avgjorelser/2010> accessed 24 March 2023.

also known as the social security scandal.[58] The case, revealed on 28 October 2019 (during the government led by Prime Minister Erna Solberg), turned out to be the biggest legal and political scandal in Norway in the 21st century, and involved a misinterpretation of the 1994 European Economic Area Agreement (*Det europeiske økonomiske samarbeidsområde – EØS-avtalen*). The mistakes made were related to negligence on the part of a large part of the state bodies: the government administration, the judiciary, but also the Storting, which misunderstood the rules and regulations by which Norway was bound under the Treaty. The case involved individuals, Norwegian citizens, who received sickness benefit, work evaluation allowance (premiums) or care allowance while living in other EEA countries between 1994 and 2012. At least 80 people were wrongly convicted of social security fraud by the courts, and at least 2,400 recipients of these benefits wrongly received claims for reimbursement.[59] It turned out that the judicial authorities had also indiscriminately applied erroneous regulations, and the aforementioned ruling by the Grand Chamber of the Supreme Court finally clarified the matter from the legal side. However, a certain resentment and mental trauma of those directly affected by unjust accusations and verdicts remained. This did not harm the generally positive opinion of the Norwegian judicial system, as in this situation the original perpetrators of the problem were particular individuals in government bodies.[60]

III. CONCLUSION

The progressive professionalisation of the parliament, one aspect of which is the change in legislative behaviour resulting from higher competences, including better access to information by the deputies and the deputies' greater experience, as well as the introduction of the unicameral Storting facilitate the cooperation between the executive and the legislative powers in the law-making process. The consensual cooperation between the parliament and the government is clearly influenced by political professionalisation. The political career pattern of the deputies and members of the government often originates from activities in local self-government bodies at the provincial or municipal level. It is less often participation in regional and local party structures, which has practically ruled out the

[58] *Store norske leksikon*, 'NAV' <https://snl.no/NAV> accessed 24 March 2023.

[59] *EØS – saken* <www.nav.no/no/nav-og-samfunn/kontakt-nav/feiltolkning-av-eos-reglene> accessed 24 March 2023.

[60] Jørn Ø Sunde, *Høgsteretts historie: 1965–2015* (Fagbokforlaget 2015); see also Tore Schei, Jens EA Skoghøy and Toril M Øie, *Lov sannhet rett: Norges Høyesterett 200 år* (Universitetsforlaget 2015).

stability of party-bureaucratic government since the mid-1960s. Close interaction between the Storting and the government takes place not only when working on draft laws but also on budget documents and when implementing financial policy. With regard to the Norwegian parliament, the view that high-quality legislative acts are passed due to the existence of a bicameral parliament structure cannot be defended. Nordic unicameral parliaments excel at efficient passing high-quality legislative acts. This is a result of both legal and non-legal conditions affecting their functioning and of a favourable social environment.

In the constitutional practice of Norway, cases where a statutory provision is challenged on the grounds that it is incompatible with the Basic Law (or subordinate acts with the provisions of a respective law) by the Supreme Court or in other situations (according to Section 89 of the Basic Law: 'In cases brought before the court, the courts shall have the right and obligation to examine whether the application of a legal provision is contrary to the Basic Law and whether the application of other decisions made in the exercise of public authority is contrary to the Basic Law or laws') are extremely rare and occur once every few or several years. It is therefore hardly surprising that Norway has not followed the existing European trend of appointing a 'constitutional court or tribunal', despite the fact that the appointment of the Supreme Court judges is much more politicised in Norway than in most European countries, including Poland.[61] Norway has never established a formalised judicial career system, with appointments to the courts being made by the King in the Council of State on the basis of an opinion from the Minister of Justice, in accordance with Section 21, in conjunction with Section 91 of the Basic Law. This indicates the great importance of traditions and extra-legal arrangements between political groups endorsed in the political culture of those in power and in the society. The contradiction between ideological identification and the consensus necessary for decision-making is resolved by members of different political parties by means of consensus.

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[61] See Eivind Smith, 'Courts and Parliament: Norwegian System of Judical Reviews of Legislation' in Eivind Smith (ed), *The Constitution as an Instrument of Change* (SNS Förlag 2003) 179.

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