

An uneven balance?

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SUMMARY

The purpose of this book is to analyze and understand the formal power asymmetries that exist between the national parliaments in the European Union, and to consider the implications of such asymmetries for representative democracy in the EU. It takes the European sovereign debt crisis as a cause to look into this particular issue because of the asymmetric impact that the latter had on the different national parliaments. As an addition to this analysis, the book in the end also illustrates different ways in which the negative implications for EU representative democracy that result from the described power asymmetries between national parliaments could be mitigated.

The book starts with a discussion of the concept of representative democracy and explains the link between the notions of representation, accountability and responsibility thereunder, before it looks at the concept of representative democracy within the context of the European Union. It then describes the role of the European Parliament and the national parliaments as the two kinds of representative organs in the EU by looking at their historical development and outlining their current role and powers under the Treaties.

Chapters 4 and 5 then take a closer look at two specific national parliaments and compares their respective (formal) powers in relation to EU affairs. To that end, first a conceptual overview of the powers of national parliaments in domestic constitutional law is provided. Second, the constitutional frameworks under which the German *Bundestag* and the Irish *Dáil Éireann* participate in EU matters is examined with a special focus on their scrutiny powers *vis-à-vis* their governments in such matters. The comparative analysis shows that while the constitutional rules differ between the two respective parliaments – one example is the lack of a binding mandating power in the Irish parliament, which does exist in Germany – much of the difference in power can also be attributed to the political traditions of the respective Member States. In the Irish *Dáil*, issues relating to European affairs are not often considered to be high on the parliament's agenda. This is, *inter alia*, the result of the way the members of parliament in Ireland are elected, as elections are often won (and indeed lost) on constituency issues. The German *Bundestag*, on the other hand, enjoys a very strong position in EU affairs *vis-à-vis* the German government, which is in part also due to the requirements that have been promulgated by the German Federal Constitutional Court in this regard.

The differences in power between national parliaments therefore have very different reasons. The comparison of these two national parliaments shows that even before the crisis response measures were adopted at EU level, which considerably exacerbated asymmetries in national parliaments' powers, there existed much difference in participation powers of national parliaments with regards to EU matters. From the beginning of the

SUMMARY

European project, the concept of dual representative democracy in the EU has never been homogeneous for all Member States. The line of democratic representation that is provided by the European Parliament is arguably, and at least insofar as it is envisioned in the Treaties, the same for all Union citizens. Leaving aside some issues with the way in which the EP is elected, Article 14(2) TEU unmistakably makes it clear that the Parliament is composed of representatives of the Union's citizens as a whole. This strand of democratic representation in the EU does not differentiate between the citizens of the different Member States.

This is different for the second line of representation that is provided for by the national parliaments when they hold their national governments to account for actions in the Council and the European Council. Because the conditions under which the national parliaments can scrutinize and control the latter is, and has always been, dependent on their respective constitutional framework as well as the political traditions in the Member State itself, the degree of representation for the citizens under this second strand differed, and still differs, from one Member State to the next. This changed to a certain extent with the beginning of the European sovereign debt crisis in 2009 and with the various instruments that were adopted as a response thereto, which transferred some of the roots of such asymmetries from the national level to the European level.

In this regard, Chapter 6 examines more closely the way in which the crisis and the crisis response measures have affected this second line of democratic representation that is provided by the national parliaments. By analyzing the legal provisions of the European Stability Mechanism (ESM), the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG), the Six-Pack, and the Two-Pack, this chapter shows that the impact of these instruments on national parliaments varied greatly from parliament to parliament. Whether or not a parliament saw its budgetary and legislative powers eroded depended on a number of factors, but not least on the economic strength of its constituent Member State and whether or not its Member State had adopted the common currency. The chapter concludes that the asymmetric impact of the crisis on the different national parliaments increased already existing power asymmetries between national parliaments in the EU and, as a consequence, also had implications for the concept of dual democratic representation in the European Union. The question is thus asked as to whether or not it is possible to talk about two lines of democratic representation if, in fact, for some national parliaments such a second line does not actually exist, or at least was temporarily suspended during the Euro crisis. Instead, the citizens of those parliaments witnessed their national parliament retreat into the backbenches and, in the worst case, being dictated by the demands of other parliaments.

The seventh and last chapter looks into this problem further and first analyzes the implications of the asymmetries described in Chapter 6 for (dual) representative democracy in the EU and the Eurozone. The main implications are the disruption of the chain of

accountability and thus a disruption of the notion of representation under the concept of representative democracy because in an ever more intertwined EU, and especially in an ever more intertwined Eurozone, the national governments are no longer only responsible to their own national electorates. They also have to consider the preferences of the other Member States, who are affected by their decisions, all the while the power of national parliaments to participate in such decisions becomes increasingly differentiated. In a second instance, the chapter then assesses three different proposals for the future role of parliaments in the EU so as to mitigate the effects of such power asymmetries between national parliaments on EU representative democracy; namely the strengthening of the powers of the European Parliament, the creation of a new parliament for the Eurozone and the strengthening of the national parliaments through interparliamentary cooperation.