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‘Europeanisation’
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**National
Parliaments**
in
**European Union
Member States:**
Experiences
and
Best Practices

Study for the European Parliament’s Greens/EFA Group

Katrin Auel
Institute of Advanced Studies, Vienna
Christine Neuhold
University of Maastricht



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List of abbreviations

CFSP	Common Foreign and Security Policy
CJEU	Court of Justice of the European Union
COREPER	Committee of the Permanent Representatives of the Governments of the Member States to the European Union
COSAC	Conference of Parliamentary Committees for Union Affairs
CSDP	Common Security and Defence Policy
CWP	Commission Work Program
EAC	European Affairs Committees
ECB	European Central Bank
ECJ	European Court of Justice
EP	European Parliament
ESC	European Scrutiny Committee
ESM	European Stability Mechanism
EU	European Union
EWS	Early Warning System
IPC	Inter-parliamentary cooperation
IPEX	InterParliamentary EU information eXchange
MEPs	Members of the European Parliament
MPs	Members of Parliament
NP	National Parliaments
OLP	Ordinary Legislative Procedure
OPAL	Observatory of Parliaments after Lisbon
TEU	Treaty of Lisbon
TFEU	Treaty on the Functioning of the European Union
TSCG	Treaty on Stability, Coordination and Governance

Introduction

Dear reader,

We are proud to present a new study on the European national parliaments' involvement in European policy-making, it is a first of its kind. The authors, Katrin Auel and Christine Neuhold, have analysed the different dimensions of this topic with great care and love for detail, thus creating a body of research that will be valuable both to academics and to practitioners.

Strong and reliable involvement of national parliaments in European policy-making is certainly not just a matter of convenience. It addresses an extremely important aspect of the EU's democratic legitimacy. As the study shows, many national parliaments have come to see that a more effective national scrutiny of their governments' EU activities and closer relations with the European Parliament is a way of increasing their influence on EU policy-making and ensuring at the same time that Europe remains built on democratic principles. Close relations with the national parliaments are also beneficial for the European Parliament by enhancing its legitimacy and bringing Europe closer to the citizens.

Over recent years, the national parliaments' role in the European Union has been 'upgraded' in a number of ways. The study highlights the different approaches that national parliaments have been taking, compares their relative efficiency and effectiveness, looks at weaknesses, extrapolates best practices and thereby promotes the Europeanisation of national parliaments.

Sometimes in the past, there have been attempts to play off national parliaments against the European Parliament. On the one side, where such efforts succeeded, they weakened parliamentary oversight of European cooperation by executive branches of government. On the other side, where national parliaments have played their roles with self-confidence, it has oftentimes contributed to educating the respective national public about European affairs and has allowed citizens to have a better say on European decisions through their national representatives besides the European Parliament members. It would therefore be enriching for our European system of a multilayer democracy.

If a continuous and effective cooperation between national parliaments and the European Parliament should become the norm, comprehensive involvement of national parliaments is an obvious pre-requisite. Ideally, we should build a "phalanx of parliaments" as one pillar of European democracy.

May this study contribute to this lofty goal and encourage future cooperation between many political actors concerned.

Yours,
Reinhard Bütikofer, MEP



Reinhard Bütikofer

Executive summary

Over the last years, the role of national parliaments (NP) in the European Union (EU) has been ‘upgraded’ in a number of ways, most importantly through the introduction of the Early Warning System (EWS) and a new role in treaty revisions in the Treaty of Lisbon (TEU). In addition to their traditional role of scrutinising the government in EU affairs, these provisions formally turn national legislatures into EU actors in their own right that can act both individually and collectively at the EU level as well as, in most cases, formally independently of their national governments. As a result, the EU legislative process now presents them with multiple arenas they can be simultaneously active in. Against this background, this study examines how national parliaments have resorted to the different tools at their disposal within the different arenas in the practical political process.

Parliamentary involvement within the domestic arena

When it comes to traditional scrutiny, i.e. **controlling the government within EU affairs** at the Member State level, scrutiny provisions are now more similar, but far from uniform, across the EU member states. All national parliaments have set up one or more European Affairs Committees (EAC), but great differences still remain regarding the involvement of other standing committees in EU affairs. Similarly, we can find variation with regard to the scrutiny approach. Although the addressee of the scrutiny procedure is, in the end, always the government, systems differ with regard to whether parliament scrutinises EU documents or the government position for the negotiations in the Council or both. A number of studies have classified and ranked national parliaments according to their institutional strength in EU affairs. Accordingly one can identify a group of strong, mainly North European, parliaments including those of Denmark, Sweden, and Finland, but also Germany, the Netherlands and Austria. In contrast, rather weak parliaments can be found in Southern member states Greece, Malta, Cyprus, Portugal and Spain, but also in Belgium and Luxembourg. France, Italy and the UK fall somewhere in between. Finally, the new constitutions in Central and Eastern Europe tend to accord a greater role for legislatures, and in contrast to their West European counterparts, many of their parliaments can – at least with regard to their formal institutional position – be considered as rather strong.

Comparative studies on how national parliaments actually make use of their institutional provisions in the practical process are, however, still rare. The only study providing empirical data on all parliamentary activities in all chambers across the EU (Auel et al. 2015) that exists shows that the powerful parliaments of Denmark, Finland, Germany and Sweden are also the most active, followed by the Austrian, Dutch, Estonian, Italian and Lithuanian parliaments.

When it comes to controlling the respective minister(s) in the Council, note that in only eight member states must the government obtain a mandate from parliament before being able to take a position in the Council, namely in Denmark, Estonia, Finland, Latvia, Lithuania, Romania, the Slovak Republic, Slovenia and Sweden (COSAC 2017a). In other member states, parliaments can decide to issue mandates or resolutions and must be given adequate time to do so. With the notable exception of the Austrian Nationalrat, the German Bundesrat (in areas falling into the jurisdiction of the Länder) and the Estonian Riigikogu, mandates are, however, normally *not* legally binding. Even non-binding mandates can, however, have a strong politically binding effect, especially if the government is obliged to report and justify any deviations from the parliamentary opinion. This is the case in the parliaments of Finland, Germany, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia and Sweden.

Parliaments do not only try to scrutinise the activities of their representative in the Council but also within the European Council, an institution that plays a role of increasing importance within the EU. A number of parliaments have set up formal rules relating specifically to these meetings, either in the Constitution or the parliamentary rules of procedure (Wessels et al 2013). This is the case in Belgium, Bulgaria, Czech Republic, Cyprus, Denmark, Finland, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Slovakia, Spain, and Sweden. In most cases, the rules mainly describe the government’s obligations towards the parliament regarding information on upcoming or concluded meetings.

The contribution of national parliaments to the democratic legitimacy of the EU cannot, however, be measured solely by parliamentary influence and control but also by extent to which they assume the role of public forum by **communicating and making EU affairs public**. Here we (also) see great variation across parliaments, the number of hours spent on overall plenary debates per year ranges from around three hundred

hours in the Austrian Nationalrat to over one thousand hours in the Dutch Tweede Kamer or the UK House of Commons.

In addition to plenary activities provision of information via their **websites** are an important means of national parliaments to communicate EU issues to their citizens. In a recent Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC) report (of 2016), almost all parliaments stated that they used their websites regularly to provide information related to EU affairs to the public. Best practice examples include the websites of the French Assemblée Nationale, the Danish Folketing, the Polish Sejm, or the Swedish Riksdag. Here, the parliaments have established genuine EU websites that provide comprehensive information on and direct links to parliamentary activities and documents, including parliamentary resolutions and reports on EU affairs or EU plenary debates, links to other EU related websites such as those of the EU institutions, the current EU presidency, COSAC or the InterParliamentary EU information eXchange (IPEX).

Parliamentary involvement within the EU arena

As not all of the Lisbon Treaty provisions on national parliaments have been used yet, we thus focus on the simplified Treaty revisions, the Early Warning System (EWS) and the Political Dialogue as well as inter-parliamentary cooperation.

The **simplified Treaty revision procedure** has been used on three occasions so far: to amend the Protocol on Transitional Provisions annexed to the EU, the Protocol on the concerns of the Irish people on the Treaty of Lisbon and in order to add a third paragraph to Article 136 Treaty on the Functioning of the European Union (TFEU) enabling the member states of the Eurozone to establish the European Stability Mechanism (ESM). Neither of these amendments has been vetoed by a national parliament, but they have all been subject to parliamentary scrutiny and, where applicable, went through a ratification process.

When it comes to the **EWS**, some national chambers have made very frequent use of the instrument, but participation varies across member states. Based on the numbers provided by the European commission in its annual reports, the EWS has generated overall 354 opinions during the period from 2010 to 2016. During these six years, the Swedish parliament has emerged as the 'front-runner' when it comes to the use of the tool, followed by the French Sénat, the Austrian Bundesrat, the Dutch Tweede Kamer, the UK House of Commons and the Luxembourg Chambre des Députés. It is noteworthy that NP have been able to act together collectively in EU affairs and have so far issued three 'yellow

cards'. These have been issued on the proposal for the so-called 'Monti II' Regulation, on the Regulation on the establishment of the European Public Prosecutor's Office and most recently on the Posted Workers Directive. Although ultimately unsuccessful, the three yellow cards demonstrate that NP are not only prepared to put the tools to use, but also coordinate across national borders.

When looking at the use of the **Political Dialogue**, a differentiated picture emerges, just like with the EWS. Some parliaments such as the Portuguese Assembleia have made extensive use of the Political Dialogue. Other legislatures being very active 'users' of the tool were the Italian Senate, the Czech Senate and the German Bundesrat. This is in line with the observation that the EWS allows upper chambers¹ to compensate for their somewhat marginal role within the national accountability chain. Two counter examples, however, where the lower house is more active than the upper house, are France or Romania.

Inter-parliamentary cooperation (IPC) is seen as a precondition for the EWS to work, in order to exchange opinions and arguments across national boundaries. The main channels for inter-parliamentary cooperation are seen to be COSAC, the network of administrative liaisons in Brussels, and IPEX. COSAC is seen as the key formal venue for inter-parliamentary cooperation. COSAC meetings take place twice a year, and are organized and chaired by the parliament of the country holding the rotating Presidency. As such COSAC has a role in 'show-casing' the importance of the rotating Presidency of the EU as COSAC meetings usually take place in the capital of the Member State holding the Chair. COSAC can take on a key role in organising support for yellow cards.

Note that cooperation across parliaments not only takes place at the level of directly elected members of parliament (MPs) but also at the level of **parliamentary officials**. The most established form of cooperation is that of parliamentary liaisons *in Brussels*, a majority of national parliaments delegate officials that for are for the most part based in the premises of the EP. Liaisons have been ascribed a 'bridge-building function' across national parliaments and are seen as a hub for information exchange. Moreover **IPEX** is noteworthy insofar as this is a platform for information exchange between national parliaments and the European Parliament. IPEX contains information such as on the progress of scrutiny in member states and any reasoned opinions. Parliaments make different use of IPEX. Some for example also add national documents. The countries that upload most documents on IPEX are Austria, Germany,

¹ Please note that the German Bundesrat (German Federal Council) is formally not an upper house, but the second chamber of the German parliament.

Italy, the Netherlands, Sweden, the Czech and French Sénat and the Polish Sejm.

Based on the TEU and the Treaty on Stability, Coordination and Governance (TSCG) **IPC** has also flourished in **institutional terms**. Most notable in this context are the Inter-Parliamentary Conferences on the Common Foreign and Security Policy (CFSP) and Common Security and Defence Policy (CSDP), which were established in 2012 and within the domain Economic and Financial Governance in 2013. The establishment of both conferences was however plagued by inter-institutional rivalries. On 9 and 10 October 2017 a Joint Parliamentary Scrutiny Group on Europol had its constitutive meeting expanding IPC into this domain as well.

Factors that enable parliaments to play an active role in EU affairs (regardless of arena)

General factors that impact parliamentary ability to fulfil their roles in EU affairs effectively include access to information, the support through parliamentary staff as well as the designation of rapporteurs.

Effective scrutiny depends to a large degree on the amount, but especially on the **quality of information** parliaments receive. Since the entry into force of the Lisbon Treaty, national parliaments receive all *public* documents directly from the European institutions, including the Commission's green and white papers and communications. A large number of parliaments now also receive so-called Explanatory Memorandums on EU legislative proposals that outline the proposal as well as the governments (initial) views on the content including subsidiarity issues. There are, however, differences with regard to the provision of *non-public* documents, such as *limité*, confidential or secret documents, Committee of the Permanent Representatives of the Governments of the Member States to the European Union (COREPER) and working group papers or internal briefings. Best practice examples are the Italian Camera dei Deputi, where the Italian Permanent Representative has to provide the parliamentary liaison with all information pertaining to EU negotiations. The German Bundestag also has similarly extensive access to documents.

Given that most parliaments have long complained about suffering from an information overflow in EU affairs, it depends to a large extent on the capacities of parliamentary committees to deal with and **process the information** they receive from both the EU and their government. Parliaments have also developed means to select and prioritise EU documents for scrutiny – either continuously or through *ex ante* selection. A long-standing example for the former, is the European Scrutiny Committee (ESC) of the House of Com-

mons. The main task of the ESC is to examine all EU documents on an on-going basis and to filter out those, which it considers legally and/or politically important. Selected documents are referred for public debate to an, ad hoc convened, European Union Committee or, exceptionally, to the Committee of the Whole House.

Another strategy to in the quest of enhancing parliamentary scrutiny is to attribute the responsibility for certain **dossiers/issues to MPs**. The Polish Sejm uses a system of *rapporteurs* who are assigned to EU legislative proposals. The Belgian lower house has introduced a system of 'Europromoters': every sectoral committee has appointed such a Europromoter among its members, who has the task to follow the EU policy making processes that are relevant for the committee.

The capacity to deal with European issues also depends on the **number of committees involved in European Affairs** as well as their 'jurisdictions'. In some parliaments, the EAC is the main forum for dealing with European issues, with some cooperation with- or consultation of the specialised standing committees. In other parliaments, the specialised standing committees are responsible for the scrutiny of European issues in their specific policy areas. Best practices combine the 'best of both worlds' by largely delegating to the standing committees, but involving the EAC as the lead committee or as the main mediator between committees involved. In the Swedish Riksdag, for example, scrutiny is decentralised, but the mandating rights rest with the EAC. The standing committees participate at an early stage in EU policy making which allows for in-depth scrutiny and the hearing of government representatives.

Administrators are seen to play an important role in supporting MPs in the conduct of parliamentary scrutiny. But just as there is variation of parliamentary scrutiny across member states, the number and role of administrators varies to a great extent. The ratio between how many staff members support MPs differs greatly. Here the German Bundestag is supported by a parliamentary administration that is seen as the most 'resourceful' of all national parliaments. This is in stark contrast with the Spanish parliament, for example.

Where to go from here?

As the comparative study shows, how national parliaments engage in EU affairs is not simply a function of their institutional capacities. While there is a rather clear relationship between institutional strength and the extent to which they try to influence and control the government's EU policies within the domestic arena, other activities, by contrast, such as debates or engagement within the European Arenas, e.g. through the EWS and the Political Dialogue, do not follow the same pat-

tern. Overall, parliamentary traditions as well as MPs' incentives and motivations also play an important role. Expanding or strengthening parliamentary participation rights in EU affairs will thus not per se guarantee an active involvement in all arenas. Yet two arguments can be made for further strengthening parliamentary participation rights in EU affairs: First, strong institutional prerogatives may be no guarantee, but they do *enable* parliaments to fulfil their roles. Second, as the introduction of the Political Dialogue as well as the EWS have demonstrated, providing parliaments with new instruments in EU affairs can lead to reforms of parliamentary procedures and increase MPs' motivation to become engaged across different arenas.

The study, however, also underlines that any assessment of parliamentary involvement also depends on the prior definition of what their role in the EU should consist of. If the domestic policy-influencing function (i.e. exerting influence on the government's negotiation position) is considered most important, the policy shapers seem to perform especially well. Yet where an assessment takes the communication function of national parliaments into account, policy shapers often perform less well; few chambers score highly on both types of activity. Similarly, any assessment of the involvement of parliaments in the Political Dialogue or the EWS needs to consider whether such an engagement is normatively desirable. As has been argued in the literature, focussing on these new instruments can be time consuming, thus binding scarce parliamentary resources and distracting parliaments from functions that some consider far more important, such as controlling the government and communicating EU politics to the citizens. Regardless of what arena they use, parliamentary involvement ought to overcome what Lindseth (2010) has termed the 'democratic disconnect' and thus provide a link between European politics and the citizens.

1. Introduction

Over the last years, and especially since the Treaty of Lisbon (TEU) came into force, the role of National Parliaments (NP) has changed fundamentally, for example by formalising the role of national parliaments as the ‘guardians of the subsidiary principle’ and a new role in treaty revisions. This turns national legislatures into EU actors in their own right and adds various new arenas that they can become active in at the same time. In addition to their ‘traditional’ role of scrutinising the government in EU affairs, national parliaments can thus now act both individually and collectively at the EU level as well as, in most cases, independently of their national governments.

Against this background, this study examines how national parliaments have resorted to the different tools at their disposal within the different arenas, within the practical political process. The underlying rationale is to draw lessons from these national parliamentary experiences and as such extrapolate best-practices that could be shared to promote improvements in the Europeanisation of national parliaments.

‘Europeanisation’ is a concept used to analyse a variety of changes within European Union and member states’ policies, politics and polities resulting from the process of European integration. While there exists no agreed-upon clear definition, the term is most often used to characterise ‘domestic change and adaptation to pressures emanating directly or indirectly from EU membership’ (Featherstone 2003: 7). Even more generally, one could define Europeanisation as what happens ‘when something in national political systems is affected by something European’ (Vink 2003: 63). As these definitions imply, there are two sides to the process of Europeanisation: *Passive Europeanisation* describes the pressures, but also the opportunities, emanating from European integration or, in other words, the impact of European integration on national policies, institutions or actors; *active Europeanisation*, in contrast, refers to the domestic reaction to these changes (Auel 2015).

For a long time, the debate in both academia and political practice focused primarily on the passive form of Europeanisation, perceiving national parliaments as the objects (or, indeed, victims) of the integration process. Accordingly, much of the debate centred on the question of whether or not European integration leads to the ‘de-parliamentarisation’ of politics (O’Brennan and Raunio 2007). According to the ‘de-parliamentarisation’ thesis, European integration weakened national parliaments in two ways. On the one hand, it had a direct impact on their legislative sovereignty by trans-

ferring legislative competencies to the EU level. On the other hand, European integration has also had a more indirect effect by altering the power balance between national parliaments and their governments. As Weiler (1999: 266) summarized, EU integration ‘pervert[s] the balance between executive and legislative organs of government of the State. [...] [N]ational parliamentary control, especially in large member states, [is] more an illusion than a reality.’ However, over time the ‘victims’ of integration learned ‘to fight back’ (Raunio and Hix 2000) and obtained new opportunities for participation in domestic European policy-making. It was a slow and uneven process through which they improved their institutional position, but they gained increased rights to scrutinise European affairs and to control the way in which ministers and officials represented national interests in Brussels.

This development of active Europeanisation was often supported by the European Treaties, although not always in the intended form. The failed Danish Referendum as well as the German Constitutional Courts’ decision on the Maastricht Treaty, for example, and the resulting intensified debate about the Union’s democratic deficit were important triggers for national parliaments to become more involved in European politics. The Maastricht Treaty also mentioned national parliaments for the first time in two declarations annexed to the treaty. The europeacooperation contained therein were further expanded in the Treaty of Amsterdam in the “Protocol on the role of national parliaments in the European Union”. Yet so far, the Treaty of Lisbon, often celebrated as the “Treaty of Parliaments”, had the most important impact by establishing the most extensive participation rights for national parliaments – and thus the most far reaching opportunities in terms of passive Europeanisation - so far. As briefly mentioned above, these new rights turned national parliaments into European actors, who can become directly involved in the European legislative process, formally independent of their respective national governments. In addition, the new rights open up many new arenas in which they can be active in simultaneously. Auel and Neuhold (2017) therefore speak of a new role as “multi-arena players” for national parliaments.

In the following, we therefore start by outlining the formal involvement of NP in the EU policy-making process post-Lisbon (section 2) and discuss their role as “multi-arena players”. Thereafter, we contrast the formal structures with empirical practice and thus the active Europeanisation of national parliaments; first we discuss the arena of traditional scrutiny within the

member state arena (section 3) and then shed light on experiences of implementing the so-called ‘Lisbon provisions’ on national parliaments within the EU arena (section 4). Section 5 discusses crosscutting issues that affect parliamentary scrutiny in all arenas related to the parliamentary infrastructure. Each of these sec-

tions provides a general overview and then zooms in on specific examples. The aim is not to provide detailed overviews over the handling of EU affairs in each parliament, but rather to highlight the pros and cons of different arrangements. Section 6 discusses the comparative results and concludes.

2. A new role for national parliaments – the provisions of the Lisbon Treaty

While earlier Treaties also mentioned the role of NP in protocols (Maastricht, Amsterdam), Article 12 of the Lisbon Treaty now formally recognises that NP ‘contribute actively to the good functioning’ of the Union and defines a number of specific instruments and mechanisms in this context:

First, national parliaments are to receive information and draft legislative acts from the EU institutions. These include all Commission consultation documents such as green and white papers upon publication, as well as its Legislative and Work Programme or any other instrument of legislative planning.² These are to be sent to national parliaments by the Commission. Moreover all draft legislative acts that are sent to the European Parliament (EP) and to the Council, such as proposals from the Commission, initiatives from a group of member states, initiatives of the EP, requests from the European Court of Justice (ECJ), recommendations from the European Central Bank (ECB) are to be sent to national parliaments either by the EP (when it refers to an EP initiative) or by the Council (for all the other initiatives). Last but not least the agendas and minutes of the meetings of the Council, including those where deliberations are made on draft legislative acts, shall also be forwarded to national parliaments at the same time as to member states’ governments. This is a step forward for those parliaments that were previously dependent on their respective governments to provide them with information on EU affairs but of course does not encompass any pre-selection as regards to which acts are to be submitted to parliamentary scrutiny.

Article 12 TEU, second, strengthens the formal role of NP regarding Treaty revisions. While NP always had to ratify Treaty changes - unless they were subject to referendums - this ‘veto player role’ has been extended to two further types of Treaty change, the simplified Treaty revision procedure as well as the passerelles

introduced in articles 48 TEU and 81 TFEU. While the former also have to be ratified within each member state, NP have been given a direct veto right regarding the two ‘passerelle clauses’³ that can be exercised within six months of the notification of the change. An even more important step in this context is the fact that the Convention method as part of the ordinary Treaty revision procedure (Article 48 TEU) has been formalised. Members of NP are now formally members of future Conventions and can thus be seen on an equal footing with the representatives of national executives and EU institutions. While the final decision on Treaty revisions is still taken within an Intergovernmental Conference, the new procedure supplements the individual veto player role by a more active, collective constitutional role at the EU level.

Third, compliance with the principle of subsidiarity is to be ensured, a mechanism, which is commonly referred to as the EWS (Rothenberger and Vogt 2007). To this end it is foreseen in the protocol on the application of the principles of subsidiarity and proportionality that all the draft legislative acts sent to national parliaments shall contain a detailed statement that makes it possible to appraise the compliance with these principles. Accordingly, any national parliament or any chamber of a national parliament may, within eight weeks from the date of transmission of a legislative act, in the official languages of the Union, send to the Presidents of the EP, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity. Each national parliament has two votes and in the case of bicameral systems, each of the two chambers has one vote. In this context two procedures commonly referred to as “yellow and orange cards procedures” form one of the cornerstones of the Treaty when it comes to parlia-

² Articles 1 and 2 of Protocol on the role of national parliaments.

³ The transition from unanimity to qualified majority or transition from special to ordinary legislative procedure, and to this end it is foreseen that national parliaments shall be informed at least six months before any decision is adopted.

mentary control. The so-called ‘yellow’ card procedure consists of the following: where reasoned opinions on a non-compliance of a draft legislative act with the principle of subsidiarity represent at least one third of all the votes allocated to national parliaments, the draft must be reviewed. After such review, the institution that has put forward the proposal may decide to maintain, amend or withdraw the draft. In this context, reasons must be given for the decision. The ‘orange’ card procedure states that under the ordinary legislative procedure (OLP), if the reasoned opinions regarding subsidiarity represent at least a simple majority of the votes allocated to national parliament, the draft legislative act must be reviewed. After this review, the Commission may decide to maintain, amend or withdraw the proposal. If the option is to maintain the proposal, the Commission shall issue a reasoned opinion justifying why it considers that the proposal complies with the principle of subsidiarity. This reasoned opinion, together with the reasoned opinions from national parliaments, shall be submitted to the Union legislator (Council and EP), for consideration in the procedure. If by a majority of 55% of the members of the Council or a simple majority of the votes cast in the EP, the legislator is of the opinion that the proposal does not comply with the principle of subsidiarity, no further consideration shall be given to it. One could envisage that this might lead to more cooperation between national parliaments and the EU institutions, notably the EP.

Note that the EWS foresees that an eight week period shall elapse between the moment when a draft legislative proposal is made available to national parliaments in all official languages of the Union and the date when it is placed on a provisional agenda for the Council for its adoption of a position under a legislative procedure. This puts a halt to the legislative process insofar as no formal position on a proposal can be adopted by the EU institutions within this period.

Fourth, national parliaments are to take part in the evaluation mechanisms for the implementation of the Union policies in the area of freedom, security and justice and to be involved in the political monitoring of Europol and in the evaluation of activities of Eurojust. Moreover, national parliaments are to be involved in the revision procedures of the Treaties and receive notifications of applications for accession to the European Union.

Fifth, NP can bring an action before the Court of Justice of the EU (CJEU) on the grounds of a breach of the

subsidiarity principle⁴ (Protocol no. 2 to the TEU and the TFEU, see Kiiver 2012).

Finally, article 12 TEU also formally recognises and supports the engagement of NP in inter-parliamentary cooperation (IPC) (e.g. Art. 12(f) TEU).

It is noteworthy that the Treaty of Lisbon also clarifies the role of the COSAC. It stresses explicitly that the Conference of Parliamentary Committees for Union Affairs (COSAC) has a supporting role vis-à-vis national parliaments as “contributions from the Conference shall not bind national Parliaments and shall not pre-judge their positions.”⁵ According to the Lisbon Treaty, COSAC may also organise Inter-Parliamentary Conferences on specific topics, in particular within the field of CFSP.

Apart from the formal Treaty provisions, the so-called ‘Barroso initiative’ has gained ground over the last years. This form of direct cooperation between national parliaments and the Commission was established outside formal Treaty structures and endorsed by the European Council in June 2006.⁶ Accordingly, the Commission is to transmit all new proposals and consultation papers to national parliaments directly and invite them to react so as to improve the process of policy formulation (Commission 2006). This mechanism, which is not limited to aspects of subsidiarity (Jančić 2012) aims at establishing a dialogue between national parliaments and the European Commission early in the policy-making process. This can be seen as symbolic of a recognition that national parliaments can participate directly in EU policy making without being mediated by their national government (Rozenberg 2017).

Overall, this leads us to the observation that the provisions of the Lisbon Treaty ‘challenge the notion of representation provided by parliaments at different levels and within clearly demarcated areas of authority’ (Auel and Neuhold 2017: 1549). National parliaments can now be seen as formally, albeit not necessarily de facto, independent players within the EU policy-making process. Within the constitutional process (Convention) and the EWS they can be seen to take on a collective role within the European arena.

⁴ Please note that NP cannot bring action before the CJEU directly as they lack the necessary legal standing. Thus, they still have to rely on their governments in this case. Yet in most, albeit not all (e.g. Spain), member states constitutional or statutory rules oblige the government to comply with a parliamentary decision to bring action – in some cases even with qualified minority decisions as e.g. in France or Germany (see Hefftlar et al. 2015).

⁵ The Protocol on the “Role of National Parliaments in the European Union” of the Treaty of Amsterdam for the first time recognized COSAC. It came into force 1 May 1999.

⁶ This initiative was announced officially in the Commission’s Communication to the European Council ‘A Citizens’ Agenda – Delivering Results for Europe’ of 10 May 2006 (COM(2006) 211 final).

We accordingly conceive national parliaments as *multi-arena players* (Auel and Neuhold 2017). The changes introduced mainly by the Lisbon Treaty discussed above, can be seen as characterised by three main developments. In addition to their traditional role of scrutinising their governments in EU affairs, parliaments now can assume a *collective role* in EU politics. Second, they are, both individually and collectively, *directly involved in the legislative process at the European level*, thus turning into EU rather than only national institutions. Third, they are, in many, albeit not all, aspects of this new European role, *formally independent of their governments*.

As a result, NP can now be simultaneously active in various different arenas:

- ▶ as individual players within their member state/ domestic arena (traditional scrutiny),
- ▶ as individual players within the EU arena (for example Political Dialogue, CJEU action where possible, treaty revisions) and
- ▶ as collective parliamentary players together with other NP (EWS, formal IPC, Convention).

Figure 1 illustrates this role of national parliaments as multi-arena players:

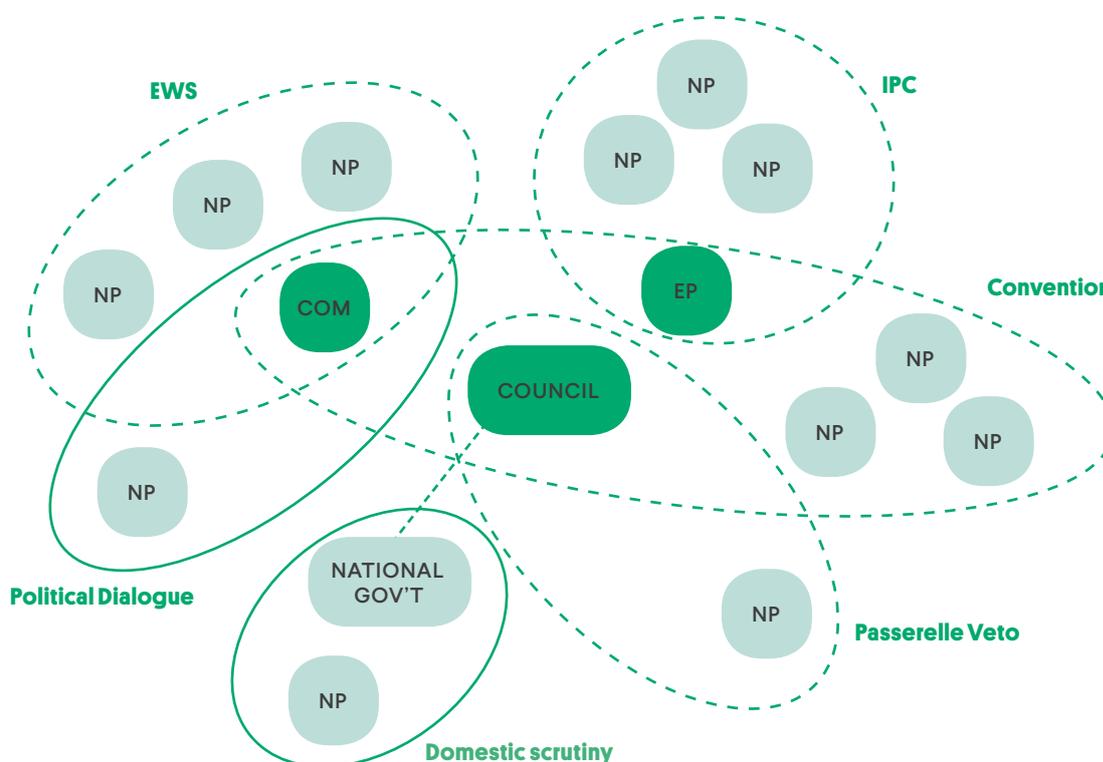


Figure 1: National parliaments as multi-arena players. Source: Auel and Neuhold (2017: 1551)

In the following, we will discuss how parliaments use these provisions, first within the domestic arena (section 3) and then within the European arenas (section 4). We then focus on ‘cross-cutting issues’ by examining certain factors that can contribute to national parliaments exercising their role within the different arenas more effectively (section 5). Each of these sections starts off by way of outlining some general trends/observations across member states, to then be able to focus on specific examples in more detail. Section 6 draws conclusions from a comparative perspective.

3. ‘Traditional parliamentary scrutiny’ of EU affairs within the national arena

3.1 General trends and observations

First of all, it is important to note that the so-called Lisbon provisions sketched above do *not* replace parliamentary scrutiny of EU affairs at the national level but merely supplement them. Indeed, when asked by COSAC to rank the relative importance to them of the institutions they scrutinised, an overwhelming majority (93 per cent) of the Chambers/parliaments selected the scrutiny of their own national government as the most important, followed by European Commission, the European Council and the Council of the European Union on ranks two to four (COSAC 2013a: 15).

Regarding the institutional arrangements for parliamentary involvement in EU affairs, we can detect a process of harmonization over time; scrutiny provisions are now more similar, but far from uniform, across the EU member states.⁷ All national parliaments have set up one or more European Affairs Committees (EAC), but great differences still remain regarding the involvement of other standing committees in EU affairs. Similarly, we can find variation with regard to the scrutiny approach. Although the addressee of the scrutiny procedure is, in the end, always the government, systems differ with regard to whether parliament scrutinises EU documents or the government position for the negotiations in the Council or both. While some parliaments issue written statements, others transmit their position on European issues to the government orally during committee sessions, and some use both procedures. Most importantly, the consequences of such statements differ greatly. In some cases, the government is under a legal obligation or strong political pressure to follow the position of their parliaments in the EU negotiations (mandating procedure). In many other cases, however, parliaments can only give their opinion without this having a binding effect on the government. Furthermore, a number of parliaments have established so called ‘scrutiny reserves’ aimed at preventing government representatives from agreeing to a proposal in the Council while the parliamentary scrutiny process is on-going (Auel et al. 2012).

A number of studies have classified and ranked national parliaments according to their institutional strength in EU affairs. Although the rankings differ slightly due to a different emphasis on specific institutional pro-

visions, the overall picture is fairly consistent: As the latest rankings by Karlas (2012), Winzen (2012) as well as Auel et al. (2015a) show, we can identify a group of strong, mainly North European, parliaments including those of Denmark, Sweden, and Finland, but also Germany, the Netherlands and Austria. In contrast, rather weak parliaments can be found in Southern member states Greece, Malta, Cyprus, Portugal and Spain, but also in Belgium and Luxembourg. France, Italy and the UK fall somewhere in between. Finally, the new constitutions in Central and Eastern Europe tend to accord a greater role for legislatures, and in contrast to their Western European counterparts, many of their parliaments can – at least with regard to their formal institutional position – be considered as rather strong.

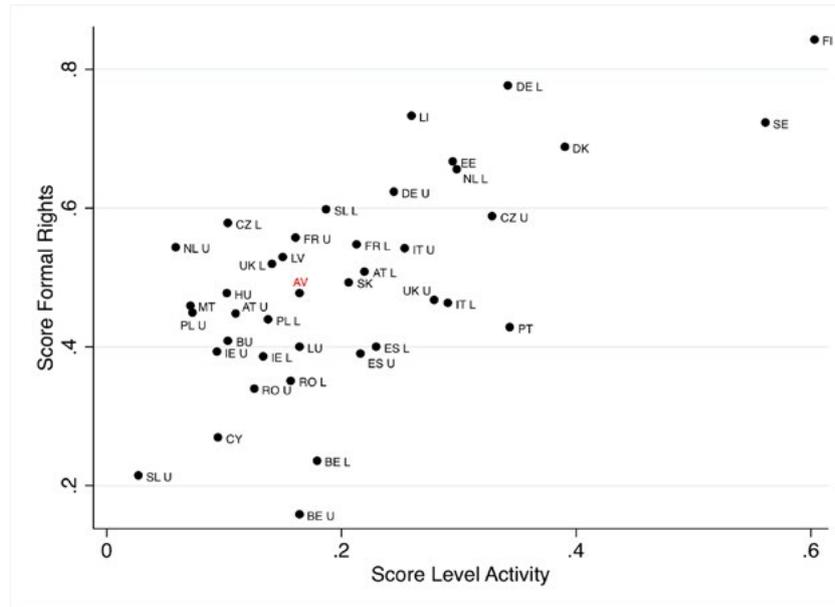
Unfortunately, comparative studies on how national parliaments make use of their institutional provisions are still rare. The so far only study providing comparative empirical data on parliamentary activities *across all, then*⁸, *40 Chambers* was conducted in the context of the Observatory of Parliaments after Lisbon (OPAL) research project (Auel et al. 2015a) and included parliamentary statements (resolutions and mandates), plenary debates on EU issues, EAC meetings, hearings with the prime minister and opinions issued in the context of the EWS and the Political Dialogue (see below) between 2010 and 2012. As the study shows, the powerful parliaments of Denmark, Finland, Germany and Sweden are also the most active, followed by the Austrian, Dutch, Estonian, Italian and Lithuanian parliaments. The Portuguese parliament is also in this group of active institutions, although the *Assembleia* focuses primarily on sending opinions within the Political Dialogue (see below). Among the least active are the parliaments of Bulgaria, the Czech Republic, Greece, Cyprus, Hungary and Malta. The parliaments of Belgium, France, Ireland, Latvia, Luxembourg, Poland, Romania, Slovakia, Slovenia, Spain and the UK form a large intermediate group. These findings indicate that despite their initially weaker position vis-à-vis their executives during and after the accession process, a number of the new CEE parliaments have now become very active in EU affairs.

As figure 2 suggests, institutional strength in EU affairs is a rather good predictor of the actual parliamentary activity.

7 A comprehensive overview over the scrutiny provisions in all national parliaments can be found in Hefftlar et al. 2015.

8 During the time period covered (2010 to 2012), Croatia had not yet joined the EU.

Figure 2: Relationship between Institutional Strength and Activity in EU Affairs (scores)



Source: Auel et al. 2015: 80. AV indicates the average scores for institutional strength and activity across all 40 chambers, Croatia is omitted as it was not a member state at the time. L denotes lower and U Upper chambers; for country abbreviations see Appendix.

3.2 Parliamentary involvement within the domestic arena: zooming in

In this section, we zoom in on the specific ways national parliaments are involved in EU affairs within the domestic arena. Here, scholars have identified five ideal modes of parliamentary involvement in EU affairs, four of which relate to the domestic arena of scrutiny, namely the modes of expert; government watchdog; public forum; policy-shaper (Heffttler and Rozenberg 2015) (see table 1). The fifth mode of involvement, that of European player, can have individual and collective dimension (Auel and Neuhold 2017) and will be discussed further below.

The first mode, that of ‘Expert’ relates to the development of in-depth expertise on EU matters, often expressed through the publication of in-depth reports on EU issues.

The mode of ‘Policy Shaper’, in turn, emphasises parliamentary influence on the government’s negotiation position through mandates or resolutions *ahead* of Council and European Council meetings.

The ‘Government Watchdog’ mode, on the other hand, focuses on the function of holding governments to account. Controlling what the government “does in Brussels” is thus seen as the main task and normally takes place *ex post*.

The type of ‘Public Forum’, finally, refers to the parliamentary communication function. Here emphasis is mainly on plenary debates as well as other means of disseminating information.

Table 1: General Modes and Instruments of Parliamentary Scrutiny of EU Affairs

Domestic Arena		
Mode of involvement	Instruments	Parliamentary body/bodies
Expert	(Comprehensive) reports <i>ex ante</i>	EAC and other committees
Policy shaper	Mandates and resolutions <i>ex ante</i>	EAC and other committees
Government watchdog	Questions, hearings, debates <i>ex post</i>	Plenary or committees
Public forum	Plenary debates and other forms of communication both <i>ex ante</i> and <i>ex post</i>	Plenary (websites)
EU Arenas		
Mode of involvement	Instruments	Parliamentary body/bodies
European player: Individual	Political Dialogue, CJEU action (where possible), Treaty changes	EAC and other committees
European player: Collective	EWS, formal IPC, Convention	EAC and other committees

Source: adapted from Rozenberg and Heffttler 2015

Please note that parliaments are not limited to one specific mode of involvement in EU affairs, but can indeed combine different modes. In fact, in an ideal world, they would combine all of them, i.e. become experts on various EU issues, who produce in-depth reports, but also use this expertise to influence (policy shaper) and control/hold accountable (watchdogs) their governments effectively both ex ante and ex post while at the same also actively communicating EU issues to their citizens (public forum). Indeed, when asked in a recent COSAC

survey (2016a) about the relative importance of different activities relating to parliamentary involvement in EU affairs, most parliaments attached higher importance to all three activities, with being a policy shaper (27 out of 38) and serving as a public forum (27 out of 38) trailing only slightly behind government oversight (34 respondents of 38) (table 2).

Table 2: Importance attached to Activities relating to Parliamentary Involvement in EU Affairs

	Government oversight	Policy shaper	Public forum
Austrian Nationalrat and Bundesrat	1	1	1
Belgian Chambre des représentants	2	2	2
Belgian Sénat	2	2	2
Bulgarian Narodno sabranie	2	1	1
Croatian Hrvatski sabor	2	2	2
Cyprus Vouli ton Antiprosopon	2	2	2
Czech Poslanecká sněmovna	2	1	1
Czech Senát	2	2	2
Danish Folketing	2	1	2
Dutch Tweede Kamer	2	2	2
Dutch Eerste Kamer	2	2	2
Estonian Riigikogu	2	2	2
Finnish Eduskunta	2	2	1
French Assemblée nationale	2	2	2
French Sénat	2	2	2
German Bundestag	2	2	2
German Bundesrat	2	2	1
Greek Vouli ton Ellinon	2	2	2
Hungarian Országgyűlés	2	1	1
Irish Houses of the Oireachtas	2	2	2
Italian Camera dei Deputati	2	2	2
Italian Senato della Repubblica	2	2	2
Latvian Saeima	2	2	2
Lithuanian Seimas	2	2	2
Luxembourg Chambre des Députés	1	2	2
Maltese Kamra tad-Deputati	2	1	1
Polish Sejm	2	1	1
Polish Senat	1	2	1
Portuguese Assembleia da República	2	1	2
Romanian Camera Deputaţilor	2	2	2
Romanian Senatul	2	1	2
Slovak Národná rada	2	2	1
Slovenian Državni zbor	2	1	1
Slovenian Državni svet	2	2	2
Spanish Cortes Generales	1	2	2
Swedish Riksdag	2	2	2
UK House of Commons	2	1	1
UK House of Lords	2	2	2

Source: based on data from COSAC (2016a, annex), 0 = Not important, 1 = Moderately important, 2 = Important.

In the 'real world', however, parliaments generally suffer from limited resources, most importantly with regard to time and manpower. Busy institutions to begin with, European affairs have added considerably to their workload. In addition, and as outlined above, they have different institutional prerogatives and capacities to deal with EU affairs that impact the type of involvement they focus on. There are therefore very few parliaments that are able to focus on all five modes of involvement.

3.3 'Telling the government what to do – and making sure they comply...': parliamentary influence and oversight

Regarding institutional prerogatives and capacities, strong rights of influences are a precondition for the mode of policy shaper. Here, the differences between the parliaments vary markedly. In only eight member states must the government obtain a mandate from parliament before being able to take a position in the Council, namely in Denmark, Estonia, Finland, Latvia, Lithuania, Romania, the Slovak Republic, Slovenia and Sweden (COSAC 2017a). In other member states, parliaments can decide to issue mandates and must be given adequate time to do so (often ensured through a scrutiny reserve). With the notable exception of the Austrian Nationalrat, the German Bundesrat (in areas falling into the jurisdiction of the Länder) and the Estonian Riigikogu, mandates are usually *not* legally binding. Even non-binding mandates can, however, have strong politically binding effect, especially if the government is obliged to report and justify any deviations from the parliamentary opinion. This is the case in the parliaments of Finland, Germany, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia and Sweden (Karlas 2012). Yet irrespective of how binding mandates are politically, their actual impact depends very much on whether governments are actually systematically held accountable for deviations from the parliamentary position *ex post*. This relates to the mode of 'Government Watchdog' and the extent to which parliaments control 'what their government has been up to in Brussels'. Yet most parliaments do not follow up regularly on the Council meetings (COSAC 2017a): only 15 parliaments/chambers stated that the government reports back to parliament on the position taken in the Council (Belgian Sénat, Croatian Hrvatski sabor, Danish Folketing, French Sénat, German Bundestag, Hungarian Országgyűlés, Lithuanian Seimas, Luxembourg Chambre des Députés, Romanian Senat, Slovenian National Assembly, Spanish Cortes Generales, Swedish Riksdag, UK House of Commons). An issue related to both *ex ante* and *ex post* control is, finally, also the meeting frequency of the EACs. In a large number of parliaments the EACs meet every week or even more frequently - at least while the parliament is in session. Others meet less frequently, either once

a fortnight (Polish Senate) or month (both Houses of the Austrian Parliament, Czech Poslanecká sn movna, Maltese Kamratak-Deputati), or they schedule meetings according to work load (COSAC 2017a).

Zooming in on individual parliaments, the Danish Folketing is usually considered as the prime example of a very strong mandating legislature, as the government needs to seek parliamentary approval for its position before negotiating in Brussels. This mandate is usually given before the final Council meeting, and thus rather late in the legislative process. Yet the power of the EAC emanates not so much from the mandating procedure as such, as the government proposals for mandates rarely contested (Christensen 2015: 281), but rather from the fact that Denmark usually has minority governments. As a result, the Danish mandating system is not easily transferred to countries with majority governments, as the loyalty between the government and its supporting majority can hamper tight scrutiny and legislative leverage will not be as strong (see, for example, the case of Sweden below). In Denmark, however, the government cannot rely on the loyalty of the parliamentary majority to implement EU legislation or decisions at a later stage. The government therefore needs to ensure that EU decisions will not be met with resistance during the transposition stage. As a result, the government has every incentive to keep the EAC fully informed of the issue under consideration as well as the negotiation situation in Brussels and to ensure parliamentary approval for its own position (Auel and Benz 2005). In addition, the government is obliged to report back on the results of Council meetings, yet as parliamentary *influence* is the main aim, the committee mainly focuses on *ex ante* scrutiny (Christensen 2013a: 42). One of the downsides of the Danish system is the focus on mandates given just before the relevant Council meeting, at which point the decision-making process has progressed rather far and real influence may be more limited (see also Christensen 2015: 282).

In Finland, mandates given by the Grand Committee are also considered politically binding. Involvement of the parliaments begins relatively early, and the Grand Committee will try to formulate a first view on legislative proposals, based on opinions from the standing committees, before they are being considered in the Council working groups (on this and the following, Raunio 2015: 413 and Raunio 2016). This early involvement also enables the Grand Committee not only to keep track of the views of other member states or the European Institutions and to develop its own position accordingly, but also to organise hearings with civil servants involved in the preparatory work both at the domestic and the EU level and, finally to identify possible conflicts between the parliament and the executive early in the process (Raunio 2015: 418). Instructions are given throughout the process with the final mandates

being issued for the relevant Council meetings, usually following a confidential discussion with the relevant minister of the relevant issues and their implications for all Council agenda items. Ex post control is ensured by the obligation of the Government to send a report on each Council meeting outlining the results. In addition, ministers must be prepared to appear before the Grand Committee to explain any deviation from the mandates in detail. As in Denmark, the system is (or at least was, see further below) geared towards creating a consensually agreed upon Finnish position.

In Sweden, the mandating system is tied to a ‘minority government logic’⁹ similar to Denmark, while at the same time being closer to the Finnish model of more continuous scrutiny. While final mandates are given by the EAC each Friday for the upcoming Council meeting on the basis of all Council agenda items, both EAC, but especially the standing committees deal with different Council agenda items earlier and more often, with several hundred individual parliamentary views on Council items issued per year (data based on Auel et al. 2015a). According to the Riksdag Act of 2007, the parliament must also scrutinise all EU green and white papers (Hegeland 2015: 429). As a result, the Riksdag not only has strong scrutiny rights, but it is also the most active when it comes to taking on a policy shaper role (see also figure 3 below). In addition, any deviation from the mandate may result in further parliamentary scrutiny, for example by the Swedish Committee on the Constitution (Hegeland 2015: 428). Concerning important decisions, members of parliament (MPs) are therefore also informed during Council negotiations if a mandate has to be changed, for example via text message or telephone conference (Mastenbroek et al. 2014: 99).

The mandating system in the Estonian Riigikogu is rather similar to that of Denmark, Finland or Sweden, with regular mandates given orally in an EAC meetings before the Council meetings and on the basis of regular input by the standing committees. Yet the - legally binding - mandating system is, according to Ehin (2015: 520), undermined by the lack of any systematic follow-up to Council meetings. The government provides the EAC with written information on the meeting, and there are occasional ex post deliberations in the committee, but even the latter seem to be limited to ‘acknowledging the information provided’ (minutes of the EAC cited from Ehin 2015: 520). As a result of the ‘lax control ... the government appears to enjoy greater room for manoeuvre than the letter of the law provides’ (Ehin 2015: 521). Ikstens (2015) and Vilpisauskas (2015) report a similar situation in Latvia and Lithuania, respectively, with very strong parliamentary powers, but little engagement and especially, little ex post control.

9 This could be seen during the majority government 2006 to 2010, when the strong solidarity between the government and its supporting party groups led to less tight scrutiny (Hegeland 2015: 426).

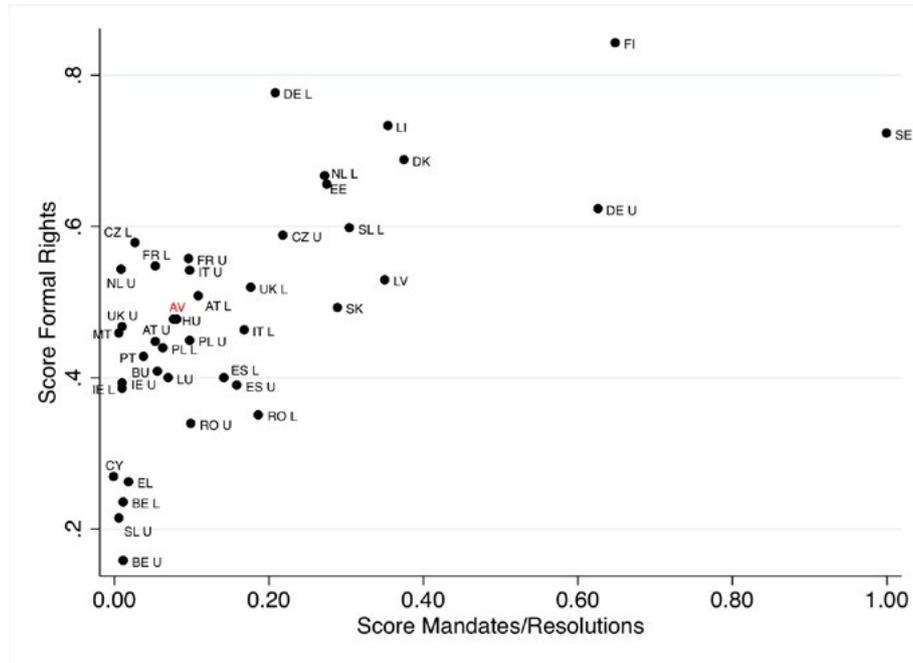
In the Netherlands, the Tweede Kamer has several options: It can place a parliamentary reserve on a document, which forces the government to hold a debate on an issue and to agree with parliament on a position before it can negotiate at the EU level. Parliament as well as the committees can also adopt resolutions or positions that are not legally, but considered politically binding: the ‘mandate’ is set out in a letter by the committee and the relevant ministry and the government usually reports back after Council meetings to explain the outcome in relation to the parliamentary position (Högenauer 2015: 257, but see also below).

As the OPAL data indicates, the right to issue mandates is clearly closely related to adopting a policy shaper mode. Figure 3 below illustrates that there is a rather strong, and highly statistically significant, positive correlation between institutional strength and resolutions/mandates issued, $r(40) = 0,674$, $p < 0.001$.

At the same time, however, the effect of mandates should also not be overestimated. On the one hand, even very strong parliaments usually try not to bind their government to mandates that are too narrow or have no chance of support at the EU level. They rather lay down parliamentary red lines or define a range of outcomes that are acceptable to parliament (for Finland, Raunio 2015: 413, for Denmark, Christensen 2015, for the Netherlands, Eben et al. 2013). On the other hand, MPs from strong mandating parliaments also complain that governments can and do circumvent mandates by simply abstaining from a vote in the Council if the vote reflects their preferences but would require a deviation from the parliamentary mandate. And finally, they can ‘wriggle’ out of their responsibility by a strategic (re-) interpretation of the mandates:

“For example, on March 17, 2011 the [Durch Tweede Kamer] adopted a resolution [...] that requested the Cabinet to ‘firmly distance itself from any movement towards a more political union’ [...]. In subsequent debates the Cabinet had to come back to this resolution, and it had to reassure the Chamber that the resolution was not transgressed by the measures decided upon in Brussels. The Cabinet did so in a way that preserved the spirit of the resolution, but not the literal meaning, because otherwise it could not have progressed on issues such as the fiscal pact. In explaining how the resolution had been respected, the Cabinet stated that member states would assess each other, but not prescribe measures to one another. In this way the Cabinet was able to create room for manoeuvre without having to admit that it would breach the resolution’ (Eben et al. 2013b: 65).

Figure 3: Relationship between Institutional Strength and Mandates/Resolutions issued (scores)



Source: Auel et al. 2015a: 84; AV indicates the average scores for institutional strength and activity across all 40 chambers.

Croatia is omitted as it was not a member state at the time. L denotes lower and U Upper chambers; for country abbreviations see Appendix.

In addition, some of the parliaments that lack strong mandating rights have found other, albeit more indirect and subtle ways of trying to exert influence. Here, the mode of ‘Expert’ comes in, and prime examples are the two Houses of the French Parliament or the House of Lords.

The main committee dealing with EU affairs in the Assemblée Nationale is the Commission des affaires européennes, which shares the right to table motions for resolutions with other standing committees as well as individual MPs. Resolutions, which have to be issued by the plenary, are, however, explicitly non-binding and considered as having less of a politically binding effect as well. Consequently, Parliament tries to influence the government more indirectly through extensive *rappports d’information* (Auel and Benz 2005). Contrary to the reports of many other national European Affairs Committees, these *rappports* frequently have ‘paperback dimensions’ and provide in-depths studies of specific European issues. By drafting these detailed and – most importantly – public reports, the French Parliament not only provides information on European affairs for the general public. It is also able to argue for its views and standpoints and formulate indirect demands without directly determining or criticising the government’s negotiation position.

In the House of Lords, due to its rather unique composition, the European Union Select Committee brings together senior and expert peers, many of whom have

a background in the Civil Service, the European Parliament or other EU institutions (Huff and Smith 2015: 314). Together with the six subcommittees, the EAC is also one of the largest with around 50 members. Similar to the House of Commons (see below section 5), the Lords EAC serves as a filter committee for the selection of documents to be scrutinised by the subcommittees according to their portfolio, but also takes on the scrutiny of crosscutting issues. What the House of Lords is most famous for, however, are the long-term inquiries it conducts, typically 2 to 4 per subcommittee each year (Huff and Smith 2015: 318). The lengthy and detailed reports, based on extensive written and oral evidence from practitioners and academics, are generally considered of very high quality, presenting a detailed and expert analysis of specific EU topics. Within academia, but we are certain also within political practice, they are often used as resources and widely cited. As Huff and Smith argue, in this respect the lack of an electoral mandate is a great advantage for the House of Lords, as it ‘provides a luxury that elected chambers do not enjoy, that of time’ (Huff and Smith 2015: 327).

3.4 European Council meetings

The meetings of the European Councils have arguably become even more important in recent years, and a number of parliaments have set up formal rules relating specifically to these meetings, either in the Constitution or the parliamentary rules of procedure (Wessels et al

2013). This is the case in Belgium, Bulgaria, Czech Republic, Cyprus, Denmark, Finland, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Slovakia, Spain, and Sweden. In most cases, the rules mainly describe the government's obligations towards parliament regarding information on upcoming or concluded meetings.

While the Danish, the Finnish and the Swedish parliaments, scrutiny of European Councils does not differ markedly from that of regular Council meetings, with the exception of the greater involvement of the prime minister. All three parliaments are in a strong position, with anecdotal evidence suggesting that prime ministers take parliamentary views seriously.¹⁰ Other parliaments, in turn, have developed special procedures for European Council meetings.

In the French Assemblée Nationale, public debates are now systematically organised *before* each meeting of the European Council. However, as Kreilinger et al. (2013b: 57) point out, the plenary debates on European Councils, in particular, often suffer from low attendance rates by the MPs, which they explain, inter alia, with the fact that the President is constitutionally prohibited to attend in person to explain and to advocate his/her position. 'From the MPs to the journalists, everybody is aware that the one who is ultimately responsible for decision making is not the one in charge of presenting the official statements in the assembly, after or before the Councils' (Kreilinger et al. 2013a: 23). Similar problems have been reported with regard to the semi-presidential system of Lithuania and the presidential system in Cyprus (Wessels et al. 2013: 50)

In Portugal, the rules on debates related to the European Council were also continuously adapted. While European Council meetings were not scrutinised with any degree of regularity before 2006, plenary debates with a representative of the government after the last European Council of each Presidency became obligatory in 2006. In 2012, these were changed to plenary debates before the European Council in the presence of the prime minister. The aim was to ensure greater influence of the Parliament on the negotiations. Ex post control is ensured by ex post committee debates.

In Austria, the Main Committee can set up a so-called 'fire brigade' committee to monitor very important European Council meetings more closely. The committee, which consists of the chair of the EU sub-committee and one member from each of the parliamentary party groups, cannot issue binding mandates, but it can present its opinion to the government representative in the European Council (Miklin 2015: 393). During the

final negotiation of the Nice Treaty, for example, the fire fighter committee sat in permanence for several days.¹¹ There is, however, no mechanism for systematic ex post control. One of the reasons is that the Nationalrat has little, albeit recently increasing, use of the binding mandates, from which the government may only deviate under very narrow circumstances, and where it did, the opinions were formulated in close cooperation between the governing parties and the government (Miklin 2015: 395). As a result, stringent ex post follow-up procedures have not been developed so far.

In Croatia, the prime minister has a rather extensive obligation to report to parliament on European Councils (Butkovic 2015: 166): Before each meeting, the government mainly delivers relevant information to the EAC in writing, but, upon invitation by the President of Parliament, the prime minister will present the Croatian position in the plenary. After each European Council, the prime minister has to report to parliament within a fortnight, followed by a plenary debate on the report. In addition, at the beginning of each year, the prime minister provides a summary report over European Council decisions and developments of the previous year, again followed by a plenary debate. However, Butkovic assesses the watchdog role of the parliament to be less developed: 'reporting to parliament on the meetings of the Council and the European Council essentially takes the form of information sharing, which makes the position of the government stronger' (Butkovic 2015: 468)

Some parliaments, in turn, are hardly involved in the scrutiny of European Councils at all. In Bulgaria, the national Assembly is not involved in the preparations of European Councils, indeed 'it is often not even informed about the position of the government before the meetings (Kanev 2015: 451). There is also no regular ex post control, as the parliamentary rules of procedure only provide for the possibility, but do not oblige the prime minister to report back to the Assembly. Motions to schedule such a hearing by the opposition parties have been consistently voted down by the governing majority (Kanev 2015: 457). As a result, Kanev argues (Ibid.), parliamentary scrutiny is often targeted at the EU institutions and 'seen as supplementing governmental activity by parliamentary means', which results in resolutions mainly supporting the government position and a lack of debate on important political EU decisions.

In Greece, the parliament has no formal authority to pass binding resolutions the government must follow in either in European Councils or Summits. According to Sotiropoulos (2015: 339), MPs can and do ask written questions about the government's position for European Council meetings, but 'essentially, the government has a free hand'. That said, the outbreak of the European crisis and the ensuing negotiations over EU financial aid

¹⁰ Hegeland, for example, reports that the Swedish prime minister, despite supporting the statement on the January 2012 European Council himself, could not give formal support to the statement 'for parliamentary reasons' (Hegeland 2015: 437).

¹¹ See: <http://derstandard.at/416157/Ein-Ergebnis-unter-Schmerzen>

have clearly led to a greater politicisation. Especially the successive bailout packages were debated ex post in plenary hearings.

The Parliament of Cyprus, finally, is in the weakest position of all. Due to the presidential system, and the ensuing explicit separation of powers in the Constitution of the Republic of Cyprus, parliament has no formal

means of influence or ex post control regarding European Council meetings (Emilianides et al, 2015). Even during the most turbulent time of the Eurozone crisis, the parliament did not once debate European Council or Summit meetings ex ante, either in the plenary or at the committee level, but the EAC did debate results ex post on a number of occasions (Wessels et al 2013: 38ff.).

Table 3: Plenary and Committee Debates on European Councils and Summits

		Ex Ante		
Ex post	Limited involvement	Committee	Plenary	Both
Limited involvement	Bulgaria, Luxembourg, Malta, Romania	Austria, Czech Republic, Estonia, Italy, Latvia, Poland, Slovakia	Netherlands	
Committee	Cyprus	Belgium Denmark, Finland, Lithuania, Slovenia	Croatia, France, Portugal	Germany
Plenary	Hungary, Spain, UK	Sweden	Ireland	
Both	Greece*			

Source: Adapted and updated from Wessels et al 2013: 41 using the contributions in Heffler et al. 2015.

*during height of Eurozone crisis, generally little involvement.

As indicated above, parliaments also vary with regard to the involvement of the prime minister in ex ante or ex post hearings on the European Councils, an important question given that it is the head of government (or state, where applicable) rather than ministers, who will conduct the negotiations. According to the report by Wessels et al. (2013: 56f.):

“The Prime Minister “orally presents the government position to the EAC before a European Council meeting” in Denmark, “[t]he commitment of the Taoiseach to these [ex ante and ex post] briefings is notable” in Ireland, and the Dutch report takes note of the high personal involvement if the prime minister who is “present

in all debates preparing the European Council”. The German and Italian reports point to particular cases where the prime minister’s involvement has played an important role: Before the European Affairs Committee in March 2011, the German chancellor stayed discreet about informal meetings of the Eurogroup that “would not fall under the government’s obligation to inform the Bundestag. This later led to a judgement of the Federal Constitutional Court that sanctioned this view. Interventions of the Italian prime minister are linked to the importance of the summit: “In cases when the European Council and Euro summits are deemed to be particularly important, the Prime Minister himself intervenes.”

Table 4: Regular Ex Ante and Ex Post Involvement of the PM

	Ex ante +	Ex ante -
Ex post +	Belgium, Netherlands, Ireland, UK, Denmark, Slovenia, Sweden	Malta, Hungary, Spain
Ex post -	Slovakia, Germany, Austria ¹²	the remaining 14 member states

Source: Wessels et al. 2013: 45

12 Even if there is no formal statement, in Austria the head of government usually participates in meetings of the European Affairs Committee.

3.5 The mode of public forum: communicating EU affairs

Indeed, it has now been argued for some time the contribution of national parliaments to the democratic legitimacy of the EU cannot be measured solely by parliamentary influence and control. Accordingly, the importance of parliamentary communication and publicity in EU affairs, i.e. the mode of public forum is emphasized (eg Auel 2007, Auel and Raunio 2014, Rozenberg and Hefftlar 2015).

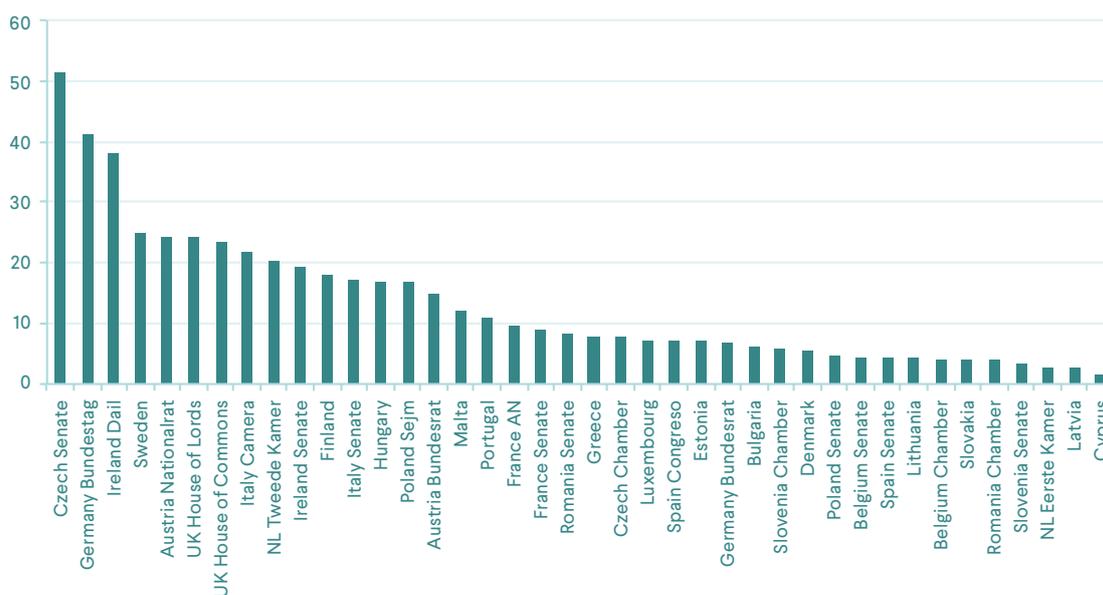
This is also not a purely academic issue. National parliaments have also been more concerned with their communication role in EU affairs, as the COSAC meeting in Bratislava (2016) and Tallinn (2017) show (see also the corresponding COSAC reports 2016b and 2017b), and studies indicate that they have made, in some cases remarkably strong, efforts to communicate EU policies (Rauh, 2015, Rauh and De Wilde 2017, Senninger, 2017, Wendler, 2016, Wonka, 2016). Above all, the euro debt

crisis has sharpened parliamentary awareness of public relations, as evidenced by a significant increase in plenary debates (Auel and Höing 2015). Finally, a recent report by the EP’s Committee on Constitutional Affairs suggested, inter alia, the introduction of a ‘European Week’ taking place simultaneously in all national parliaments, during which members of MPs could debate European affairs with Commissioners and Members of the European Parliament (MEPs) (European Parliament 2018: 5). A resolution to that effect was endorsed by the EP on 18 April 2018.

3.5.1 Plenary debates

Unfortunately, there are few studies that provide empirical data for all parliaments on the number of plenary EU activities such as debates or oral questions in EU affairs. Data from the OPAL study shows again that parliaments differ markedly in how they engage in plenary debates (figure 4):

Figure 4: Number of Debates annual average 2010 to 2012

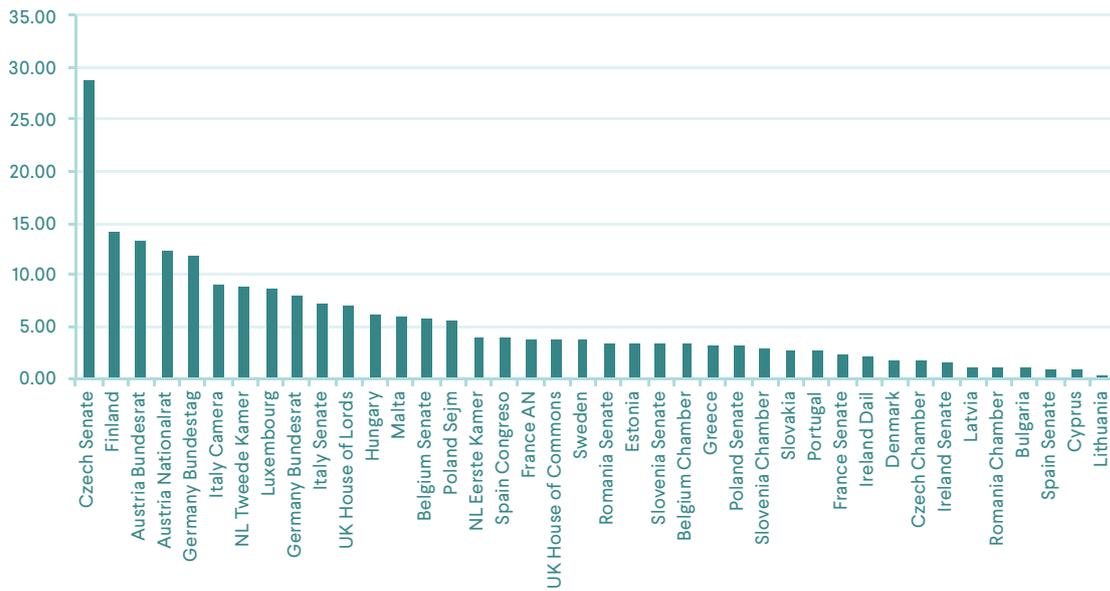


Source: Based on data from the OPAL project, Auel et al. 2015a.

The most active public forums were clearly the Czech Senate, the German Bundestag and the Irish Dail. The sheer number of debates, however, obscures the differences between chambers in terms of debate organisation and parliamentary traditions, especially whether they are more ‘debating’ or ‘working legislatures’. The number of hours spent on overall plenary debates per year ranges from around three hundred hours in the Austrian Nationalrat to over one thousand hours in the

Dutch Tweede Kamer or the UK House of Commons. The picture therefore rather changes once we look at the *share* of plenary time dedicated to EU issues (figure 5). The Czech Senate is still clearly in the lead, now followed by the Finnish Eduskunta, the two Houses of the Austrian Parliament and the German Bundestag. The Irish Dail or the Swedish Parliament, in turn, now range below the average.

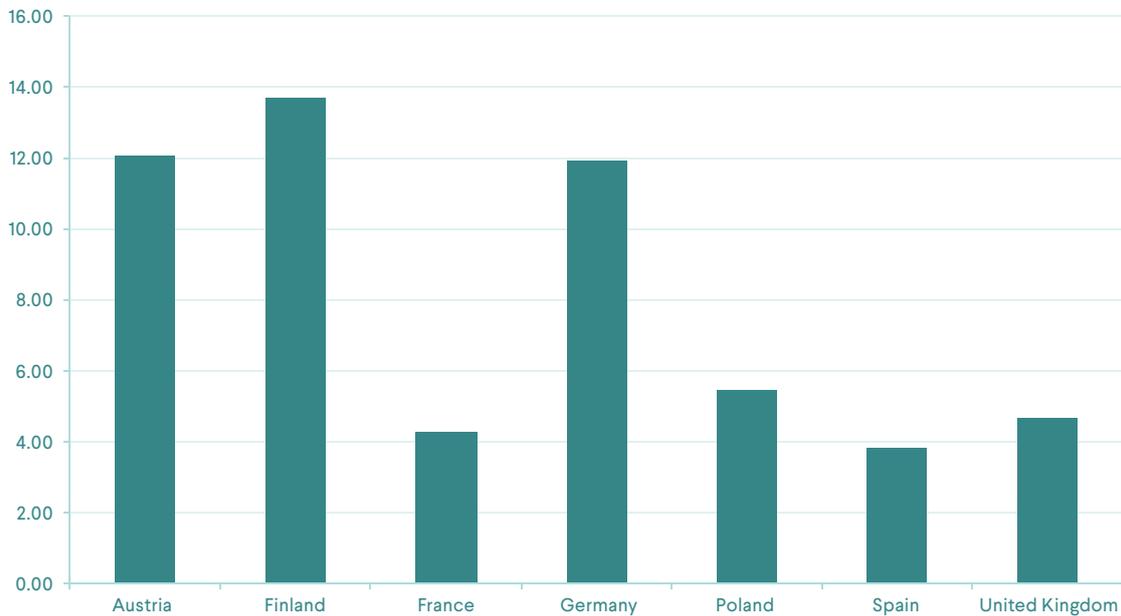
Figure 5: Per Cent of Plenary Time (annual averages 2010 to 2012)



Source: based on data from the OPAL project, Auel et al. 2015a.

The data is, of course, somewhat outdated, but so far an update only exists for seven selected member states during the period 2010 to 2013 by Auel et al. (2016), which confirms the results (figure 6).

Figure 6: Share of Debating Time dedicated to EU Issues 2010 – 2013 (in per cent)



Source: based on data from the PACE Project, see Auel et al. 2016; <https://www.ihs.ac.at/pace/index.html>.

Interestingly, this variation cannot simply be explained with the degree of delegation of EU matters to committees. Among the active debaters in figure X above, resolutions on EU issues have to be voted on in the plenary only in Germany, while this responsibility is delegated to

the EAC in Austria and Finland. Among the less active debaters, both in the Polish Sejm and the UK House of Commons, a plenary vote is necessary for parliamentary resolutions, but in the latter such votes usually take place without a debate. The same holds true for

the ability of parliament to decide its own agenda – or at least to bring EU issues on the agenda of the plenary. In the Bundestag, the parliamentary party groups decide the plenary agenda in the Council of Elders, and all groups (but no individual MPs) have the opportunity to put their issues on the agenda. In the Assemblée Nationale, by contrast, the fact that the motion for a resolution can be placed on the plenary agenda upon the request of a parliamentary party group chairman, a committee chairman, or the Government has, in turn, not led to greater debating activity. Of the 97 adopted resolutions during the XIV parliament (2012 – 2017), only 11 were debated in the plenary¹³. Yet a number of other measures have been implemented to strengthen the involvement of the plenary in EU affairs. According to Article 48 of the Rules of Procedure of the Assemblée Nationale, one week out of four is now dedicated to the control of government action and the evaluation of public policies. During that period, one session prioritises EU related questions, which led to 11 EU debates in the XIV parliament (2012-2017). One parliament where the rules do seem to matter is the House of Commons. Here, the European Scrutiny committee consistently refers more items to a debate by the Whole House than the government accepts.

In Finland, plenary debates had been rather rare before the outbreak of the Eurozone crisis, which Raunio (2016) explains both with the consensual nature of EU affairs as well as the fact that the plenary was not actually able to take decision outside of treaty changes. This changed, when the impact of the Eurozone crisis not only led to a stronger politicisation of EU politics in the Eduskunta, but also saw the Eurosceptic and populist party The Finns shoot from a relative small parliamentary party group to over 19 per cent in the election in April. Both led to ‘a new era of more contested parliamentary engagement in EU affairs. There were more plenary debates and even EU-related interpellations, and considerably more voting instead of unanimous committee decisions’ (Raunio 2016: 243).

Finally, we would like to draw attention to the inclusion of MEPs in plenary debates. While MEPs can often attend, and even speak albeit not vote, in EAC meetings (for an overview see Valentin 2016: 1), speaking rights in plenary debates are much rarer. In only 9 out of the 41 parliamentary chambers do MEPs have the right to participate fully in plenary debates, namely in both Houses of the Austrian Parliament, the German Bundesrat, the Hungarian Országgyűlés, the Italian Camera dei Deputati, the Lithuanian Seimas, the Dutch Tweede Kamer, and in both Houses of the Romanian Parliament. Best practice examples are the Austrian Nationalrat and the Dutch Tweede Kamer, the only

parliaments that have actually made regular use of the opportunity: In Austria, MEPs can speak during the so-called ‘Aktuelle Europastunden’ (topical EU hours) mentioned above. The parliamentary party group responsible by rotation for choosing the topic of the debate can invite one MEP to speak. Dutch MEPs, in turn, have the opportunity to speak in the Tweede Kamer once a year, on the occasion of the debate on the Staat van de Europese Unie (State of the European Union). The experiences with the debates are so far, according to Valentin (2016), somewhat sobering: Austrian MEPs from domestic opposition parties often tend to fall back into a dominantly national mode criticising the national government even from a European perspective. Dutch MEPs, in contrast, take on a much more European perspective in their contributions, but provide an overall more negative picture of the EU than Austrian MEPs. One reason for these differences could be the different institutional setup. In the Netherlands, the State of the European Union address by the government covers EU issues from a more general perspective and thus provides MEPs with fewer opportunities to criticise specific governmental EU policies. In Austria, in contrast, the debates are focused on specific EU policies (such as EU migration policy) that allow for more targeted debates, but at the same time seem to encourage opposition MEPs to focus more strongly on domestic EU policy. Valentin also explains the fact that Austrian MEPs are overall somewhat more positive in their assessment of the EU with the rather strong public Euroscepticism in Austria, which Austrian MEPs from more europhile parties may try to address. Yet Valentin does conclude that it is ‘important to give MEPs a chance to represent the European Parliament at home. This way, it might be easier for the public to retrace actions of the EU and understand points of views that might strongly differ from those of their countries. Furthermore, this format can contribute to making the EU more authentic and transparent, as MEPs do not only try to shed good light on it, but also voice criticism’ (Kreiling 2016: 6).

3.5.2 Informing the citizens: parliamentary websites

In addition to plenary activities provision of information via their websites are arguably an important means of national parliaments to communicate EU issues to their citizens as they allow to provide extensive information to a broad public – provided that the information is easy to find and presented in an accessible way. In a recent COSAC report (2016b), almost all parliaments stated that they used their websites regularly to provide information related to EU affairs to the public. And indeed, all parliaments make, albeit varying, efforts to ensure the transparency of their EU scrutiny by publishing minutes and web streams or summaries of the meetings, and by providing access to parliamentary or external

¹³ <http://www2.assemblee-nationale.fr/14/statistiques-de-l-activite-parlementaire-sous-la-xive-legislature>

(EU and government) documents to citizens through the internet. Yet it remains rather questionable whether mere access to documents, highly relevant for specialist audiences, actually reaches the general public. As laudable as these efforts are, searching for and reading often highly technical documents on EU politics is not the most exciting activity and not one many citizens will spend considerable time on. More accessible websites therefore bring together EU related parliamentary information for both general and specialised audiences.

Best practice examples include the websites of the French Assemblée Nationale (www2.assemblee-nationale.fr/15/autres-commissions/commission-des-affaires-europeennes), the Danish Folketing (<http://www.eu.dk>), the Polish Sejm (oide.sejm.gov.pl) or the Swedish Riksdag (eu.riksdagen.se). Here, the parliaments have established genuine EU websites that provide comprehensive information on and direct links to parliamentary activities and documents, including parliamentary resolutions and reports on EU affairs or EU plenary debates, links to other EU related websites such as those of the EU institutions, the current EU presidency, COSAC or IPEX¹⁴. One especially laudable feature of the website of the Assemblée Nationale is the overview over recent topics dealt with in the committee on the start page. These are introduced with a short text outlining the most important information, while also providing links to the full parliamentary dossier. The extensive websites of the Riksdag or the Folketing's EU Information Centre provide additional information on EU topics and policies, as well as, in the case of the Folketing, on specific issues on the EU agenda as well as a calendar with important meetings in parliament and EU institutions. Further links provide information on EU citizens' rights and opportunities, information on the EU legislative process or statistical information on the EU and the member states. The Folketing's EU Centre webpage even features a live chat with staff. A special feature of the EU website of Polish Sejm is the provision of lists of online newspapers dealing with EU affairs, links to research centres on EU studies and even a list of recent academic publications on national parliaments in the EU.

In other parliaments, by contrast, EU affairs are mainly treated in a similar way as other policy areas, i.e. information is usually limited to parliamentary EU issues, some basic background information on the EU as well as the position of parliament in EU affairs the provision of a few further links to EU institutions. Often, this information is dispersed across the website with no direct and comprehensive access page for EU affairs apart from the EAC page. One example is the website of the German Bundestag (bundestag.de), where the page on 'Europe in the Bundestag' provides some general information on the involvement of the Bundestag in EU affairs, in-

cluding links to the legal texts. Since the reorganisation of the website in 2016, all committee pages, including that of the EAC, are also organised according to different rubrics, including 'reports from the committee and the plenary' presenting summary information on recent issues pertaining to the committee portfolio as well as a list of committee documents. However, with the obvious exception of the EAC, the committee pages feature no specific rubric for EU affairs; documents have to be searched for using either the Committee's or the Bundestag's search engines.

Parliaments also vary with regard to more in-depth information they provide through their websites. Above, we already mentioned the parliamentary information reports of the Assemblée Nationale that are part of the regular scrutiny process and written under the responsibility of a designated rapporteur from the committee. Some other examples include the academic service (Wissenschaftlicher Dienst) of the German Bundestag, which has its own EU unit and publishes the series 'Topical EU Term' ('Aktueller Begriff EU'), info letters on Europe as well as a range of research papers on EU issues, institutions and policy-making that are public (www.bundestag.de/analysen). Similarly, the Parliamentary Research Office (Biuro Analiz Sejmowych) as well as the EU Documentation and Information Centre OIDE of the Polish Sejm regularly prepare research papers and shorter analyses that can be found on the websites. In the UK, we find a mixed system, with research papers and notes prepared by the House of Commons Library¹⁵ and special reports prepared by the EAC that are the result of inquiries usually involving oral and written evidence by government or external actors.

Finally, some parliaments are also present on facebook with their EACs (e.g. the Danish Folketing, www.facebook.com/FolketingetsEUO) or twitter (e.g. Tweede Kamer twitter.com/EuZaTweedeKamer; House of Lords, twitter.com/lordseucom; Committee on Exiting the EU in the House of Commons, twitter.com/CommonsEUexit), which not only allows for the presentation of current events, documents or videos, but also for a direct interaction with the public, and some provide websites on EU issues dedicated specifically to a young audience. Here, an example is the 'Democracy Lab' ('DemokratieWebstatt', www.demokratiewebstatt.at/thema/europa/) of the Austrian Parliament with a special section on the EU. It provides not only background information on the EU's history or institutions as well as an overview over '20 years of Austria in the EU', but also informs about young peoples' rights in the EU and offers online chats with MPs and MEPs. The Bundestag, in turn, has two websites, one for children (www.kuppelkucker.de) and one for young adults (www.mitmischen.de), but only the latter provides information on the EU.

¹⁴ InterParliamentary EU information eXchange, ipex.eu. See also below.

¹⁵ See: <https://researchbriefings.parliament.uk>

4. Implementing the Lisbon provisions into the practical political process: general trends and ‘zooming in’

4.1 Use of the Lisbon tools across member states: some general trends

Due to the fact that not all of the Lisbon Treaty provisions on national parliaments have been used yet¹⁶, we will in the following focus on the simplified Treaty revisions, the EWS and the Political Dialogue as well as inter-parliamentary cooperation. We first sketch overall trends across member states, to then be able to focus on specific examples.

4.1.1 Simplified Treaty revision procedure

The simplified Treaty revision procedure has been used on three occasions so far: to amend the Protocol on Transitional Provisions annexed to the EU (OJ 2010, C263/1), the Protocol on the concerns of the Irish people on the Treaty of Lisbon (OJ 2013, L/60) and in order to add a third paragraph to Article 136 TFEU enabling the member states of the Eurozone to establish the European Stability Mechanism (ESM). Neither of these amendments has been vetoed by a national parliament, but they have all been subject to parliamentary scrutiny and, where applicable, went through a ratification process. Note that although NP still carry out this role within their national borders, they are formally independent of their governments and directly involved in the EU treaty amendment process (Auel and Neuhold 2017).

4.1.2 The use of EWS: general observations

When it comes to the EWS, some national chambers have made very frequent use of the instrument, but participation varies across member states (Jonsson Cornell and Goldoni 2016; Rozenberg 2017, see figure 7). Based on the numbers provided by the European Commission in its annual reports, the EWS has generated overall 354 opinions during the period from 2010 to 2016. During these six years, the Swedish parliament has emerged as the ‘front-runner’ when it comes to the use of the tool (58 opinions) followed by the French Sénat (20), the

Austrian Bundesrat (19), the Dutch Tweede Kamer (19), the UK House of Commons (18) and the Luxembourg Chambre des Députés (18). Please note, however, that the Commission only counts those opinions as reasoned opinions that are submitted within the eight weeks and clearly state the breach of subsidiarity. This may be one of the reasons why the counts of opinions tend to vary depending on who reports them, especially those self reported on IPEX. At the other end, we find a number of parliaments that have so far made hardly any use of the tool (3 opinions or fewer). Among them are very strong parliaments such as the Austrian Nationalrat, the Finnish Eduskunta (3), the Latvian Saeima or the Estonia Riigikogu or the German Bundestag, but also weaker parliaments such as The French Assemblée Nationale, the Hellenic Parliament or the Belgian Sénat.

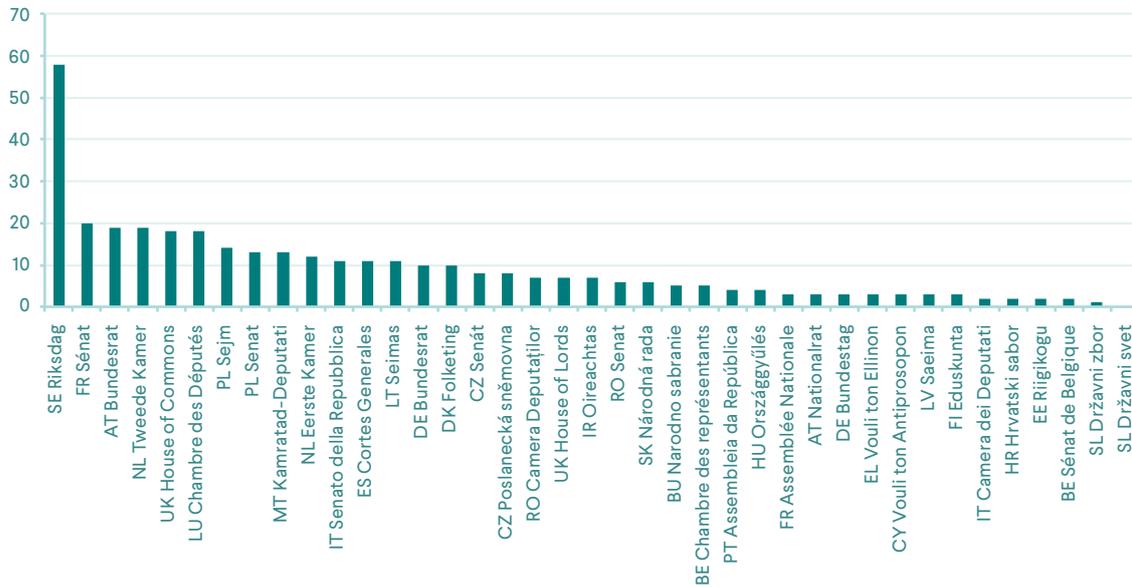
In this context of the use of the EWS, it is noteworthy that the Dutch lower house, the Tweede Kamer not only uses the EWS rather actively, but puts forward proposals to improve the yellow procedure. These proposals include the demand for more substantive responses by the Commission to the opinions submitted, increasing the eight-week deadline for yellow cards, the lowering of the threshold, and broadening of the EWS towards proportionality and legal base (Mastenbroek et.al 2004: iii, Dutch House of Representatives 2011).

As Rozenberg points out, the number of subsidiarity opinions sent annually *inter alia* depends on the number of legislative proposals that the Commission has put forward. The legislative productivity is seen to have decreased as of 2010. From 2010 to 2016, the Commission proposed an average of 127 texts annually as opposed to 271 for the previous seven years (Rozenberg 2017). This decrease in legislative proposals – which can partly be seen as a result of the ‘Better Regulation Agenda’ of the European Commission – resulted in the phenomenon that national parliaments went hand in hand with less reasoned opinions. Another factor that is identified in the academic debate and which is seen to have an impact on the use of the tool across member states is that role conceptions differ across national parliaments. Some parliaments, with the Finnish Eduskunta being the most notable example, do not regard direct control over EU policy making as the responsibility of national parliaments (Mastenbroek et.al. 2014: 3; 24). Other parliaments, such as the Swedish Riksdag, see

¹⁶ So far, no NP has brought action before the CJEU, and the Joint Parliamentary Scrutiny committee for the political monitoring of Europol and the evaluation of Eurojust's activities has only recently (October 2017) been constituted (Kreiling 2017). Also, no Convention has been convened since.

it as paramount to contribute to the EWS and as such scrutinize every legislative proposal put forward by the European Commission (Hegeland 2015).

Figure 7: Number of Reasoned Opinions (EWS) by Chamber 2010 - 2016



Source: Annual Reports of the European Commission (https://ec.europa.eu/info/annual-reports-relations-national-parliaments_en)

Despite these different ‘role conceptions’, NP have been able to act together collectively in EU affairs and have so far issued three ‘yellow cards’.¹⁷ These have been issued on the proposal for the so-called ‘Monti II’ Regulation, on the Regulation on the establishment of the European Public Prosecutor’s Office and most recently on the Posted Workers Directive¹⁸. Although ultimately unsuccessful¹⁹, the three yellow cards demonstrate that NP are not only prepared to put the tools to use, but also coordinate across national borders. This was especially the case with the card on Monti II (Christensen 2015; Cooper 2015; Neuhold and Högenauer 2016). The Danish parliament, which held the COSAC presidency at the time, used both the network of par-

liamentary liaison officers²⁰ in Brussels as well as the COSAC meeting to mobilise other parliaments and to circulate an example of a reasoned opinion for other legislatures to follow. The network of liaison officers then kept parliaments regularly informed about the developments towards the card and helped to increase the number of reasoned opinions.

National parliaments flagged the yellow card a second time in 2013. When examining the reasoned opinions put forward by the different legislatures on the establishment of a European Public Prosecutor’s Office, it becomes apparent that they differ greatly (Fromage 2016). As Rozenberg points out, some parliaments were in fact opposed to the proposal as such and ‘hid’ behind the subsidiarity principle. Other legislatures were in favour of the office but concerned by the fact that the European Commission would control this body. For yet others the proposal did not go far enough. As a result of this divergence, the Commission left the proposal unchanged (Rozenberg 2017: 29).

The yellow card on the Posted Worker directive, in turn, is an interesting case as ten out of eleven parliaments were from Eastern and Central Europe. As Kreilinger²¹

17 In the context of this study, we cannot address the question why only three yellow cards have been issued so far.

18 12 parliaments with 19 votes overall submitted a reasoned opinion on the so-called Monti II proposal (Commission 2012). On the ‘Proposal for a Council Regulation on the establishment of the European Public Prosecutor’s Office’ (COM/2013/534), the Commission received reasoned opinions from 11 parliaments representing 19 votes. 11 parliaments also submitted 22 reasoned opinions on the proposal ‘Posting of Workers Directive’ (COM/1991/230).

19 In the case of the Monti II regulation, the Commission subsequently withdrew the proposal, but stated that a breach of the subsidiarity principle was not evident in the parliamentary opinions. Rather, the proposal was withdrawn because it was ‘unlikely to gather the necessary political support within the EP and the Council’ (European Commission 2012: 1). Regarding the European Public Prosecutor’s Office, the Commission decided to maintain the proposal despite the yellow card (European Commission 2013). Finally, with regard to the most recent yellow card the Commission stated that the proposal did not constitute a breach of the subsidiarity principle (European Commission 2016).

20 A majority of national parliaments sends parliamentary officials – so-called ‘liaison officers’ – that are mainly based within the premises of the EP (see: Neuhold and Högenauer 2016).

21 See: <http://www.euractiv.com/section/social-europe-jobs/opinion/national-parliaments-3rd-yellow-card-a-preliminary-assessment/>

points out, these legislatures can be seen to form a ‘regional block’ as opposed to NP from Western Europe who were overall more in support of the proposal.

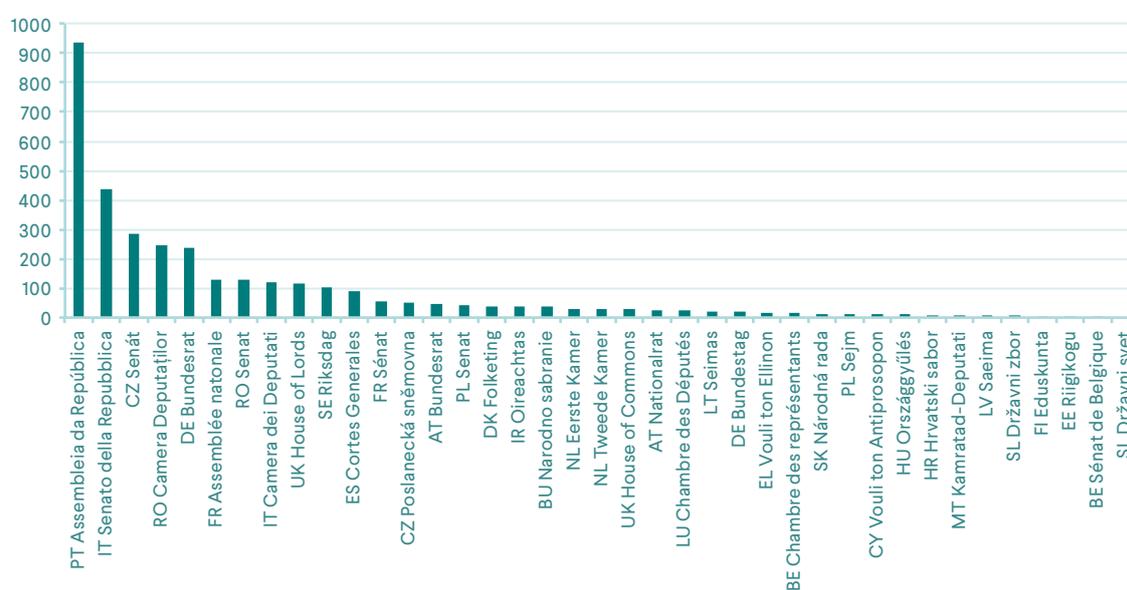
4.1.3 Use of Political Dialogue

When looking across the use of the Political Dialogue (figure 8), a differentiated picture emerges, just like with the EWS. Some parliaments such as the Portuguese Assembleia have made extensive use of the Political Dialogue. The Portuguese legislature used to send an opinion on virtually every legislative document and in most cases simply indicating their agreement with the proposal. It did so in order to formulate a parliamenta-

ry position on EU affairs independent of the national government and to acquire information separate from the executive (Jančić 2012). Here we can however see a decline of activity, ranging from 183 opinions submitted in 2011 and 226 opinions put forward in 2013, to 55 and 56 opinions sent in 2015 and 2016 respectively²². On the one hand, this can be explained by the trend, alluded to above, that the Juncker Commission put forward a decreasing number of draft proposals. On the other hand this can also be explained by the fact that the Portuguese assembly stopped to send an opinion for acknowledging the transmission legislative proposals in 2015.

²² See annual reports from European Commission on “relations between the European Commission and national parliaments” from 2010 to 2016.

Figure 8: Number of Opinions (Political Dialogue) by Chamber 2010 – 2016



Source: Annual Reports of the European Commission (https://ec.europa.eu/info/annual-reports-relations-national-parliaments_en)

Other legislatures being very active ‘users’ of the tool were upper houses such as the Italian Senate who submitted around 437 opinions during the period of 2010-2016, the Czech Senate with 286 opinions and the German Bundesrat with 236 opinions for the same period. This is in line with the observation that the EWS allows upper chambers to ‘compensate for their somewhat marginal role within the national accountability chain’ (Neuhold and Strelkov 42: 21). Two counter examples,

however, where the lower house is more active than the upper house, are France with 130 opinions by the Assemblée Nationale vs. 53 by the Sénat, or Romania, where the chamber of deputies submitted 246 opinions as opposed to the Senate with 127 opinions.

4.1.4 Inter-parliamentary cooperation: general trends

Turning to inter-parliamentary cooperation, this tool is seen as a precondition for the EWS to work, in order to exchange opinions and arguments across national boundaries. In a study, commissioned by the Dutch lower house, the main channels for inter-parliamentary cooperation were seen to be COSAC, the network of administrative liaisons in Brussels, and IPEX (Mastenbroek et al. 2014). We will briefly shed light on these different fora and mechanisms before examining Inter-Parliamentary Conferences that were established within specific policy fields.

COSAC is seen as the key formal venue for inter-parliamentary cooperation. COSAC meetings take place twice a year, and are organised and chaired by the parliament of the country holding the rotating Presidency. As such COSAC has a role in ‘show-casing’ the importance of the rotating Presidency of the EU as COSAC meetings usually take place in the capital of the Member State holding the Chair.²³ As shown above COSAC can take on a key role in amassing support for yellow cards. COSAC has been criticised, however, as MPs presently do not have a mandate (Mastenbroek et al. 2004: 27) and plenary sessions that allow for little discussion and interaction due to the dominance of prepared speeches (Rozenberg 2017). Under the Dutch Presidency (during the first half of 2016) one thus opted for more interactive formats, for example topical discussion and parallel working groups.

Note that cooperation across parliaments not only takes place at the level of directly elected MPs but also at the level of parliamentary officials. The most established form of cooperation is that of parliamentary liaisons *in Brussels*, which together have been described to form an information network. As alluded to above, a majority of national parliaments delegate officials that are for the most part based in the premises of the EP. Liaisons have been ascribed a ‘bridge-building function’ across national parliaments and are seen as a hub for information exchange. A main instrument in this quest are the so-called Monday Morning Meetings often held on a weekly basis (Neuhold and Högenauer 2016). Moreover, IPEX is noteworthy insofar as this is a platform for information exchange between national parliaments and the European Parliament. IPEX contains information such as on the progress of scrutiny in member states and any reasoned opinions. In addition, it is the only place where all the subsidiarity deadlines are calculated and published. Parliaments make different use of

IPEX which some also adding national documents, for example. In general, documents are uploaded following the internal rules for scrutiny of each national parliament²⁴, and the countries that upload most documents on IPEX are Austria, Germany, Italy, the Netherlands, Sweden, the Czech and French Sénat and the Polish Sejm. There seems to be no clear link between the issuing of reasoned opinions and uploading documents. In general, IPEX has been criticised for being not being updated and translation of documents not being available (Mastenbroek et al. 2014), but over the past years the platform has come to publish 100 per cent of translations for reasoned opinions and more than 75 per cent for political dialogue documents, either in English or French.

As mentioned earlier, based on the TEU and the Treaty on Stability, Coordination and Governance (TSCG) IPC has also flourished in institutional terms (see Kreilinger 2013a and Rozenberg 2017: 33 ff. for overview and discussion). Most notable in this context are the Inter-Parliamentary Conferences on CFSP and CSDP which, were established in 2012 and within the domain Economic and Financial Governance in 2013. The establishment of both conferences were however plagued by inter- and intra-institutional rivalries. As Kreilinger (2013b) points out: the conflicts prevalent during the establishment of the Inter-Parliamentary Conference for Economic and Financial Governance are ‘an example for the conflict lines with respect to the role of national parliaments in a political union: for conflict lines between different sub-groups of national parliaments, between the EU institutions (and between the EU level and the national level’ (Kreilinger 2013b: 10). In turn the debates on establishment of the Conferences in the domain of CFSP and CSDP are also described as a ‘reaffirmation of authority claimed by both the NP and the EP’ (Herranz-Surrallés 2014).

The meetings themselves have gained in dynamism as the example of the Conference on CFSP/CSDP shows. One the hand, issues beyond the security in the narrow sense are on the agenda, such as trade or migration policy and the discussions have moved from lengthy speeches to more dynamic question and answer sessions. Note also that this is not the only development in this domain; the EP Foreign Affairs Committee also organises inter-parliamentary meetings on specific topics in Brussels (Rozenberg 2017: 39). It is noteworthy that a Joint Parliamentary Scrutiny Group on Europol (JPSG, Kreilinger 2017) had its constitutive meeting on 9 and 10 October 2017.²⁵ Pursuant to Article 88 TFEU, the new Europol Regulation, which entered into force

23 Each delegation consists of six members from EACs from national parliaments, and six members of the European Parliament. Often, COSAC invites guest speakers such as European Commissioners or representatives of the rotating presidency. In addition to the biannual meetings, the chairpersons of EACs also meet twice a year within COSAC.

24 See: <http://www.ipex.eu/IPEXL-WEB/parliaments/neparliaments.do>

25 The European Parliament delegation consists of 16 members while each national parliament can delegate up to 4 members.

on 1 May 2017, created this joint scrutiny system enabling a “democratic control on Europol”.²⁶

4.2 Conditions for and use of the Lisbon tools in selected member states: zooming in

In this section we will focus on selected parliaments that can be seen, as shown above, ‘European players’ insofar as they either contribute actively to the EWS or to the Political Dialogue. When it comes to the EWS, the Swedish Riksdag has been flagged as the main ‘user’ of the system, followed by the French Senate and the Dutch lower and upper houses. When it comes to the Political Dialogue, Portugal has been very active, followed by the Italian Senate and the Czech Senate, the German Bundesrat and both Romanian parliamentary chambers. We will thus shed light on practices of parliamentary control in these selected parliaments in order to discern whether one can establish patterns of ‘best practice’.

This section will focus on an aspect that is highlighted as being a key pillar of parliaments playing a role within both the EWS and the Political Dialogue: a system to select documents that should be subject to parliamentary scrutiny.

4.2.1 Selection of proposals subject to parliamentary scrutiny: some (best) practices

In Sweden it is noteworthy that there is no pre-selection of documents, insofar as the Swedish Riksdag act states that the Riksdag has to examine whether draft legislation conflicts with the principle of subsidiarity. In this context, the Riksdag receives virtually all official documents from the European Commission. Parliamentary scrutiny is decentralised as the parliamentary chamber refers a draft legislative act to the committee with ‘responsibility for the matter at hand’ to be examined. Note that each parliamentary committee is made up of 17 members of the Riksdag and as such a committee is like a ‘miniature Riksdag’. Its composition thus reflects the composition of the Riksdag as a whole.²⁷ The parliamentary committees monitor EU affairs within their respective areas of responsibility.²⁸

As such, it is the committees that are obliged to examine EU proposals that fall within their realm of responsibility to ensure their compliance with the principle of

subsidiarity. The government has to provide its assessment of the principle of subsidiarity within two weeks that the committee puts forward a request. Given that the committee considers that the proposal conflicts with the principle of subsidiarity, it can communicate to the chamber (by way of a statement) that the Riksdag should send a reasoned opinion to the Presidents of the EP, the Commission and the Council. If at least 5 out of the 17 committee members so request, the committee is under obligation to submit a statement to the chamber. If this is not the case, then an extract of the minutes of the committee meeting is sent to the chamber (stating that the draft does not conflict with the subsidiarity principle). Sectoral committees are thus the pillars of subsidiarity control and the EAC plays no role, which allows for a specialization on policy issues (Hegeland 2015: 432f.).

Another parliamentary chamber that has been described as a ‘European player’ is the Dutch lower house. Also here EU affairs have been ‘mainstreamed’ by making the sectoral committees responsible for the discussion of legislative proposals and other documents. As opposed to Sweden, however, there is a systematic *prioritisation* of Commission proposals on the basis of the Commission’s annual Work Programme. The Dutch lower house thus conducts a systematic analysis of the Commission’s plans for the upcoming year since 2007. First the sectoral committees conduct scrutiny of those aspects of the Work Programme that affect them. The EAC then invites the cabinet member assigned to EU affairs to discuss the document. Subsequently, an integrated list of priorities is adopted by plenary. Since 2010 this document contains an indication on which proposals the chamber will submit a scrutiny reserve or whether it plans to carry out a subsidiarity test. In order to strengthen the link with the EU ‘executive’, the Commission, the EACs of both houses hold a joint debate with the European Commissioner for inter-institutional relations before finally deciding on their priorities (Högenauer 2015: 254f.).

Yet, another parliamentary chamber that has been rather active, especially compared to the lower house, is the upper house of the French parliament, the French Senate. The Senate has ‘actively adapted’ to the EWS as opposed to the lower house, the National Assembly. Accordingly, the scrutiny procedures of the Senate were substantially reorganized in autumn of 2011 after the appointment of a new chair. In order to be able to cope with the eight weeks deadline prevalent under the EWS, the chairman set up a working group on subsidiarity composed of one representative per party group. This working group meets before EAC meetings and selects the drafts that need to be scrutinized further. A rapporteur then presents a draft reasoned opinion to the EAC. The group has set the ‘mandate’ for itself to only put forward comments on subsidiarity issues

²⁶ See: <http://www.europarl.europa.eu/cmsdata/127261/libe-newsletter-september2017.pdf>

²⁷ The largest party in the Riksdag also has the most members in each committee.

²⁸ See: <http://www.riksdagen.se/en/committees/the-parliamentary-committees-at-work/>.

and not on content of legislative drafts (Thomas and Tacea 2015: 182f.).

Both the Italian and the Czech upper house are also active users of the 'Lisbon tools', especially the Political Dialogue. In Italy the Senate has developed (after 2006) a procedure for the EWS that is very different from the Italian lower house. Whereas in the Chamber of Deputies, the EAC is the sole committee responsible, in the President of the Senate forwards EU draft legislation to both the sectoral committee responsible and the EAC. The committees examine the proposal and approve a resolution. The EAC can substitute for the committee, given that there are problems with the eight week deadline. In the Political Dialogue it is the EAC that plays a crucial role (Cavatorto 2015: 220-222).

In the Czech Republic, on the other hand, the EAC is attributed a key role in parliamentary scrutiny, both in the upper and lower house. It is interesting however that in the Czech Republic a special body has been set up: the Parliamentary Institute which has a dedicated EU Affairs department. This body plays a crucial role in the selection of which documents are to be submitted to subsidiarity checks, especially in the lower house. Parliamentary staff play an important role also in the EAC of the Senate when it comes to selection of items that are to be submitted to parliamentary control. While under the Political Dialogue the Senate has 'consciously tried to develop a high profile on EU affairs' this tool has not been seen to deliver any tangible new leverage in the relationship with the EU institutions (Hrabalek and Strelkov 2015: 496).

Another parliament where the upper house has been a more active 'European player' than the Lower House, is the German legislature. The German Bundesrat has been active in the Political Dialogue from the start and consistently increased its output. This higher output might be driven by the fact that the Bundesrat has additional administrative resources; all 16 administrations of the German Länder scrutinize EU proposals (Höing 2015: 201).

As mentioned above, the Portuguese parliament stands out especially, when it comes to the use of the Political Dialogue. This is based on the fact that Portuguese parliament tried to 'maximize the utilization of the Lisbon Treaty prerogatives of national parliaments' (Jančić 2015: 376), and accordingly the EAC adopted a new mechanism for the scrutiny of EU proposals in January 2010. The reform foresaw three types of scrutiny procedure that all relate to Commission proposals: enhanced, normal and urgent. Additionally a procedure for enforcing the subsidiarity principle was also laid down. *Enhanced scrutiny* builds on the positive experiences with the Political Dialogue and concentrates on the Commission's Legislative and Work Programme. The

pre-selection of documents under enhanced scrutiny begins with the assessing the criterion of whether the EU initiative is relevant for Portugal. Each parliamentary committee then notifies the EAC whether it intends to submit a Commission proposal to enhanced scrutiny. The EAC then selects 6 proposals maximum per year that should be submitted to enhanced scrutiny. The EAC then, again together with the sectoral committee responsible, drafts a 'tailor-made' scrutiny programme for each selected proposal in a way that one can comply with the eight week deadline. *Normal scrutiny* implies a decentralization or mainstreaming of EU affairs insofar as draft proposals from the Commission are forwarded by the EAC to sectoral committees for information or for the adoption of a report. Given that it does the latter, the sectoral committee has to do so within six weeks of receiving the Portuguese version of the draft. It is then sent back to the EAC, which drafts its own opinion within the remaining two weeks. *Urgent scrutiny* applies if the EAC finds that a certain EU proposal has raised concerns in national parliaments. Normally the EAC would be alerted to this either by way of IPEX or its liaison officer in Brussels. In this case the EAC prepares its opinion and request and if it so wishes, the opinion of the relevant sectoral committee (Jančić, 2015: 376f.). When it comes to subsidiarity control, as of 2013, sectoral committees conduct that assessment (before it was the plenary) but the substantial verdict of whether subsidiarity was violated remains the prerogative of the EAC. Moreover public hearings are held on green and white papers and as such strengthen the ex ante scrutiny of parliament (Jančić, 2015: 376f.). Overall, in Portugal one can thus observe an interesting inter-play between the EAC and sectoral committees; a certain degree of decentralization to committees but the EAC still assuming an important role.

The Romanian parliament is an example where both chambers try to control the government in EU affairs, but this is only the case since 2011. The period of 2007-2011 is seen as being characterized by a 'total absence of control' of governmental policies in EU issues due to the lack of expertise of MPs and because of deficient parliamentary procedures (Tacea 2015, 615). As the result of a new governmental coalition, the political will to control the executive increased and each chamber set up an EAC to undertake similar tasks. From then on both chambers have tried to play an active role in the EWS and the Political Dialogue. As the example of the lower house shows, the EAC plays a key role in the EWS as it adopts the final decision, which is then voted on and debated by plenary or directly sent to the government and the EU institutions. Standing committees are however involved and play an advisory role and can submit a draft of a reasoned opinion to the EAC (Tacea 2015: 623).

5. (Other) factors that enable national parliaments to play a role in EU affairs

This section sheds light on certain *factors* that contribute to national parliaments playing a more active role in EU affairs generally – and thus regardless of the specific arena. As outlined in the previous sections, parliaments mainly suffer from one overarching problem, namely limited resources. We have already discussed some more specific means parliaments employ to overcome the problem. Here, we focus on general factors that impact parliamentary ability to fulfil their roles in EU affairs effectively, namely access to information, the support through parliamentary staff as well as the designation of rapporteurs.

5.1 Access to information

Effective scrutiny depends to a large degree on the amount, but especially on the *quality* of information parliaments receive. Since the entry into force of the Lisbon Treaty, national parliaments receive all *public* documents directly from the European institutions, including the Commission's green and white papers and communications. A large number of parliaments now also receive so-called Explanatory Memorandums on EU legislative proposals that outline the proposal as well as the governments (initial) views on the content including subsidiarity issues, and most parliaments also receive the information within the eight week deadline, either automatically or upon request (table 5).

There are, however, differences with regard to the provision of *non-public* documents, such as *limité*, confidential or secret documents, COREPER and working group papers or internal briefings (table 6). Especially information on the *actual* conduct of the negotiations in the Council, and especially during the earlier stages in

COREPER or the Council working groups, is still often difficult for parliaments to come by. Counterexamples are the Italian Camera dei Deputi, where the Italian Permanent Representative has to provide the parliamentary liaison with all information pertaining to EU negotiations, including trilogues, minutes of COREPER and Council working groups, and detailed documents on the Italian position (for this and the following: Mastebroek et al. 2014: 14ff.). The German Bundestag also has similarly extensive access to documents, for example on informal ministerial meetings, COREPER, and Council working groups. In addition, the Bundestag also receives the 'coordinated instructions for the German representative' on COREPER and reports from the Permanent Representation.²⁹ Most information and documents are made available through the electronic information system EuDoX, and all documents are accompanied by government opinions (*doppeltes Ueberweisungsverfahren*). Other parliaments mostly receive information through reports from the government on Council negotiations, such as in Finland and Sweden; or through 'pre-' and 'post-briefings' on Council meetings, such as in Belgium. While the Polish government must submit to the Sejm written information 'on the progress of EU law-making procedures and information on the Republic of Poland's positions taken in the course of those procedures', it must also inform the Sejm of 'Poland's participation in the activities of the EU at least twice a year.'³⁰ For an, albeit somewhat out-dated, overview see the information collected by COSAC (Table 6 below).

29 See the Act on Cooperation between the Federal Government and the German Bundestag in matters concerning the European Union, 4 July 2013. Available online: www.bundestag.de/htdocs_e/bundestag/committees/a21/legalbasis/euzbbg/248870.

30 As established in the 'Cooperation Act', 13 February 2011. See: <http://oide.sejm.gov.pl/oide/en/#2.1>

Table 5: Submission of Government Reports or Explanatory Memorandums within 8 week deadline

Parliament/Chamber	Always	Upon Request	Sometimes	Rarely	Never
Austrian Nationalrat and Bundesrat		X			
Belgian Chambre des représentants			X		
Belgian Sénat					X
Croatian Hrvatski sabor		X			
Cyprus Vouli ton Antiprosopon	X				
Czech Poslanecká sněmovna			X		
Czech Senát	X				
Danish Folketing	X				
Dutch Tweede Kamer	X				
Dutch Eerste Kamer	X				
Estonian Riigikogu	X				
Finnish Eduskunta		X			
French Assemblée nationale		X			
French Sénat				X	
German Bundestag	X				
German Bundesrat	X				
Greek Vouli ton Ellinon		X			
Hungarian Országgyűlés		X			
Irish Houses of the Oireachtas	X				
Italian Camera dei deputati		X			
Italian Senato della Repubblica	X				
Latvian Saeima			X		
Lithuanian Seimas			X		
Luxembourg Chambre des Députés		X			
Maltese Kamra tad-Deputati			X		
Polish Sejm	X				
Polish Senat	X				
Portuguese Assembleia da República		X			
Romanian Camera Deputaţilor	X				
Romanian Senat		X			
Slovak Národná rada	X				
Slovenian National Assembly		X			
Spanish Cortes Generales	X				
Swedish Riksdag		X			
UK House of Commons	X				
UK House of Lords	X				

Source: COSAC 2017a, data based on individual questionnaires.

Table 6: Access to Documents (by Parliament/Chamber)

Chamber	Public	Limité	EU Restricted	EU Confidential	EU Secret	EU Top secret	COREPER	Council WG	Briefings
AU Nationalrat + Bundesrat***	Both	Both	Govt.	Govt.	Govt.	Govt.	Both	Both	
BE Chambre des représentants	Govt.	Govt.	Govt.						
BE Sénat	Govt.						Govt.		
BG Narodno Sabranie***	Both	Govt.					Govt.	Govt.	
CY Vouli ton Antiprosopon**	Govt.	Govt.							
CZ Poslanecká sněmovna***	Both	Both	Govt.				Both	Both	Both
CZ Senát***	Both	Both	Govt.				Both	Both	Database
DE Bundestag*	Both	Both	Govt.	Both			Govt.	Database	Database
DE Bundesrat*	Both	Both	Govt.				Govt.	Both	Both
DK Folketing***	Govt.	Govt.	Govt.				Govt.		
EE Riigikogu***	Both	Both					Database	Database	Govt.
EL Vouli ton Ellinon**	Govt.	Govt.					Govt.		
ES Cortes Generales***	Govt.	Govt.	Govt.				Govt.	Govt.	Govt.
FI Eduskunta***	Govt.	Govt.	Govt.	Govt.			Govt.	Govt.	
FR Assemblée nationale *	Both	Both	Both	Govt.			Both	Both	Govt.
FR Sénat*	Both	Both	Both	Both			Both	Both	Both
HU Országgyűlés***	Govt.	Govt.					Govt.	Govt.	
IE Houses of the Oireachtas	Govt.								Govt.
IT Camera dei Deputati***	Both	Both					Both	Both	
IT Senato della Repubblica***	Both	Both		Both			Both	Both	
LT Seimas*	Both	Both	Both	Both			Database	Database	Database
LU Chambre des Députés***	Govt.								
LV Saeima***	Database	Database					Database	Database	Database
MT Kamra tad-Deputati*	Govt.								
NL Tweede Kamer***	Govt.								
NL Eerste Kamer***	Govt.								
PL Sejm***									
PL Senat***									
PT Assembleia da República***	Govt.	Govt.					Govt.	Govt.	
RO Camera Deputaților**	Both							Govt.	Govt.
RO Senatul***	Govt.						Govt.		
SE Riksdag***	Govt.	Govt.	Govt.	Govt.			Govt.	Govt.	
SK Národná rada***	Govt.	Govt.	Govt.	Govt.			Govt.	Govt.	Govt.
SL Državni zbor*	Both	Govt.	Govt.						
SL Državni svet***	Govt.						Govt.		
UK House of Commons***	Govt.	Govt.							
UK House of Lords *	Both	Govt.							Govt.

Source: COSAC 2012a; Govt.: documents sent to Parliaments/Chambers by the Government; Database: access to documents through a Government database; Both: documents sent by the Government and accessed through a Government database. * documents sent automatically by the Government;

** documents have to be requested by the Parliament/Chamber; *** some documents are sent and others have to be requested.

5.2 Selection/Prioritisation of EU documents and ‘making MPs responsible’ for EU affairs

5.2.1 Selection and prioritisation of EU documents/dossiers

Given that most parliaments have long complained rather about suffering from an information overflow than from too little information in EU affairs (Auel and Benz 2005; Bergmann 2000: 417), it depends to a large extent on the capacities of parliamentary committees to deal with and process the information they receive from both the EU and their government. This is also related to the general approach to scrutiny, i.e. whether parliaments decide to focus on the in-depth scrutiny of selected EU dossiers or to emphasise a more encompassing approach. The latter has the advantage that parliaments is comprehensively informed on all EU decisions, therefore also less likely to overlook important developments and can, in the ideal scenario, keep the government ‘constantly on its toes’. The disadvantages are, however, also clear: a very broad approach is extremely time consuming, scrutiny may remain more superficial, and given the large number of less important technical documents, is not always worth the effort. In other words, there may be a trade-off between the quantity and quality of parliamentary scrutiny.

Parliaments mostly rely on their administrative staff to assist them (see below 5.4), but have also developed other means to select and prioritise EU documents for scrutiny – either continuously or through ex ante selection. A long-standing example for the former, is the European Scrutiny Committee (ESC) of the House of Commons. The main task of the ESC is to examine all EU documents on an on-going basis and to filter out those, which it considers legally and/or politically important. Selected documents are referred for public debate to an, ad hoc convened, European Union Committee or, exceptionally, to the Committee of the Whole House. An example for the latter is the prioritisation of selected EU issues or legislative dossiers on the basis of the scrutiny of the Commission Work Program (CWP). The advantage is not only that parliamentary scrutiny can be targeted towards the most important or sensitive dossiers, but also that parliaments can prepare for the publication of the Commission proposal and thus obtain necessary information ahead of time, for example by holding expert hearings or by alerting the specialised standing committees as well as their government to need for more detailed information. This practice was originally developed by the Dutch Tweede Kamer in 2007 (see Högenauer 2015: 254). Here, the EAC discusses the work program together with the cabinet member assigned to EU affairs, while the standing committees additionally scrutinize the sections pertaining to their portfolio. The Tweede Kamer also organises, together

with the Upper House, a debate on the CWP with the European Commissioner for inter-institutional relations. On this basis, a list of priority issues is drawn up that is adopted in the plenary and contains indications on which documents the Parliament wishes to place a scrutiny reserve on or to submit to a subsidiarity test. The result of the prioritizing procedure is a highly selective scrutiny: out of several hundred initiatives contained in a Commission proposal, the Tweede Kamer usually only selects about a handful for scrutiny and the subsidiarity test each. The practice of using the CWP has now spread to a range of other parliaments as well, although it is unclear whether the procedures are similarly elaborate: According to COSAC report (2016a), 22 of the responding parliaments chambers had set their scrutiny priorities on the basis of the 2016 CWP and five intended to do so.

In Bulgaria, for example, the National Assembly also established a prioritising process very early (in 2007), in which the EAC together with the standing committees sets up its own Annual Working Programme on EU issues and draft EU acts, which allows for the discussion and formulation of ex ante positions on EU legislation it considers important before the publication of the initiative by the European Commission (Kanev 2015: 449).

In Croatia, the government is obliged to present to parliament, by mid-January of each year, a list of draft legislative acts it expects to be discussed at the EU level. The parliament uses this list, as well as the CWP and the work programmes of the respective Council Presidencies to draw its own work program for the coming year (Butkovic 2015: 465). The government must then provide the parliament access to all documents related to the parliamentary work programme though the governmental EU database as well as all additional information concerning the legislative process and its own position. The advantage is, again a very focused and targeted scrutiny. A potential disadvantage however, seems to be the limited access to the governmental EU database dependent on the insertion of an EU draft proposal into the parliamentary work program.

5.2.2 Designating MPs responsible for EU affairs

Another strategy to in the quest of enhancing parliamentary scrutiny is to, as Mastenbroek et.al. (2014) point out, attribute the responsibility for certain dossiers/issues to MPs. The Polish Sejm uses a system of *rapporteurs* who are assigned to EU legislative proposals. These rapporteurs are MPs of the EAC who have an interest in the Commission proposal under scrutiny. In the case a reasoned opinion is adopted, it is also the task of the rapporteur to draft the opinion. He or she is also responsible to attend the relevant EU meetings or inter-parliamentary meeting were the proposal is

discussed. However, the rapporteur has no mandate from the EAC and cannot represent the views of the whole Polish Sejm at such meetings, if there is no plenary agreement or already an agreement on issuing an reasoned opinion (Mastenbroek et.al. 2014).

The Belgian lower house has introduced a system of promoters': every sectoral committee has appointed such a Europromoter among its members, who has the task to follow the EU policy making processes that are relevant for the committee. The idea is that these MPs stimulate other committee members to study and scrutinize European legislative dossiers. Moreover, the Europromoter is formally responsible for drafting a reasoned opinion under the EWS, and could thus potentially stimulate the scrutiny of subsidiarity issues.

In Portugal as of 2013 an MP is appointed as rapporteur on the basis of European Council agendas and information furnished by the government and is asked to monitor these matters on behalf of parliament (Jančić, 2015: 377).

5.3 Mainstreaming: involvement of the specialised standing committees

The capacity to deal with European issues also depends on the number of committees involved in European Affairs as well as their 'jurisdictions'. In some parliaments, the EAC is the main forum for dealing with European issues, with more or less intensive cooperation with or consultation of the specialised standing committees. In other parliaments, the specialised standing committees are responsible for the scrutiny of European issues in their specific policy areas. The trade-off between the two options is quite straightforward. European Affairs Committees can develop the necessary expertise with regard to the functioning of the European political system and decision-making the specialised standing committees might lack. In addition, EACs may develop a more integrated view on European issues. On the other hand, they have to deal with all European issues that cover a range of policy areas that is almost as broad as in domestic politics.

Delegating EU scrutiny to standing committees or setting up specialist sub-committees, in turn, has the advantage that a larger number of parliamentarians are involved in EU affairs thus increasing both awareness and ownership of European affairs throughout parliament. Even more importantly, scrutiny of EU policy is informed by their specialist policy expertise. Experiences indicate, however, that as long as the involvement of the specialized committees is not mandatory, or where they lack any formal decision-making powers regarding parliamentary mandates or resolutions, they are at times slow to respond. The Danish parliament, for example,

has introduced some measure of mainstreaming - while keeping the right to issue mandates or reasoned EWS opinions strictly within the EAC - especially by involving the standing committees in the EWS and obliging them to provide their opinion on legislative proposals if the EAC asks them to. Yet the contributions by the committees vary, depending on engagement of the individual MPs, and especially the Chairmen (Christensen 2015: 278). In addition, members of the standing committees have on occasion expressed resentment in interviews over 'having to work for the EAC' and not being able to issue mandates or reasoned opinions themselves. Christensen also points out (2012) that the involvement of the standing committees is further complicated by the fact that they operate according to a different logic than the EAC. While proceedings in the EAC are marked by a broad consensus on most EU issues and a cooperative style amongst the parties, the other committees follow a much more competitive 'government versus opposition' logic.

Here, best practices combine the best of both worlds by largely delegating to the standing committees, but involving the EAC simultaneously as the lead committee or as the main mediator between the committees involved.

In the Swedish Riksdag, for example, scrutiny is decentralised, but the mandating rights rest with the EAC. The standing committees participate at an early stage in EU policy making. The government therefore provides information to the committees about work in progress at EU working group and COREPER level, and preferably before these stages. The committees can then invite cabinet or ministerial representatives to discuss the EU proposal in detail. Result of the scrutiny is either a written statement or the formation of an oral position, which is included in the committee minutes. Both provide an important basis for the negotiation mandate that is given by the EAC prior to Council negotiations.

In Finland, the government must inform the Eduskunta without delay of proposals for Council decisions and of other EU matters, usually through a letter outlining the content of a European document and the Cabinet's position on it. The speaker of the Eduskunta then forwards the matter to the Grand Committee and requests one or – in the majority of cases – more standing committee(s) to give their opinion to the Grand Committee. The designated standing committees have a *constitutional* right, but also obligation, to report to the Grand Committee (Section 96 of the Finnish Constitution), but in less salient questions at least some committees just indicate their position briefly in the minutes of the committee meeting (for example, that the committee agrees with the government position) (Raunio 2015: 410 f.). If more than one specialised committee delivers an opinion, the Grand Committee summarises and mediates. After

debating the issue, the Grand Committee formulates a parliamentary recommendation in the form of a summary from the chair and forwards it to the government. According to Raunio, the Grand Committee agrees with the opinion from the standing committees in 90 to 95 per cent of the cases (Raunio 2015: 412).

In the German Bundestag and the Tweede Kamer, the specialised committees deal with EU policies within their policy areas, while the EAC is the committee responsible for all fundamental matters of European integration, but also acts as mediator between and coordinates the standing committees. Yet at least in the Bundestag, the result is a rather lengthy procedure: The Bundestag's European Affairs Directorate drafts a first proposal on what documents to refer (prioritisation) and to which committees (lead committee and other committees in advisory capacity). The suggestion is then forwarded to the Chairman of the EAC, who drafts a formal proposal on the selection of documents for scrutiny and the responsible committees in agreement with the other committee chairs. The final decision is taken by the President of the Bundestag in agreement with the parliamentary secretaries (parlamentarische Geschäftsführer) of the parliamentary party groups. Although the process is mainly paper-based, it still takes about four weeks³¹. The selected documents then need to be put on the agenda of the responsible committees. Once the lead committee has debated the document, made a proposal for an opinion or resolution and has given the other committees involved (especially the EAC) the opportunity to comment, the draft opinion/resolution has to be put on the plenary agenda for a final decision (see §§ 93a – 93c Bundestag Standing Orders).

In the Nationalrat, in contrast, the procedures are much leaner (Auel 2016). After a first purely legal assessment by the parliamentary administration, the *political* relevance of these documents is assessed by the so-called 'group advisors' of the parliamentary party groups, who also take the final decision on the documents to be put on the EAC's agenda in a weekly meeting with the EU affairs staff (Miklin 2015). Although the Grand Committee of the Nationalrat is officially the main parliamentary body dealing with EU affairs, most of the actual EU business has been delegated to the Subcommittee on EU affairs. Thus, once the prioritising and selection process is done, no further cooperation with other committees or involvement of the plenary are necessary.

5.4 Role of administrations to support parliaments

Administrators are seen to play an important role in supporting MPs in the conduct of parliamentary scrutiny. But just as there is variation of parliamentary scrutiny across member states, the number and role of administrators varies to a great extent (Högenauer and Christiansen 2015: 125). The ratio between how many staff members support MPs differs greatly. Here the German Bundestag is supported by a parliamentary staff that is seen as the most 'resourceful' of all national parliaments (Höing 2015: 201) with 65³² staff members for 598+³³ MPs. This is in stark contrast with the Spanish parliament, where 6 administrators have to work for 616 MPs. It almost goes without saying, however, that the quality of staff does not 'just depend on numbers' (Högenauer and Christiansen 2015: 125). The Czech Upper house has 7 officials supporting 81 MPs and as mentioned above, further administrative support is provided by a Parliamentary Institute, but high turnover rates prevail and staff are seen to have little work experience (Hrabálek and Strelkov 2015: 499).

The fact that administrators are to be 'neutral' and work for all political groups is advocated in a majority of the member states (Högenauer and Neuhold 2015). The Swedish Riksdag is just one example. As pointed out on the parliamentary website the officials are non-political appointees, which implies that they assist all eight parties in the Riksdag. Furthermore, they are not permitted to favour any particular party. They retain their jobs even if there is a new political majority following an election (<http://www.riksdagen.se/en/committees/the-parliamentary-committees-at-work/>). In Germany, however, in contrast to other member states, the liaison office in Brussels has a partisan dimension. The Brussels office was seen as a tool to enhance the contacts to the German parliamentary groups in the EP. Staff members are accordingly partly selected by the parliamentary parties.

If we then look at the role attributed to administrators in supporting MPs in the parliamentary scrutiny in EU affairs, then we find that administrators play a role in the selection and prioritization of Commission proposals and recommendation of instruments to be used. The final choice of instruments and decisions is, however, taken by MPs themselves (Högenauer and Neuhold 2015).

31 See the timeline in COSAC 2010: 74.

32 Since January 2018, see: https://www.bundestag.de/dokumente/textarchiv/2013/47765815_kw47_ua_europa/214002

33 The number of MPs in the Bundestag varies due to the existence of surplus seats. Until the last election in September 2017, it had 631 MPs, and it currently has 709 members.

In Austria, interestingly, the selection is made by both administrative and political staff. Administrators working within the administration of parliament (Parlamentsdirektion) check whether a proposal might violate the subsidiarity principle but do so purely on legal grounds. The political ‘screening’ is then carried out normally by party staff working for the political groups.³⁴ The parliamentary administration also plays a role in setting the agenda of the EAC meetings by way of drawing up a list of proposals that might be problematic in the light of the subsidiarity principle. The agenda is agreed upon by the political groups consensually but they usually follow the advice provided by administrators (Miklin 2015: 396).

A similar phenomenon can be observed in Germany, where members of the parliamentary administration carry the main responsibility to prioritize EU documents together with parliamentary parties. Note that in 2013, the EU unit in the Bundestag administration was extended into a ‘full-fledged’ subdivision of the Bundestag administration (PE). A new section inside this subdivision has been created for ‘analysis, counselling and prioritization’, which is responsible to transmit the EU documents to the permanent committees. It is assisted by the liaison office of the Bundestag in Brussels. As such this sub-division is ‘the crucial actor in EU affairs within the Bundestag administration’ (Buche and Fleischer 2015: 9).

In Sweden where, as pointed out, committees play an important role, each committee has its own secretariat. This is headed by a committee secretary and encompasses between five and ten officials. The officials assist the members in drafting their proposals for decisions, where the Riksdag then takes the final decision. The officials also play a role in drafting statements on EU green and white papers and other EU documents. Again these are then debated and decided on in the Chamber.³⁵

³⁴ Each political group has at least one official working primarily on EU affairs.

³⁵ See: <http://www.riksdagen.se/en/committees/the-parliamentary-committees-at-work/>

The administration of the Dutch Lower House, the Swedish parliament and the French parliament generally try to provide committees with balanced arguments on an issue. Note that the administration of the Romanian House of Representatives provides an analysis only upon request. In the case of the Dutch Lower House, officials try to provide MPs with balanced arguments in an attempt to get politicians more actively involved in the scrutiny of EU affairs (Högenauer and Neuhold 2015).

Most parliamentary administrations however only provide summaries of documents or a list of different arguments and usually only draft parliamentary documents *after* the debates in the committees. The staff of the German Bundesrat, for example, drafts reasoned opinions based on the debates in the Bundesrat. In rare cases parliamentary administrations already provide drafts *prior* to debates in the committee, for example the European Affairs clerks of the Belgian House of Representatives, the Romanian Senate and the Polish Sejm, as well as the French parliamentary administration for reasoned opinions or the Slovak parliament upon request of the chair (Högenauer and Neuhold 2015).

The Czech Parliament, finally, is seen to have especially good access to early information through its administration (Hrabálek and Strelkov 2015: 499; Wessels et al. 2013: 33): Staff of both chambers (typically the head or deputy head of EU unit in each chamber) participate directly in the government’s EU Committee, the executive coordination mechanism. While the final position is approved at the ministerial level, they can attend, as associate members, the meetings at the working level, where the government position for the European Council is prepared and discussed intensively. In addition, the staff of both Houses have access to the internal, non-public database and thus to all Council working group data or COREPER meeting information. As a result, the Czech Parliament has broad, and especially early, access to information on all EU issues.

6. Bringing it all together: a comparative analysis

As the study shows, when it comes to the policy shaping role, we find a strong variation between parliaments and chambers. The parliaments of Denmark, Finland and Sweden, famous for their EU scrutiny provisions, are indeed among the most active ‘policy-shapers’ when it

comes to issuing mandates or resolutions on EU documents or decisions. But the Dutch Tweede Kamer, both German chambers, the Baltic parliaments as well as the Slovakian parliament and the Slovenian Národná rada are also in this groups.

Another role that national parliaments increasingly take on, however, is that of public forum, by for example debating EU affairs in plenary (see section 3.4). Parliaments/chambers that invest a (comparatively) high percentage of their plenary time to debate EU topics are for example the Austrian, the German, the Finnish, the Hungarian, the Italian, the Luxembourgish and the Maltese parliament. The same holds true for the Czech Senate, the Dutch lower house and the UK House of Lords. The legislatures of Belgium, Estonia, Greece, Poland, Slovenia and Sweden fall into a medium category. The same can be observed for the Spanish Congress, the Romanian lower house, the Dutch upper house and for the UK House of Commons. Parliaments/chambers that do not spend a high percentage of their time on EU debates are the legislatures of Bulgaria, Ireland, Latvia, Lithuania, Portugal and Cyprus. This is also the case in the Czech lower house and the Spanish Senate.

Looking at whether parliaments are active ‘European players’, the following picture emerges: under the EWS some upper houses are more active than ‘their’ lower houses, such as in Austria, the Czech Republic, France, Germany, Italy and the UK. In the Netherlands this picture is reversed insofar as the Lower house is a more active user of the EWS than the upper house. In Poland both houses are rather active but as mentioned above, the uni-cameral Riksdag is in the lead when it comes to the EWS (see: section 4.1.2). Other active parliaments include that of Malta and Luxembourg. Not very active under the EWS are the Slovenian, Latvian legislature and the German Bundestag.

As mentioned above, the Portuguese parliament is very active under the Political Dialogue. Other active chambers include the Italian Senate or German Bundesrat (which are both much more active than the lower house). This trend is reversed in the UK, where the House of Commons is more active than the House of Lords. Parliaments such as the Austrian, the Danish, the Lithuanian, the Luxembourgish and the Polish Senate fall into the medium category. Not active under the Political Dialogue are parliaments such that of Slovenia, Belgium, Hungary, Finland, Malta, Latvia, Cyprus, Malta, Estonia and Croatia.

For national parliaments to be effective ‘European players’, inter-parliamentary cooperation is seen as a precondition (see section: 4.1.4). The network of administrative liaisons in Brussels is attributed an important role in a majority of national legislatures. Only in the Austrian (both houses) and in the Danish parliament and in the Belgian Senate and the Romanian lower house, it is of ‘medium’ importance and resorted to accordingly. The same is true for Inter-Parliamentary Conferences such as COSAC, these are also attributed “high” importance and often resorted to in a majority of parliaments, except in Austria, Spain, Denmark, the German Bundesrat,

Ireland and the Polish Senate, the Slovenian Državni svet (where they play a medium role). When it comes to IPEX, yet again a rather similar picture emerges: in Austria and Denmark it is not the ‘top tool’ for information exchange. The same is true for the Netherlands, Germany, Hungary, Latvia, Lithuania, Slovenia and Poland (lower house). Otherwise this mechanism is used frequently by the other legislatures.

To what extent does the activity of national parliaments depend on their institutional strength in EU affairs, on their administrative resources and infrastructure? How national parliaments engage in EU affairs is not simply a function of their institutional capacities (see Table 9). While there is indeed a strong relationship between institutional strength and parliamentary activity within the national arena (i.e. policy shaper), other activities, by contrast, such as engagement in IPC or activities within the EWS and the Political Dialogue, i.e. the instruments prevalent in the European arena as such, cannot simply be explained by institutional prerogatives. Of the most powerful parliaments, only the German Bundesrat, the Lithuanian Seimas, the Swedish Riksdag and the Dutch Tweede Kamer are also active in the EWS or the Political Dialogue, for example, while others such as the Danish Folketing, the Finnish Eduskunta, the German Bundestag or the Slovenian Državni zbor do not make much use of these instruments.

When it comes to administrative support across parliaments we also see no clear correlation between more active parliaments in EU affairs and the ratio of administrators per MP (see section 5.4). While the Dutch Tweede Kamer, which is a rather active parliament in EU affairs, can build on a solid ratio of officials in relation to MPs, in the Portuguese parliament, which is so active under the Political Dialogue, 5 officials support 230 MPs. Other parliaments that are not ‘well staffed’ in EU affairs (when it comes to the ratio MPs/official) the Austrian parliament (both chambers), or the Hungarian and Croatian parliament, yet their level of activity differs markedly. As alluded to above, especially the German Bundestag can build on a relatively large number of officials working for MPs. Other parliaments that fall into that category include the Czech Upper House, the legislatures of Lithuania, Luxembourg and Cyprus as well as the Romanian and Polish Upper Houses – and thus again both rather active and less active parliaments.

The number of staff for support in EU affairs is also rather closely related to the number of committees involved in European Affairs as well as their ‘jurisdictions’. As we have shown (section 5.4), the choice between one main committee dealing with EU affairs or the decentralisation of EU scrutiny to a number of sectoral committees – mainstreaming – can have important trade-offs. Parliaments that are “fully main-streamed”, i.e. where parliamentary scrutiny is fully decentralised to

standing committees, including the Dutch parliament (both houses), the French legislature (both houses) both chambers of the Italian and the German parliament. Further examples include Romania, Luxembourg and Sweden. An interesting case is the UK, where the House of Commons has a ESC that mainly has a scrutiny and filtering function, and ad hoc established European Committees that debate dossiers selected by the ESC. In the Czech Republic, Poland and Malta parliamentary scrutiny is concentrated within the EAC, while in Austria most of the actual scrutiny work is delegated to the EU sub-committee of the Main Committee.

In order to be effective scrutinisers, access to documents – especially to Council working group and COREPER as well as confidential documents – is also an important feature, in particular, when it comes to parliaments being able to play their role as government “watchdog” (see section 5.1). This is the case for the parliaments of Austria, the Czech Republic, Finland, Germany, France, Sweden – and thus in parliaments that are in general rather active in EU affairs - but also holds true for the Spanish parliament (both houses). While Hungary, Estonia and Bulgaria have “medium” access to documents, the access in the UK (both houses), Belgium (both houses), Malta and Greece is limited.

Unsurprisingly, the study shows that there is no easy answer to the question of whether parliaments play an active role in EU affairs. Overall, we can find both extremely active chambers and scrutiny laggards – and a large field in between. However, the assessment depends not only on an investigation of the level of their engagement in EU affairs, but also on the prior definition of what this role should consist of. Clearly, if parliamentary influence on the government’s EU policy within the national arena is considered most important, the policy shapers perform especially well. Where, however, an assessment takes the communication function of national parliaments into account, some of the policy shapers perform far less well. Only few parliaments, such as Czech Senate, the Dutch Tweede Kamer, the Finnish Eduskunta and both Chambers of the German Parliament score well on both criteria. The picture changes again once we take IPC or activities at the European level into account. Parliaments have thus developed their own distinct patterns of getting involved in EU affairs, emphasising different roles and arenas (see also Auel et al. 2015b). Yet two arguments can be made for further strengthening parliamentary participation rights in EU affairs: First, strong institutional prerogatives may be no guarantee, but they do *enable* parliaments to fulfil their roles. Second, as the introduction of the Political Dialogue as well as the EWS have demonstrated, providing parliaments with new instruments in EU affairs can lead to reforms of parliamentary procedures and increase MPs’ motivation to become engaged across different arenas.

The study, however, also underlines that any assessment of parliamentary involvement also depends on the prior definition of what their role in the EU should consist of. If the domestic policy-influencing function (i.e. exerting influence on the government’s negotiation position) is considered most important, the policy shapers seem to perform especially well. Yet where an assessment takes the communication function of national parliaments into account, policy shapers often perform less well; few chambers score highly on both types of activity. Similarly, any assessment of the involvement of parliaments in the Political Dialogue or the EWS needs to consider whether such an engagement is indeed desirable. As has been argued in the literature (De Wilde and Raunio 2015), focussing on these, so far also fairly ineffective, new instruments can be time consuming, thus binding scarce parliamentary resources and distracting parliaments from functions that some consider far more important, such as controlling the government and communicating EU politics to the citizens. This is also problematic if much of the scrutiny of documents is being delegated to the parliamentary administration, not least because the latter may lead to a bureaucratisation rather than to a parliamentarisation or democratisation: ‘there is indeed the threat that an innovative procedure developed in order to respond to democratic legitimacy concerns, could become a purely bureaucratic routine. The “Political Dialogue” is sometimes neither political nor a dialogue’ (Rozenberg 2017: 24, see also Christiansen et al. 2014).

To conclude, parliamentary involvement ought to help overcome what Lindseth (2010) has termed the ‘democratic disconnect’ - the ‘crucial disconnect ... between [citizens’, d.A.] perception of European governance as bureaucratic and distant, on the one hand, and attachments to national institutions as the true loci of democratic and constitutional legitimacy, on the other’ (Lindseth 2010: 10). Any assessment of parliamentary involvement in EU affairs – regardless of the arena or instruments used - thus needs to take into account the degree to which national parliaments provide a link between European politics and the citizens.

Table 7: Comparing Parliamentary Activity in EU Affairs

Member State	Mandates/ Resolutions ¹	Debates ²	Ews ³	Pd ⁴	Ipc ⁵				Ipc all
					Liaison Officers in Brussels	Conferences	Meetings In EP	IPEX	
Austrian Bundesrat	C	A	A	B	1	1	1	1	C
Austrian Nationalrat	B	A	C	B	1	1	1	1	C
Belgian Chambre des représentants	C	B	B	C	2	2	1	2	A
Belgian Sénat	C	B	C	C	1	2	2	1	B
Bulgarian Narodno sabranie	B	C	B	B	2	2	1	2	A
Croatian Hrvatski sabor	-	-	C	C	2	2	1	2	A
Cyprus Vouli ton Antiprosopon	C	C	C	C	2	2	2	2	A
Czech Poslanecká sněmovna	C	C	B	B	2	2	1	2	A
Czech Senát	A	A	B	A	2	2	1	2	A
Danish Folketing	A	C	B	B	1	1	1	1	C
Dutch Eerste Kamer	C	B	A	B	2	2	1	2	A
Dutch Tweede Kamer	A	A	A	B	2	2	1	1	B
Estonian Riigikogu	A	B	C	C	2	2	1	1	B
Finnish Eduskunta	A	A	C	C	2	2	1	1	B
French Assemblée nationale	C	B	C	A	2	1	1	2	B
French Sénat	B	C	A	A	2	2	1	2	A
German Bundesrat	A	A	B	A	2	1	1	1	B
German Bundestag	A	A	C	B	2	2	1	1	B
Greek Vouli ton Ellinon	C	B	C	B	2	2	1	2	A
Hungarian Országgyűlés	B	A	B	C	2	2	2	1	A
Irish Houses of the Oireachtas	C	C	B	B	2	1	1	2	B
Italian Camera dei Deputati	B	A	C	A	2	2	2	2	A
Italian Senato della Repubblica	B	A	A	A	2	2	1	2	A
Latvian Saeima	A	C	C	C	2	2	1	1	B
Lithuanian Seimas	A	C	A	B	2	2	1	1	B
Luxembourg Chambre des Députés	B	A	A	B	2	2	1	2	A
Maltese Kamra tad-Deputati	C	A	A	C	2	2	1	2	A
Polish Sejm	B	B	A	C	2	2	1	1	B
Polish Senat	B	B	A	B	2	1	1	2	b
Portuguese Assembleia da República	C	C	B	A	2	2	1	2	A
Romanian Camera Deputaţilor	B	C	B	A	1	2	2	2	A
Romanian Senatul	B	B	B	A	2	2	2	2	A
Slovak Národná rada	A	C	B	C	2	2	1	2	A
Slovenian Državni svet	C	B	C	C	2	1	1	1	B
Slovenian Državni zbor	A	B	C	C	2	2	0	1	B
Spanish Cortes Generales	B	B	A	A	2	1	1	2	B
Spanish Senado	B	C	-	-	2	1	1	2	B
Swedish Riksdag	A	B	A	A	2	2	1	2	A
UK House of Commons	B	B	B	A	2	2	1	2	A
UK House of Lords	C	A	A	B	2	2	2	2	A

Note: A=high, B=medium, C=low activity. Sources: 1,2 based on OPAL data, see Auel et al. 2015a, 3,4 based on Annual Reports from the European Commission, online at https://ec.europa.eu/info/annual-reports-relations-national-parliaments_en, 5 based on COSAC 2017a, 6 based on COSAC 2016a, here: 0=never, 1=sometimes, 2=very often

Table 8: Institutional Prerogatives, Administrative Support and Infrastructure

Member State	Institutional strength ¹	Mainstreaming ²	Priorities based on COM ³	Access to documents ⁴	Ratio admin/ MPs ⁵	Rapporteurs ⁶
Austrian Nationalrat and Bundesrat	B	C+	0	A	C	C
Belgian Chambre des représentants	C	A	1	C	B	B
Belgian Sénat	C	A	0	C	B	C
Bulgarian Narodno sabranie	C	-	1	B	B	C
Croatian Hrvatski sabor	-	B	1	-	C	C
Cyprus Vouli ton Antiprosopon	C	A	Intends to do so	C	A	C
Czech Poslanecká sněmovna	A	B	1	A	-	C
Czech Senát	A	B	1	A	A	A
Danish Folketing	A	B	1	C	C	C
Dutch Eerste Kamer	B	A	1	C	A	C
Dutch Tweede Kamer	A	A	1	C	A	A
Estonian Riigikogu	A	C+	0	B	B	C
Finnish Eduskunta	A	A	1	A	-	C
French Assemblée nationale	B	A	1	A	B	A
French Sénat	B	B	1	A	B	A
German Bundesrat	A	A	0	A	A	B
German Bundestag	A	A	-	A	A	A
Greek Vouli ton Ellinon	C	A	1	C	B	B
Hungarian Országgyűlés	B	B	1	B	C	A/B
Irish Houses of the Oireachtas	C	A	Intends to do so	V	B	C
Italian Camera dei Deputati	B	A	Intends to do so	B	C	A
Italian Senato della Repubblica	B	A	1	B	B	A
Latvian Saeima	B	C	1	B	B	C
Lithuanian Seimas	A	B	1	A	A	C
Luxembourg Chambre des Députés	C	A	0	C	A	A
Maltese Kamra tad-Deputati	B	B	Intends to do so	C	B	C
Polish Sejm	B	C	0	B	C	A
Polish Senat	B	C	1	B	A	C
Portuguese Assembleia da República	B	B	Intends to do so	B	C	
Romanian Camera Deputaţilor	C	B	1	C	B	A
Romanian Senatul	C	A	1	C	A	A
Slovak Národná rada	B	B	1	A	B	C
Slovenian Državni svet	C	A	0	C	A	C
Slovenian Državni zbor (lower)	A	C	1	C	C	C
Spanish Congreso	C	C	0	A	C	A
Swedish Riksdag	A	A	0	A	-	C
UK House of Commons	B	C+	0	C	B	C
UK House of Lords	B	B	1	C	B	C

Sources: 1 based on OPAL Score Institutional Strength, see Auel et al. 2015a (A=strong, B=medium, C=weak); 2 based on COSAC (2017a) (A=fully mainstreamed, B=partially mainstreamed, C=not mainstreamed/C+= not mainstreamed, but EAC has subcommittee(s)); 3 based on COSAC (2016a) (1=yes, 0=no); 4 based on COSAC data, online at <http://www.cosac.eu/eu-information/> (A= extensive access to documents, B=selective access to documents, C=limited access); 5 based on COSAC 2013a (Ratio= no of MPs/no of staff, a=low ratio, B=medium ratio, C=large ratio). As COSAC notes: 'In certain cases the replies were not fully comparable so there may be some understatement and/or overstatement in certain of the replies' (2013a: 19); 6 based on COSAC (2016a) (A=for every (important) EU dossier, B=one EU rapporteur per committee or parliamentary party group, C= no rapporteurs).

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Appendix: Country Abbreviations

Belgium	BE	Lithuania	LT
Bulgaria	BG	Luxembourg	LU
Czech Republic	CZ	Hungary	HU
Denmark	DK	Malta	MT
Germany	DE	The Netherlands	NL
Estonia	EE	Austria	AT
Ireland	IR	Poland	PL
Greece	EL	Portugal	PT
Spain	ES	Romania	RO
France	FR	Slovenia	SI
Croatia	HR	Slovakia	SK
Italy	IT	Finland	FI
Republic of Cyprus	CY	Sweden	SE
Latvia	LV	United Kingdom	UK

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