



# **National Parliaments and European Integration**

*What we know and what we should know*

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Working Paper

No. 02, January 2009

ARENA Working Paper (online) | ISSN 1890- 7741

Working Papers can be downloaded from the ARENA homepage:

<http://www.arena.uio.no>

## **Abstract**

The role of national legislatures in European integration first received serious attention in the mid-1990s in connection with debates on the EU's democratic deficit. After that, both academics and politicians have entered a lively debate on how to best involve national parliaments in EU affairs. The purpose of this paper is to critically examine the state of the research on the role of national parliaments in European integration and to suggest avenues for further research. The main argument is that through focusing almost exclusively on scrutiny of European affairs, the literature has failed to acknowledge the multiple constraints that impact on legislatures. There is a demand for more theory-driven analyses of actual behaviour that extend beyond describing formal procedures and organizational choices. Future research should also pay more attention to the strategies of political parties and to the incentives of individual MPs to become involved in European affairs.

## Introduction

The role of national legislatures in the political system of the European Union (EU) first received serious political and academic attention in the mid-1990s in connection with debates on how to cure the EU's democratic deficit (Norton 1995; Raunio 1999). Academic interest in the topic drew further inspiration from the first comparative projects that showed domestic legislatures to be largely ineffective or uninterested in controlling their governments in EU matters (Laursen & Pappas eds 1995; Norton ed. 1995; Smith ed. 1996).

The first years of the new millennium have seen the completion of several research projects on national parliamentary scrutiny of EU policies (Maurer & Wessels eds 2001; Auel & Benz eds 2005; Szalay 2005; Gates 2006; Kiiver 2006; Kiiver ed. 2006; Holzhaecker & Albæk eds 2007; O'Brennan & Raunio eds 2007; Tans et al. eds 2007; Barrett ed. 2008). Thanks to this lively academic debate, we are now in a much better position to evaluate the involvement of national legislatures in European integration. While national parliaments have certainly been late adapters to integration, there is no doubt that they exercise tighter scrutiny of their governments over EU matters than before. This is not surprising. After all, European integration has taken major steps forward since the late 1980s, with the competence of the EU extending to basically all policy sectors. National parliaments have responded quite logically to this empowerment of the EU: they have all established a European Affairs Committee (EAC) for coordinating parliamentary work in European matters, specialized committees have started to play a bigger role in processing EU issues, and in general national MPs pay more attention to European affairs.

In the 1990s also the collective role of national parliaments appeared on the agenda, with both political debates and research focusing on the prospects of consolidating inter-parliamentary cooperation and on establishing a separate chamber of national MPs at the European level. Indeed, the role of national parliaments featured quite prominently on the agenda of the European Convention. And the Lisbon Treaty will be the first time that national parliaments are mentioned in the actual main text of the EU's 'constitution' – as opposed to Protocols and Declarations attached to previous Treaties. According to Article 10 (2) 'Citizens are directly represented at Union level in the European Parliament. Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national

Parliaments, or to their citizens.’<sup>1</sup> But the main novelty of the Lisbon Treaty is the ‘early warning system’, with the national legislatures assigned the right to monitor whether initiatives for EU decisions comply with the principle of subsidiarity.

This academic interest in national parliaments forms the starting point for this paper, the purpose of which is to critically reflect upon the state of the research on national legislatures and European integration and to suggest avenues for further research and to discuss the future of domestic legislatures in EU governance. The next section examines research on national scrutiny systems, with the third section in turn focusing on research on various forms of inter-parliamentary cooperation. The fourth section discusses the multiple ways in which European integration impacts on the work of national legislatures. The final section explains why we should reconsider or modify arguments about parliaments as the main victims of integration. In addition to reviewing existing literature, each section also maps out avenues for future comparative research. The main argument is that through focusing almost exclusively on scrutiny of European affairs, the literature has failed to acknowledge the multiple constraints that impact on legislatures. There is a demand for more theory-driven analyses of actual behaviour that extend beyond describing formal procedures and organizational choices. Future research should also pay more attention to the strategies of political parties and to the incentives of individual MPs to become involved in European affairs.

## **National scrutiny: institutional convergence, behavioural divergence**

While there is still considerable variation in the level of scrutiny between national parliaments, the comparative projects referred to in the introductory section testify that most national parliaments are investing more resources in European matters. Domestic legislatures have reformed their scrutiny systems, mainly through upgrading the powers and resources of the EACs and involving specialized committees more regularly in EU affairs. Inter-parliamentary networking in COSAC and other forums has facilitated the sharing of ‘best practices’, with the individual parliaments assessing the strengths and weaknesses of the scrutiny arrangements in the other

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<sup>1</sup> In addition, Article 12 lists the basic rights and functions of national parliaments by largely referring to the two Protocols annexed to the Treaty. See Consolidated versions of the Treaty on European Union and the Treaty on the functioning of the European Union, *Official Journal of the European Union* C115, 9 May 2008.

legislatures.<sup>2</sup> This learning of best practices applies particularly to those countries that joined the Union in 2004 and 2007. Indeed, early (and necessarily still inconclusive) evidence from the new member states indicates that their parliaments have on average implemented more comprehensive scrutiny mechanisms than the parliaments of the older EU countries (see particularly Szalay 2005; O'Brennan & Raunio eds. 2007).

Considering this exchange of ideas among the parliaments, it is not surprising that the same literature also points towards gradual institutional convergence among the 27 parliamentary EU scrutiny systems.<sup>3</sup> All national parliaments have an EAC, the main function of which is to coordinate parliamentary work in EU matters. To be sure, the exact roles and legal powers of these committees vary, but EACs perform broadly similar functions throughout the Union. But importantly, the status of EACs appears to vary significantly between the member states. For example, while in the three Nordic EU countries the EAC is a fairly prestigious committee, the opposite is largely the case in the Mediterranean countries (e.g., O'Brennan & Raunio eds. 2007). Further research on EACs could explore the attractiveness of these European committees, for example through surveys among MPs or by analyzing the committee careers of legislators.

There is more diversity concerning the involvement of specialized committees. The delegation of authority from the EAC to specialized committees has been necessitated by the huge workload of the EACs, but is also motivated by the need to utilize the policy expertise of the MPs. However, while in some legislatures – such as the Finnish Eduskunta, the German Bundestag, the Estonian Riigikogu, and the Slovenian Drzavni zbor – the role of the specialized committees has by now become institutionalized, in most parliaments they remain effectively sidelined or become only sporadically involved in EU matters.<sup>4</sup>

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<sup>2</sup> COSAC stands for Conference of Community and European Affairs Committees of Parliaments of the European Union. The biannual COSAC meetings bring together delegations from the EACs of the national parliaments and the European Parliament. COSAC decides normally by consensus, but following a rule change adopted in May 2003, its non-binding decisions (called 'contributions') can be passed with 3/4 of votes cast (which must constitute at least half of all votes). COSAC also has a secretariat in Brussels.

<sup>3</sup> For more detailed information on national procedures, see the biannual reports published by COSAC (<http://www.cosac.eu/en/documents/biannual/>).

<sup>4</sup> The literature indicates that specialized committees will remain sidelined unless there are mechanisms that require them to process EU matters. This could be achieved, for example, by establishing a system where the Commission's initiative or other EU document would automatically be sent both to the EAC and to the relevant specialized committee, with the latter then required to report to the EAC. Effective monitoring of the subsidiarity principle,

When we examine the role of plenary, the research points again in the direction of substantial convergence.<sup>5</sup> This similarity is explained by two factors. First, the establishment of EACs reduces the use of full plenary as the EAC coordinates parliamentary work in EU and is normally authorized to speak on behalf of the whole parliament in these issues matters (unless there are specific national laws or parliamentary rules of procedure that necessitate plenary involvement). Secondly, this strategy also serves the interests of political parties. Regardless of the data used, there is a consistent body of work showing that national parties across the EU are ideologically less cohesive on integration than in traditional socio-economic issues that dominate domestic political discourse (e.g. Hix 1999; Thomassen & Schmitt 1999; Marks & Steenbergen eds. 2004). Moreover, according to European Election Survey data, parties are considerably more supportive of integration than their voters (Mattila & Raunio 2006). Avoiding public debates on European integration is thus a logical response from vote-seeking political parties.<sup>6</sup>

The low involvement of plenaries means that the debating function of parliaments will remain marginal in European matters. In fact, the literature indicates that delegating European matters to committees correlates with stronger scrutiny of EU matters. Hence parliaments as institutions – and governing parties in particular that may want to monitor the government behind closed doors<sup>7</sup> without public criticism that might damage the

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as introduced by the Lisbon Treaty, is also relevant in this context as the specialized committees are probably more qualified than the EAC to assess whether the legislative initiative complies with the subsidiarity principle.

<sup>5</sup> Relying on the opinions of country experts, Bergman et al. (2003: 175) concluded that in no member state legislature did the plenary get actively involved in EU matters, with plenary involvement categorized as ‘weak’ in thirteen countries and as ‘moderate’ in Finland and Italy.

<sup>6</sup> Much of the previous literature has argued that plenary debates on Europe might generate more interest in integration matters and hence bring Europe closer to the citizens. However, such arguments can be challenged on three accounts. First, it is questionable whether citizens would follow coverage of debates on issues such as European integration that are probably not salient to them. Related to this is the more general observation that it is uncertain how many European citizens follow parliamentary debates even in domestically salient issues. And thirdly, in countries characterised by broad consensus among the main parties over integration, such debates would hardly be very exciting.

<sup>7</sup> As of 2008, 10 of the 27 EACs met behind closed doors (in the case of bicameral parliaments, this refers to EACs of the lower houses or to joint committees of the two chambers). In addition, most EACs that meet in public can hold sessions behind closed doors, with such restrictive practices normally used in connection with more sensitive EU matters. See Hegeland (2007) for an interesting analysis of how European matters fall somewhere between domestic and foreign policy in terms of the openness and transparency of the parliamentary decision-making procedures.

reputation of the cabinet (Auel 2007) – have an incentive to invest resources in committee-based scrutiny. And considering that the main opposition parties are on average no more coherent over EU than governing parties and/or have similar preferences on integration, they are unlikely to demand more plenary debates about Europe. Hence the only parties that probably would like to have debates about Europe are those that are more in tune with their electorate over Europe and/or internally cohesive about integration. These parties are normally either populist parties or located at the extremes of the left-right dimension (radical right or left parties), that can for example use such debates to criticize the government for not defending the national interests well enough in EU negotiations (de Wilde 2008). Given that they are often relatively small parties in their respective political systems, they may even not have enough influence over the parliamentary agenda to force such debates to be held.

Besides, were the opposition to attack the government, the prime minister might blame the opposition for undermining the success of the government (and the ‘national interest’) in EU negotiations (Benz 2004: 881; Auel & Benz 2005: 379). Indeed, the main parties in several EU countries continue to ‘depoliticize’ European integration through cross-party cooperation behind closed doors in the EAC with the aim of manufacturing consensus in national integration policy (Bergman & Damgaard eds. 2000). While the political elites may defend such consensus-building behind closed doors with the need to further national interests and to allow confidential exchange of views between the government and the parliament, this mechanism clearly also serves the interests of the mainstream parties.

This review of literature has so far emphasized similarities between the national parliaments, but there remains significant cross-national variation to be explained.

In terms of institutional adaptation, domestic change has often been incremental and path-dependent, with the implemented reforms in the older EU countries reflecting the parliamentary cultures and ‘ways of doing things’. Moreover, it appears that despite the gradual institutional convergence, the priorities or even basic goals of the scrutiny systems differ between the legislatures. For example, in the volume edited by Maurer and Wessels (2001) the authors make the distinction between parliaments that engage in more document-based, supportive or consensual processing of EU matters while

other legislatures emphasize more the mandating of Brussels-bound cabinet members.<sup>8</sup>

Considering these differences in the basic orientation of the scrutiny process, future research should be more critical about how to measure the strength of scrutiny. The ability of the EAC to mandate the ministers on behalf of the whole parliament through setting the bargaining range or even issuing explicit voting instructions has so far been used as the primary indicator of powerful scrutiny.<sup>9</sup> This results particularly from the influential Danish system, where the EAC is famous for its ability to constrain ministers through issuing voting instructions. However, this emphasis on mandating is not entirely unproblematic, and future studies should analyse the multiple strategies – e.g., use of control instruments, reporting requirements, direct contacts with the European level – legislators and parties employ to influence European affairs (see particularly Auel & Benz 2005). Moreover, it can be questioned whether comprehensive scrutiny is better than a more selective approach. For example, maybe it would be more cost-effective for a parliament to be selective in deciding which EU matters deserve detailed scrutiny, and to complement this reactive scrutiny with more proactive European work, such as producing reports on issues that are domestically salient.

These measurement concerns are directly related to the validity of the previous ‘rankings’ of the national scrutiny models. The literature on explaining cross-national variation in the level of scrutiny of EU matters suggests that the variation is primarily explained by two factors: the role of the parliament in the domestic political system, and public and party opinion on European integration. If the parliament is strong independent of integration, and if the parties and/or the public are divided or sceptical of Europe, then the government is subjected to tighter scrutiny – and vice versa. Here the main challenge is methodological. With the exception of Saalfeld (2005), previous studies have either utilized either descriptive or bivariate analysis (Bergman 1997, 2000; Raunio & Wiberg 2000), or semi-quantitative (QCA) methods

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<sup>8</sup> COSAC has also adopted this classification of the scrutiny systems: ‘Some chambers have chosen a ‘document based’ system which puts a focus on the scrutiny of EU documents, while others have developed procedures which empower their European affairs committees to give a direct mandate to their governments before ministers can endorse legislation in Council meetings. A small group of parliaments have chosen more informal channels of influence. In practice, many systems can be seen as hybrids, containing elements from both a ‘document based’ and a ‘mandating model.’ See <http://www.cosac.eu/en/info/scrutiny/scrutiny/>.

<sup>9</sup> Access to information, the powers of the EAC, and the involvement of specialized committees have been the other main indicators. See Goetz and Meyer-Sahling (2008) for a more thorough discussion on the indicators, method, and findings of this literature.

(Raunio 2005a). While these methodological choices may have seemed appropriate in the smaller N context of EU15, the broader setting of the enlarged EU makes it possible to employ more sophisticated methods. Furthermore, it may well be that the weight of the explanatory factors is different in the current EU of 27 countries than in the pre-2004 Union.

There is also a demand for research on actual behaviour within the different national institutional and party-political contexts. Most of the existing literature has emphasized institutional adaptation by domestic legislatures. To make matters worse, much of this research has consisted of little more than descriptions of the various scrutiny arrangements. Future research should thus establish a link between institutional choices and behaviour, examining whether procedural choices that work on paper also produce effective scrutiny in practice (see also Holzacker 2007: 151). Only through in-depth empirical analyses can we assess whether national parliaments really influence government behaviour.<sup>10</sup> The new post-communist EU member states are perhaps more interesting cases for such empirical work, given that their legislatures are both quite young institutions and still in the process of adjusting to the demands of the EU regime. Will the 'executive drift' that characterised the pre-accession context of membership negotiations influence parliamentary norms and behaviour in the post-accession period, or shall the legislatures become more assertive over time?

Another potential way forward would be to compare parliamentary scrutiny in two modes of EU governance, with the sample containing both supranational laws and matters falling in the domain of various forms of intergovernmental coordination. Examples of the latter mode could be coordination of national policies in the framework of Common Foreign and Security Policy (Peters et al. eds. 2008), justice and home affairs (Neuvonen 2007), the Lisbon strategy, or the Open Method of Coordination (OMC; Duina & Raunio 2007). After all, the EU and its member countries have in the new millennium increasingly relied on various forms of intergovernmental policy coordination, or 'soft law' instruments as opposed to binding supranational

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<sup>10</sup> Related to this point is the unfortunate tendency to analyse EU matters in isolation from parliamentary work in other policy areas. This makes it very difficult to measure the effectiveness or comprehensiveness of EU scrutiny vis-à-vis control of the government in either 'domestic' or 'global' matters. Indeed, research on explaining cross-national variation in the level of scrutiny in EU matters indicates that the overall strength of the legislature 'spills over' to European affairs, with stronger control of the government in domestic matters producing also tighter cabinet scrutiny in European affairs. Future research should thus be designed so as to enable scholars to compare parliamentary scrutiny in different policy areas, as that would be the only way to understand how the processing of European matters differs from the overall control of the executive branch (Holzacker 2007: 151).

legislation, for achieving their policy objectives. In fact, given the intergovernmental or informal nature of such policy coordination, there appears to be in several countries procedural ambiguity about how to process such matters in the parliament.<sup>11</sup> Research also suggests that so far such European level coordination processes have largely escaped national parliamentary scrutiny.

Finally, future research should make better use of theoretical insights from literature on political parties and coalition governance. European parliaments are partisan institutions, with political parties in control of the agendas and procedures guiding parliamentary activities. For example, Saalfeld (2005) shows that while the salience and contentiousness of EU are stronger predictors of the level of parliamentary influence, government composition also has an impact, with coalition and minority cabinets producing more binding scrutiny than majority governments. Whether a party is in opposition or in government affects also party strategies, with the meetings of the party groups enabling the MPs of the government parties to air any concerns before the issue is discussed by the EAC, while the opposition parties seem to place more faith in scrutiny in the committees (Holzhacker 2002, 2005; Auel & Benz 2005; Damgaard & Jensen 2005; Auel 2007). However, recent research on the Europeanization of national parties simultaneously casts doubts on the effectiveness of such monitoring, with evidence from six EU countries indicating that party leaderships largely escape any such scrutiny from their own MPs (Poguntke et al. eds. 2007). This implies that there is 'an additional dimension of the democratic deficit, one that is *inside* political parties' (Ladrech 2007: 953), and, as indicated above, these problems get even more severe when we compare the preferences of parties and their supporters on the EU dimension.

## **The unfulfilled promise of inter-parliamentary cooperation**

Many of the early publications from the 1990s placed considerable value in inter-parliamentary cooperation, arguing that such networking would bring added value to the work of national legislatures. Meetings of national parliamentarians would facilitate the sharing of best practices and the identification of mutual problems and through regular dialogue with the European Parliament (EP), national MPs would receive information that contributes to effective government scrutiny. As discussed in this section,

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<sup>11</sup> The processing of supranational legislation is on the whole much more transparent, particularly under the co-decision procedure where the EP is actively involved, and, overall, national parliaments find it easier to follow the processing of EU laws because such procedures are subject to clearer timetables and inter-institutional rules.

research has clearly exposed the constraints standing in the way of vertical links between the EP and national parliaments. Horizontal coordination among domestic legislatures has proven more beneficial, not least in the context of disseminating best scrutiny practices. Research also indicates that the impact of the reforms contained in the Lisbon Treaty is likely to remain modest.

The academic interest in inter-parliamentary cooperation reflected the variety of real-life activities in this field. The Assizes were held in 1990, bringing together delegations from national legislatures and the EP; joint meetings between specialized committees from national legislatures and the EP became more regular; the Maastricht (two Declarations) and Amsterdam Treaties (a Protocol) contained sections about the information rights of national parliaments and inter-parliamentary cooperation; and several leading European politicians - including José María Aznar, Tony Blair, Joschka Fischer, and Lionel Jospin - advocated the strengthening of the collective role of national legislatures. This activity culminated in the prominent role given to the role of national parliaments in the European Convention, where a separate Working Group (WG IV), entitled 'The role of national parliaments', was established for meeting the demands of the 'Laeken mandate'.<sup>12</sup>

The deliberations and outcome of the WG IV are worth highlighting here because they are congruent with the findings of research. The discussions in the Convention confirmed that the overwhelming majority of national politicians were essentially in favour of status quo: while expressing the desire to improve national scrutiny of governments in EU matters through better access to information, they displayed hardly any enthusiasm for the establishment of a collective organ of national MPs or for changing the functions of COSAC. The final report of WG IV stated that 'the mandate of COSAC should be clarified to strengthen its role as an inter-parliamentary mechanism. It could usefully act as a platform for a regular exchange of information and best practices, not only between European Affairs Committees, but also between specialized committees. It should become a

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<sup>12</sup> Declaration no. 23 of the Treaty of Nice (Treaty of Nice, *Official Journal* C 80, 10 March 2001) had listed four key questions which the next Intergovernmental Conference was to address, and one of them was "the role of national parliaments in the European architecture". The Laeken Declaration from December 2001 set more precise questions about national parliaments: "Should they be represented in a new institution, alongside the Council and the European Parliament? Should they have a role in areas of European action in which the European Parliament has no competence? Should they focus on the division of competence between Union and Member States, for example through preliminary checking of compliance with the principle of subsidiarity?" Laeken Declaration - The Future of the European Union, The Laeken European Council, 14-15 December 2001.

stronger network for exchange between parliaments'.<sup>13</sup> The Protocol on the Role of National Parliaments in the European Union included in the Treaty of Lisbon basically just confirms this status quo, explicitly stating that 'contributions from the conference shall not bind national Parliaments and shall not prejudge their positions'.<sup>14</sup>

Research on COSAC has also shown the lack of political will to change its consultative role. But while COSAC may remain a purely advisory forum, it has certainly provided a good arena for exchange of best scrutiny practices and sharing of policy expertise. Hence COSAC has brought added value to national legislatures and their EACs, with particularly the parliaments of the newer EU countries benefiting from such networking. As for the establishment of a new chamber of national MPs at the European level, both the debates in the Convention and research have shown that support for such proposals has always been very thin, with practically all member states against an institution that would undoubtedly make the EU's political system even more complicated and less transparent to the public.

The academic literature also demonstrates the limits of inter-parliamentary cooperation, and the rather low interest shown by national MPs in forging links with the EP, or in involving Members of the European Parliament (MEP) in their work (see also Larhant 2005). The best and most thorough analysis of these constraints is provided by Kiiver (2006), who argues convincingly why such inter-parliamentary networking is bound to remain of limited importance. While contacts between EP and national parliaments have become more institutionalized and regular over the years (Neunreither 2005), there is little reason to expect that such contacts would intensify in the future. The calendars of both sets of parliamentarians are quite full, and timetable problems are indeed one of the reasons why most national parliaments and their committees seldom invite MEPs to their meetings. More importantly, there seems to be a misplaced assumption in the literature that closer linkages would enable national parliaments to benefit from MEPs' policy expertise. National MPs can arguably get similar information much more easily from other sources: from national ministries or interest groups or from direct contacts with EU institutions. Especially MPs of the governing parties can always benefit from links with the executive branch, and both government and opposition parties can involve MEPs in the work of party organs. Indeed,

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<sup>13</sup> European Convention, Final report of Working Group IV on the role of national parliaments, CONV 353/02, Brussels, 22 October 2002, p. 15.

<sup>14</sup> Protocol on the Role of National Parliaments in the European Union, Consolidated versions of the Treaty on European Union and the Treaty on the functioning of the European Union, *Official Journal of the European Union* C115, 9 May 2008.

national parties throughout the Union make now (at least somewhat) more active use of their MEPs, and these intra-party links are likely to remain the main channel for contacts between national parliaments and the EP.<sup>15</sup>

The main problem with research on inter-parliamentary cooperation is its descriptive nature, with hardly any attempts at explaining either variation between the national parliaments or analysing such parliamentary networking in a broader theoretical context. Here lessons from multi-level governance (MLG) theorizing could be introduced with more empirical depth. According to the MLG framework, the EU's policy process offers actors like national and regional parliaments multiple access points to influence politics.<sup>16</sup> But the main lesson of the MLG framework is a more negative one, indicating that national parliaments tend to be excluded from the intergovernmental policy coordination and negotiations that dominate decision-making in multi-level systems of government. Several scholars have in fact argued – without really much empirical evidence – that MLG (in the EU and elsewhere) involves the sharing of policy competencies by actors at different levels, muddled lines of accountability, and the marginalization of representative bodies (e.g. Bache & Flinders eds 2004; Benz & Papadopoulos eds 2006; Benz et al. Eds 2007; DeBardeleben & Hurrelmann eds. 2007). Whether national parliaments indeed are marginalized, and how inter-parliamentary cooperation could alleviate any such tendencies, are questions that deserve empirical analysis.

There is also broad scholarly consensus that the reforms included in the Lisbon Treaty will not alter the status quo. This applies both to the right of national parliaments to receive both legislative and non-legislative documents directly from the EU's institutions<sup>17</sup>, and particularly to the much-debated

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<sup>15</sup> See Raunio (2007: 255-257) for an overview of research on links between national parties and their MEPs.

<sup>16</sup> The MLG framework could be logically applied to studies of regional legislatures. While the EU currently includes only three formally federal countries (Austria, Belgium, and Germany), the majority of EU member states have decentralized powers to the regions and local governments during the past decades. These decentralization reforms have gone hand in hand with simultaneous transfers of powers to the European level, and hence the EU impacts also significantly on the work of regional legislatures (Kiiver ed. 2006; Raunio & Wright 2006).

<sup>17</sup> National parliaments already receive most of these documents directly from the European level. On 10 May 2006 the Commission adopted a Communication to the Council named "A Citizens' agenda - delivering results for Europe" (COM(2006) 211 final), stating that it would, from 1 September 2006, transmit directly all new legislative proposals and consultation papers to national parliaments, inviting them to react -- not only regarding subsidiarity but to the proposals as such. According to figures by the Commission, it had by the end of 2007 received 167 opinions from 17 national parliaments, with the opinions dealing with 82 different Commission texts. The French Senate, the German Bundesrat, the UK House of

'early warning system' – both in its initial form in the Constitutional Treaty<sup>18</sup> and in the revised version included in the Treaty of Lisbon<sup>19</sup> (e.g., Raunio 2005b; Rittberger, 2005: 189-192; Kiiver 2006: 153-168; Cooper 2006). This mechanism was mainly introduced in response to legitimacy concerns, and it is very likely that its impact will remain modest. First of all, it ignores the fusion of the executive and legislative branches in parliamentary democracies, which makes it very unlikely that the parliament would adopt a different position than the government.<sup>20</sup> Secondly, violations of subsidiarity principle are by most accounts very rare, with neither national governments nor parliaments until now hardly ever voicing complaints about the EU institutions overstepping the limits of their formal competencies. Related to that is the improbability that the sufficient number of national parliaments would agree on the same legislative proposal violating the subsidiarity principle.<sup>21</sup> Also the constitutionalization of the Convention procedure – as stipulated by Article 48 of the Lisbon Treaty where it is called the 'ordinary revision procedure' – reduces the likelihood of the subsidiarity control mechanism being used, as national parliaments are now more effectively the 'guardians of the Treaties'. And finally, the process is an entirely voluntary one, and it is very likely that parliaments will use it with varying degrees of interest. Indeed, as is the case with overall scrutiny of the government in EU matters, it is probable that only a minority of national parliaments will adopt a comprehensive approach to this new system, subjecting most legislative initiatives to careful examination.<sup>22</sup>

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Lords and the Czech Senate were the most active chambers, producing 92 of these opinions. Overall, it appears that the Commission is nowadays much more willing to enter into a genuine dialogue with national parliaments, and appreciates their input, including views expressed during the preparatory stage of drafting legislative proposals. See Note on the cooperation and dialogue between national Parliaments and the European Commission, prepared by the COSAC Secretariat and presented to the COSAC Chairpersons meeting in Ljubljana, 18 February 2008.

<sup>18</sup> Protocol on the Application of the Principles of Subsidiarity and Proportionality, Treaty establishing a Constitution for Europe, *Official Journal of the European Union* 2004/C 310/01.

<sup>19</sup> Protocol on the Application of the Principles of Subsidiarity and Proportionality, Consolidated versions of the Treaty on European Union and the Treaty on the functioning of the European Union, *Official Journal of the European Union* C115, 9 May 2008.

<sup>20</sup> Considering that national governments are consulted by the Commission during the drafting of the initiative, it is probable that they would raise any concerns about subsidiarity already at that stage. If their protests went unheard by the Commission, then of course these governments could ask the parliaments to raise the 'yellow card'.

<sup>21</sup> If one-third of national parliaments object, the Commission must review its proposal. If a majority of national parliaments oppose a Commission proposal under the co-decision procedure, and either the Council or the EP agrees, then it will not proceed any further.

<sup>22</sup> COSAC has already conducted a series of tests on how the subsidiarity control works in practice. For more information, see [www.cosac.eu/en/info/earlywarning/](http://www.cosac.eu/en/info/earlywarning/).

To summarize, we now have a much better understanding of the benefits and prospects of inter-parliamentary networking. Inter-parliamentary cooperation has become institutionalised and does bring added value to the legislatures and their EACs, but the available evidence also indicates that the current forms and levels of such cooperation are unlikely to change in the future.<sup>23</sup> In the next section we shall examine a topic that has so far largely escaped scholarly analysis, the Europeanisation of domestic legislatures.

## Measuring the europeanisation of national legislatures

Despite the recent academic interest in the role of national legislatures in Europe, we lack empirical studies on the Europeanisation of national parliaments – that is, how much and in what ways European integration impacts on the work of national parliaments. Basically all of the existing publications have followed the same approach, with emphasis either on institutional adaptation by legislatures or on inter-parliamentary cooperation. The broadest approach was undertaken in the volume edited by Auel and Benz (2005), which contained also chapters on party strategies and the attitudes of national MPs, but even that otherwise excellent volume did not analyse the Europeanisation of domestic legislatures.

Considering this lack of research, we lack agreement on how to measure or operationalize the Europeanization of national parliaments. The existing literature has exclusively focused on law production. The inspiration for this research has been the often-repeated '80 per cent' claim made by the Commission President Jacques Delors in the late 1980s about the share of legislation that would flow from Brussels.<sup>24</sup> Research has shown this share to be much lower, even when including domestic laws that are in some way 'inspired' by the EU. For example, Töller (2008; see also König & Mäder 2008) demonstrates that while the share of EU-inspired legislation enacted by the German Bundestag has more than doubled since the mid-1980s, in the 15th election period (2002-2005) 39 % of the laws approved by the Bundestag were

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<sup>23</sup> See the [Guidelines for Interparliamentary Cooperation in the European Union](#), adopted by the Conference of Speakers of the European Union Parliaments in Lisbon on 21 June 2008, which lists the objectives and frameworks for inter-parliamentary cooperation.

<sup>24</sup> 'My impression by and large – and apologies to those whose pride in the keen interest taken by their national parliaments in European affairs might be offended – is that there is an unawareness in many national parliaments of the quiet revolution that is taken place, as a result of which 80 % at least of economic, financial and perhaps social legislation will be flowing from the Community by 1993'. *Debates of the European Parliament* 15.6.1988, pp. 156–157.

influenced by a 'European impulse'. Empirical studies on the UK, the Netherlands, Denmark, Sweden, and Finland indicate that the share of EU-related laws is between 10 and 40 per cent, depending on the operationalization of 'EU-related' legislation (Page 1998; Blom-Hansen & Christensen 2004; Bovens & Yesilkagit 2004; Wiberg 2004; Johannesson 2005).

The most likely explanation for this relatively low share of EU-related domestic laws is that most of the legislation adopted by national parliaments deals with policy sectors where the EU has no formal competence to enact its own laws. One must also be aware of the measurement problems involved in attempting to conduct comparative research on the share of 'EU-related' legislation enacted by national parliaments.<sup>25</sup> The production of laws differs between EU member states, with some parliaments approving considerably less laws than others. In some EU countries the adoption of legislation may be delegated more extensively to the government that issues decrees in the place of laws processed by parliaments. Perhaps the most significant problem is measuring the indirect or implicit influence of European integration. Apart from policy diffusion resulting from OMC and other forms of intergovernmental policy coordination, governments may import policies from other EU countries or follow EU's recommendations without explicitly acknowledging this. This applies particularly to policy sectors – most notably foreign and defence policies – where the outputs are normally not laws but other types of decisions.

Future research should thus adopt a more comprehensive approach. It is probable that the impact of Europe varies both within and between parliaments, depending on which parliamentary body we focus on and on the incentives of political parties. Obviously the selection of empirical indicators depends also on the choice of the theoretical concept. The first option is to focus on the 'top-down' dimension of Europeanisation, and to use for example the original definition by Ladrech (1994: 69), according to which Europeanization is 'an incremental process re-orienting the direction and shape of politics to the degree that [EU] political and economic dynamics become part of the organizational logic of national politics and policy-making.' In this case good indicators would be the share of EU-related national laws, the use of control instruments (confidence votes and parliamentary questions) in EU matters, and the share of committee, plenary and party group meeting time spent on European matters. These indicators could drive future comparative research, as each of them can be applied to all national parliaments in a functionally equivalent manner. They are also indicators that

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<sup>25</sup> For a review of this literature and a thoughtful discussion on the methodological problems and how to overcome them, see Töller (2007, 2008).

cover the main aspects (law-making, constituency representation, control of the government) of parliamentary work and the main forums (plenary, committees, party groups) inside European parliaments.

The second alternative would be to employ a more demanding definition of Europeanisation. For example, Radaelli (2003: 30) defines Europeanisation as 'processes of (a) construction, (b) diffusion, and (c) institutionalisation of formal and informal rules, procedures, policy paradigms, styles, "ways of doing things", and shared beliefs and norms which are first defined and consolidated in the making of EU public policy and politics and then incorporated in the logic of domestic discourse, identities, political structures, and public policies.' Using this definition, future research could examine whether engagement in the EU's policy process alters the political cultures or work patterns of domestic legislatures. European integration may also affect the role conceptions (Rozenberg 2005) or attitudes of MPs. In order to investigate the impact of Europe, future studies should use longitudinal survey or interview data that would enable the identification of any potential EU-induced changes (Wessels 2005).

### **Concluding discussion: are parliaments still the losers of integration?**

The need for further research on Europeanization brings us to our final and highly important point: are parliaments still the main 'losers' or 'victims' of integration as most of the literature claims (see Goetz & Meyer-Sahling 2008)? According to the so-called 'deparliamentarization' thesis, the development of European integration has led to the erosion of parliamentary control over the executive branch. The argument about deparliamentarization is based both on constitutional rules and on the political dynamics of the EU policy process. Constitutionally, policy-making powers previously held by the national legislatures have been transferred upwards to the European level. The increased use of qualified majority voting in the Council and the bargaining in the Council and the European Council make it difficult for national parliaments to force governments to make detailed *ex ante* commitments before taking decisions at the European level. Furthermore, it has also been argued that the real winners of European integration are bureaucrats and organized private interests at all levels of government and not parliaments. But the main point is that national governments represent their countries in EU negotiations, and hence this results in informational asymmetries between the executive branch and the legislature.

Recent literature has forced us to reconsider these strong claims about deparliamentarization. This results from three factors. First, as has been discussed in this paper, national parliaments subject their governments to tighter scrutiny in EU matters than before (see particularly O'Brennan & Raunio eds 2007; Tans et al. eds 2007; Barrett ed. 2008). Whether this amounts to effective control is another matter (and something that cannot be answered by existing research), but at the very least national MPs are doing more to hold their executives accountable in European affairs.

Secondly, research on parliaments shows that while the EU undeniably impacts on the work of national legislatures, they operate under a multitude of constraints even without any effects directly caused by Europe (Raunio & Hix 2000; O'Brennan & Raunio 2007). Party discipline and centralization of power within parties to the leadership (who often are cabinet ministers), together with the more complicated and detailed nature of the issues on the political agenda, have been identified as important variables in explaining the drift of power from the parliament to the government. National parliaments are also facing much more external constraints than before, with particularly global and European rules and the stronger role of courts impacting on the sovereignty of parliaments. Parliaments have fought back and have in many ways become better at controlling governments – they have reformed their rules of procedure and committee systems to facilitate oversight of the government, with MPs also making more active use of various control mechanisms. But even though there is by no means unanimous agreement among legislative scholars that parliaments have indeed declined, much less on the degree of that alleged decline, only a select few studies have argued that parliaments would have become stronger or would not have lost power to the executive branch. (Strøm et al. eds 2003; see also Bergman & Strøm eds 2009) These points are important, for the pitfall in Europeanization literature has often been the habit to attribute change too easily to Europe and to neglect alternative explanatory variables (Haverland 2006). As a result, future research on national parliaments should consider alternative explanatory variables in tandem with any potential effects that European integration may have.

Considering these multiple challenges facing European legislatures, the third point focuses on the incentives and strategies of individual MPs and political parties. In a key contribution to the literature, Saalfeld (2005) shows that the level of parliamentary involvement in EU affairs can be inferred from a 'rational choice-based' incentive structure of MPs. That is, particularly when the EU is not a salient issue and the preferences of the principal and agent are congruent, MPs 'delegate' rather than 'abdicate' EU matters to the governments – in a similar way in which they delegate policy-making authority to governments in other less salient matters. MPs normally have

their hands full even without engaging in EU questions. Hence when legislators and political parties choose what issues to focus on, they make a rational calculus, weighing the costs and benefits of various parliamentary activities. As re-election and policy influence are probably the primary goals of most MPs and political parties, focusing on EU matters is not a very attractive option for most deputies. In terms of re-election, EU policy may be important for the constituencies (e.g., in terms of attracting regional policy funds), but not necessarily for the voters who still base their voting choices primarily on domestic issues. As for policy influence, the ability of an individual legislator to influence politics at the European level is probably close to zero, even when the Council decides by unanimity. And as discussed in this paper, political parties have good reasons not to focus on European matters. This interpretation thus suggests that the (arguably) limited scrutiny of EU affairs, or the low level of interest in European issues shown by MPs, should not necessarily be understood as parliamentary weakness.<sup>26</sup>

As indicated in the beginning of this paper, the academic interest in the role of national legislatures was strongly connected to debates about the EU's democratic deficit. The 'first generation' of research on national parliaments reviewed in this paper shows that most national legislatures subject their governments to tighter scrutiny in EU matters than before. In terms of reducing the democratic deficit this is good news, for it strengthens the democratic accountability of decision-making in the Council and the European Council through forcing Brussels-bound ministers to explain their positions and negotiating strategies to the parliamentarians. This would be even better news were the actors carrying out the scrutiny, national parties and MPs, representative of their electorates on integration matters. Active national scrutiny can also benefit the overall effectiveness of EU governance. Bergman (2000) and Martin (2000: 164-189) show that effective *ex ante* parliamentary involvement is correlated with better implementation rates of EU directives. This point is important, for all too often active scrutiny by individual parliaments has been viewed as something evil (particularly by those who favour deeper integration), slowing down or even blocking Council decision-making through reducing the bargaining range of national governments.

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<sup>26</sup> In her case study on the Danish scrutiny system, Møller Sousa (2008: 441) shows how the incentive structure works against reforming the EU scrutiny process or more active involvement in European affairs, with the MPs feeling that neither the media nor the voters are interested in EU matters.

## **Acknowledgements**

An earlier version of this paper was presented at an ARENA Tuesday Seminar in Oslo on 16 December, 2008. I am grateful to all the participants and particularly to Pieter de Wilde for their insightful and constructive comments. In addition, my sincere thanks to Katrin Auel, Gavin Barrett, Myrto Tsakatika, Anna Verges, and John O'Brennan for their input and to Sarita Kaukaoja at COSAC for her invaluable help in providing up-to-date information on EACs and inter-parliamentary cooperation.

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