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After Lisbon: National Parliaments in the European Union

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Abstract

The role of national parliaments in EU matters has become an important subject in the debate over the democratic legitimacy of European Union (EU) decision-making. Strengthening parliamentary scrutiny and participation rights both at the domestic and at the European level is often seen as an effective measure to address the perceived ‘democratic deficit’ of the EU – the reason for affording them a prominent place in the newly introduced ‘Provisions on Democratic Principles’ of the Union (in particular Art.12 TEU). Whether this aim can be met, however, depends crucially on the degree and the manner in which national parliaments actually make use of their institutional rights. This volume therefore aims at providing a comprehensive overview of the activities of national parliaments in the post-Lisbon era. This includes the ‘classic’ scrutiny of EU legislation, but also parliamentary involvement in EU foreign policy, the use of new parliamentary participations rights of the Lisbon Treaty (Early Warning System), their role regarding the EU’s response to the eurozone crisis and the, so far under-researched, role of parliamentary administrators in scrutiny processes. In this introduction, we provide the guiding theoretical framework for the contributions. Based on neo-institutionalist approaches, we discuss institutional capacities and political motivation as the two key explanatory factors in the analysis of parliamentary involvement in EU affairs.

Keywords: National Parliaments, EU, Scrutiny, Lisbon Treaty, Neo-Institutionalism, democratic legitimacy

‘Maybe not formally speaking, but at least politically speaking, all national parliaments have become, in a way, European institutions’ (Van Rompuy 2012). Whether it is indeed true - or

even desirable - that national parliaments have become '*European institutions*' in a more narrow sense, is open to debate (Cygan 2013: 21). Yet the statement certainly suggests that the former 'losers' of the European integration process have come a long way. For a long time the role of national parliaments was not formally recognised at the European level, and in the domestic arena the integration process provided ample opportunities for the executive actors to bypass legislatures and strengthen their hold on policy-making. Concerns about a growing democratic deficit were addressed through repeated and substantial expansions of the powers of the European Parliament, whereas national parliaments remained on the margins.

However, over time the 'victims' of integration have learned 'to fight back' and obtained new opportunities for participation in domestic European policy-making. It was a slow and uneven process through which in 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. Today, the Lisbon Treaty not only mentions the role of national parliaments explicitly (article 12 TEU), but it also gives them a role within the EU's legislative process, in particular as the new guardians of the subsidiarity principle.

The academic literature on national parliaments in the EU has mirrored these changes quite closely.¹ During the early years of integration, few publications dealt with its impact on national parliaments, but the last two decades have seen them emerge as one of the most salient issues in the debates on the democratic quality of EU governance. Yet the story of national parliaments in the EU is not only one of success: The coming into force of the Lisbon Treaty coincided with one of the greatest challenges national parliaments have yet had to face, the outbreak of the eurozone crisis, which has raised renewed concerns about parliamentary legitimacy in the EU (Fox 2012, Pollak 2014, Puntcher Riekmann and Wydra

2013). And despite their stronger institutional position in EU affairs, the debate as to whether national parliaments can and do actually play an effective role in European policy-making continues.

This volume seeks to contribute to this debate by presenting the findings of an international research project addressing these questions. It aims at providing a comprehensive overview of the activities of national parliaments in the post-Lisbon era across a range of different policy-areas and decision-modes, and thus sheds some light on a topic that is widely discussed, but on which only limited comparative empirical knowledge exists.

In the current debate, different and indeed opposing views of the role of national parliaments persist. As Pollak has argued, '[w]ithin the EU's political system the assessment of the role of national parliaments oscillates between hope and frustration' (Pollak 2014: 25). On the one hand, their expanded participation rights give reason to assume that national parliaments have the potential not only to be attentive domestic watchdogs regarding their governments' actions 'in Brussels', but that they also have a capacity to develop into more autonomous players – either individually or jointly – at the EU level. For some, the involvement of national parliaments even seems to go too far already: In early 2012, then Italian prime minister and former EU commissioner Mario Monti (2012) argued that national parliaments, especially those 'to the north of Germany' were something of a spanner thrown into the system: 'If governments let themselves be fully bound by the decisions of their parliaments without protecting their own freedom to act, a breakup of Europe would be a more probable outcome than deeper integration'. While Monti later qualified his statement following severe criticism, it does reveal an attitude that considers a powerful involvement of national parliaments in EU policy-making, and especially in times of economic crisis, as something of a hindrance. On the other hand, authors have consistently, and especially in the context of the eurozone crisis, pointed out the challenges national parliaments face in actually making use

of their participation rights, such as the highly technical character and complexity of EU issues, the lack of transparency of EU negotiations, the lack of time and resources required to process information on EU policies adequately or, in particular, the lack of incentives to get involved.

The main reason for such disagreements on the role of national parliaments is arguably the lack of empirical data on parliamentary behaviour in EU affairs. The strengthening of parliamentary scrutiny and participation rights both at the domestic and at the European level is often seen as an effective measure to address the perceived democratic deficit in EU decision-making – the reason for affording them a prominent place in the newly introduced ‘Provisions on Democratic Principles’ of the Union (in particular Art.12 TEU). However, whether these aims can be met depends crucially on whether and how national parliaments actually do get involved in EU affairs.

Referring to Lincoln’s famous Gettysburg address, Lindseth (2012) has argued that the EU has come a long way in terms of ‘government by and for the people’, i.e. in terms of input and output legitimacy. However, he argues, ‘government *of* the people’ requires identification with a polity and a sense of ownership, in other words, a ‘political cultural perception that the institutions of government are genuinely the people’s own’ (ibid.: 6). National parliaments can only provide this sense of ownership for their citizens in EU affairs, if they do fulfil their parliamentary functions in EU politics. This includes not only scrutinising EU policies and controlling the government as an expression of their legislative, or more adequately, policy-influencing function, but also - and fundamentally – communicating EU politics and holding the government publicly to account (Auel 2007). Unless they actually fulfil these functions, national parliaments will contribute little to the democratic legitimacy of EU policy-making.

The aim of this volume, arising from the research conducted by the Observatory of Parliaments after the Lisbon Treaty (OPAL), is therefore to provide comprehensive and

comparative empirical data on the way in which national parliaments make use of their powers and intervene in EU affairs². By investigating parliamentary EU activities in practice, it aims at contributing to a better understanding of the conditions under which national parliaments can indeed provide the added value in terms of democratic legitimacy in EU policy-making. In this endeavour it goes beyond the classic focus on the *formal powers* of parliamentary scrutiny by presenting insights into the *actual practice* of parliamentary involvement in EU affairs within the domestic arena. This includes the ‘classic’ scrutiny of EU legislation, but also parliamentary involvement in non-legislative areas such as EU foreign policy making, the use of new parliamentary participations rights of the Lisbon Treaty (Early Warning System) and their role regarding the EU’s response to the sovereign debt crisis in the eurozone. In addition, contributors analyse the so far under-researched role of parliamentary administrators in scrutiny processes.

While the contributions investigate different aspects of parliamentary involvement in EU affairs using different types of data, they were guided by a common analytical frame that provided the theoretical lens for the empirical research. In the following, we outline this theoretical framework that draws on the insights of the neo-institutionalist turn in the social sciences. It starts with the recognition that research on national parliaments in the EU needs to be sensitive to both the relevance of formal arrangements and to the way in which actors actually make use of these. Accordingly, the contributors to this volume operate on the assumption that, on the one hand, formal rights, legal rules and existing norms – in other words the *institutional capacities* of parliaments - provide certain opportunities for parliamentary involvement in EU affairs, but, on the other hand, that these do not determine – and thus cannot be equated with – the actual behaviour of parliaments. Therefore, to explain the nature, direction and intensity of parliamentary involvement, the *motivation* of individual members of parliament (MP) and parliamentary party groups (PPG) to become involved

needs to be studied, and the preferences, incentives and driving forces that guide their actions ought to be examined. Accordingly, we identify institutional capacity and actors' motivation as the two key explanatory factors in the analysis of parliamentary involvement in EU affairs. The following section elaborates in more detail how these factors have been derived and how they have been applied in the context of the empirical research presented in this volume.

Parliamentary Activity in the EU: A Neo-Institutionalist Perspective

Following the well-known argument by March and Olsen, we can distinguish between two logics of human behaviour, a 'logic of consequentiality' and a 'logic of appropriateness' – a basic assumption that can also be applied to the present context of parliamentary activity in the EU. According to the former, actors' behaviour is based on considerations of the consequences of their action in terms of furthering (their own) preferences and thus rooted in rationality and efficiency, while the latter is based on considerations of the consistency of their actions with cultural and political norms and rules (March and Olsen 1995: 154).

These two logics of behaviour have given rise to different approaches within a broader neo-institutionalist turn that recognises that institutions are not neutral containers fulfilling certain functional needs, but interact with, and are subject to, the behaviour of individuals working with and through them. As Fenno has argued (2000: 6), 'representatives are context interpreters. And they will make choices and take actions not in the abstract, but accordingly to what they believe to be rational and/or appropriate in the circumstances or context in which they find themselves'. While neo-institutionalist approaches share the common perspective that behaviour can be explained with both institutional context and actors' preferences or motivations, they differ greatly in their conception of both, institutions and the origin or formation of preferences. As a result, they also develop very different hypotheses on

the way actors interpret the context they find themselves in and emphasise different explanations for the logic of action, the interpretation of rules, and thus for the motivations and incentives driving behaviour.

The logic of consequentiality is most strongly emphasised by Rational Choice approaches that view actors as rational utility maximisers who have fixed, exogenous preferences. Here, institutions ‘merely’ act as constraints on or provide opportunities for specific behaviour and strategies to pursue the realisation of these preferences. With this emphasis on individual preferences and incentives rather than group norms and processes of socialisation, actors are conceptualised as fairly independent of their context: ‘Rational choice institutionalism consequently sees institutions as providing a context within which individual decisions are set, but places the emphasis on ‘individual’ rather than ‘context’ (Aspinwall and Schneider 2000: 11). As will be discussed in more detail below, rational choice institutionalist approaches hypothesise that MPs are mainly motivated by their interest in maximising their chances for re-election, career development and/or policy influence.

From the perspective of a ‘logic of appropriateness’, emphasised by normative or sociological neo-institutionalist approaches, in contrast, preferences are neither stable, nor precise, nor exogenous (March and Olsen 1989: 163). Moreover, institutions ‘do not just constrain options; they establish the very criteria by which people discover their preferences’ (DiMaggio and Powell 1991: 11). Actors and their context are thus rather closely linked. From this perspective, institutions not only impact preferences but also define what is deemed appropriate behaviour in a given situation. The main hypothesis that can be derived from this perspective is that parliamentary behaviour will be guided by a logic of appropriateness, by formal and informal rules of and norms for parliamentary behaviour and – more generally – by parliamentary culture.

Historical institutionalism emphasises especially the (possibly unintended) consequences of institutional choices and their long-term impact in terms of path dependency. While mainly concerned with long-term institutional or policy development, the approach can also be applied to the study of parliamentary behaviour, both from a more rationalist and a more sociological perspective. Institutions are conceptualised as ‘sets of regularized practices with a rule-like quality in the sense that the actors expect the practices to be observed; and which, in some but not all, cases are supported by formal sanctions’ (Hall and Thelen 2009, p. 3). As a result, actors’ strategies and goals become entrenched and thus path-dependent over time as well and relatively resistant to change even under new circumstances.

This distinction between the two logics of actions, and the resultant development of different strands of institutional analysis, is a valuable starting point to approach the study of parliamentary activity in the EU. The contributions to this volume broadly follow the insights of such an approach by investigating both, institutional capacities defined by legal and institutional norms as well as the incentives driving individual and collective actors within parliaments, to explain parliamentary behaviour. In the following we develop each of these two broad sets of – complementary rather than competing - explanatory factors further and illustrate the ways in which they can be used towards a more comprehensive empirical analysis of parliamentary activity in the EU.

Institutional Capacity: institutional opportunities and constraints

As discussed in the previous section, what distinguishes historical institutionalist approaches is their emphasis on the long term – historical – development and resulting resilience and

durability of institutions (Pierson 2004). Thus, whether behaviour is assumed to be guided by exogenous rational preferences or by beliefs and norms, cultural traditions and individual role conceptions, the general expectation is that it will be rather resistant to change. Institutional or behavioural repertoires are assumed to act as a barrier to change because actors faced with new situations or challenges will draw on pre-existing institutions or patterns of behaviour rather than considering new ones. As such, the historical institutionalist approach is sensitive not only to new opportunities provided by the institutional framework, but also to the constraints it imposes on actors.

In his analysis of the adaptation of the French, Greek and British parliament to EU integration, Dimitrakopoulos' (2001), for example, shows how change 'has proceeded by means of small, marginal steps based on existing institutional repertoires in a manner that has reproduced the historically defined weaknesses of these Parliaments' (419- 420). As a result, not only will new institutional provisions reflect given institutional paths, but parliamentary behaviour in EU affairs is also expected to follow the main patterns developed in domestic affairs. As Damgaard and Jensen (2005) show for the Danish Folketing, existing executive-legislative relationships and the modes of decision-making in national politics are indeed replicated in the European context: 'the general patterns of parliamentary decision-making also characterise the field of EU policy. It appears that well-known national policy-making styles are used, with some adjustments, to take care of problems associated with EU policy-making (Ibid.: 409).

With respect to the institutional capacity as an explanatory factor, it is necessary to take these insights about the significance of institutional path dependency on board when studying the context within which parliaments participate in EU affairs. This requires, in addition, a two-fold approach, namely a distinction between the institutional environment present at the EU level as well as at the domestic level. At both levels, a mix between pre-existing and newly

changed conditions has had an impact on the opportunities and constraints of national parliaments.

The European Institutional Context

As noted above, in the earlier phase of European integration, the position for national parliaments in the EU in terms of institutional powers had been weak, but over time, and especially with the coming into force of the Lisbon Treaty, institutional provisions were expanded in a number of ways, both directly and indirectly. Regarding the former, the new 'Protocol on the Role of National Parliaments in the European Union' mainly provides national parliaments with better access to information about the European decision-making process. They not only receive a broad range of documents, including non-legislative documents such as the annual reports of the Court of Auditors or the Commission's annual legislative programme, but they also receive these documents directly (rather than via their governments as under the Treaty of Amsterdam).

Second, the 'Protocol on The Application of the Principles of Subsidiarity and Proportionality' provides national parliaments (both chambers in bicameral systems) with a more direct role on the EU legislative process through the so-called Early Warning Mechanism (Kiiver 2012). They have the right to submit - within eight weeks of receiving a legislative proposal - a 'reasoned opinion' to the Commission if they find the proposal to violate the subsidiarity principle (Article 7.1). If one third of the national parliaments submit a reasoned opinion, the Commission must formally review the proposal and may withdraw or amend it but also maintain it unaltered (Article 7.2). Thus, in these cases national parliaments can only show the Commission the 'yellow card', but not force it to take their concerns into account. If, however, at least half of the national parliaments submit reasoned opinions on a

legislative proposal falling under the ordinary legislative procedure (co-decision), and the Commission maintains the proposal, the legislative proposal will be submitted to both the Council and the European Parliament for review ('orange card'). While national parliaments thus still do not have a right to force the Commission directly to take their opinion into account, this last rule enables parliaments to force the Council and the EP to deal with their concerns.

Third, according to Article 8 of the Protocol the Court of Justice of the European Union (ECJ) will have jurisdiction in actions on grounds of infringement of the principle of subsidiarity by a legislative act, and such action can now also be brought forward by national parliaments through their governments.

Finally, national parliaments also obtained the right to veto the application of the *passerelle* clause (Article 48 para. 7), which covers the transition from unanimity to qualified majority or the transition from special to ordinary legislative procedure. National parliaments have to be informed at least six months before any decision is adopted and can, individually in this case, veto the proposal within this time period.

The Domestic Institutional Context

The introduction – and implementation - of these new participation rights also had an impact on existing institutional provisions within the national context. In particular, national parliaments had to implement their own procedures for the handling of the new instruments of subsidiarity control. Together with the intensified debate over the role of national parliaments in EU politics since the Laeken Declaration and in the context of the Convention on the Future of Europe, this has also led to a general overhaul of institutional scrutiny

provisions in a number of parliaments (for an overview over institutional reforms triggered by the Lisbon Treaty provisions in all chambers of the EU see Heffler et al. (2015).

As a result, institutional scrutiny provisions are now more similar, but far from uniform, across the EU Member States.³ 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, 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). Finally, and often overlooked in the literature, parliaments also differ with regard to the administrative support in EU affairs, and their responses to the administrative challenges arising from the Lisbon Treaty have been uneven.

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 provisions, the overall picture is fairly consistent: As the latest rankings by Karlas (2012), Winzen (2012) as well as Auel et al. (2015) 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 Luxemburg. 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 (see also Karlas 2011; Szalay 2005, O’ Brennan and Raunio 2007).

In sum, the institutional capacity of national parliaments has been significantly altered by the provisions of the Lisbon Treaty and the way in which national systems have adapted to these. While in terms of the European level there has been a distinct empowerment of national parliaments, their institutional capacity varies significantly across the member states and depends to a large extent on domestic arrangements and the specific resources and procedures that each individual chamber has available when confronting the challenges of an effective involvement in EU affairs.

Motivation: Incentives and driving forces of parliamentary actors

Institutional provisions and the overall strength of parliaments play an important role in understanding how legislatures can respond to the challenges arising from an involvement in EU decision-making. At the same time, it is also clear that this is not the whole story, and that we also need to study the way in which parliamentary actors respond to these opportunities and constraints. Drawing on both rational and sociological neo-institutionalist approaches, the following will discuss this motivational dimension in more detail.

MPs as Rational Actors

From a rational choice institutionalist perspective, parliamentarians are rational actors with stable preferences who make decisions based on an analysis of costs and benefits. Given that parliaments are in fact busy institutions with limited resources, the general expectation is that MPs invest these resources, i.e. make use of institutional opportunities, in a way that will advance their preferences. Much of the rational choice literature on legislative behaviour focuses on career goals of legislators to explain behaviour. From this perspective, legislative behaviour can be best understood if legislators are seen as ‘single minded reelection seekers’ (Mayhew 1974: 5; see also Cox and McCubbins 1993: 100). Other scholars have criticised this purely vote-seeking approach for being too parsimonious and ‘not totally persuasive ... It makes little sense to assume that parties value votes for their own sake ... votes can only plausibly be instrumental goals’ to achieve policy influence and/or the spoils of office (Strøm and Mueller 1999: 9). As Budge and Laver (1986) argue, politicians do pursue policy goals, either intrinsically, because they sincerely care about the policies in question, or instrumentally, as a means for some other goal, for example electoral support. De Swann puts it even more forcefully: ‘considerations of policy are foremost in the mind of actors ... the parliamentary game is, in fact, about the determination of major government policy’ (De Swann 1973: 88).

On the basis of these considerations, we can assume that the motivation of MPs/PPGs to use institutional opportunities, i.e. to engage in parliamentary scrutiny of EU affairs depends a) on the electoral (and career) benefit that they expect from their activities and b) the probability MPs assign to their chance of making a difference, i.e. actually having a policy impact (Saalfeld 2003).

Regarding the former, it can be assumed that public opinion on EU integration can provide a strong electoral incentive (Raunio 2005, Saalfeld 2005). In member states where EU issues

are more salient and public opinion is generally more critical of EU integration, MPs have greater incentives to become active in EU affairs due to the potential electoral impact of EU politics. Where, in contrast, European affairs play no role in voting decisions or where the permissive consensus prevails, there are no electoral benefits to be gained from investing in scrutiny. However, the motivation to engage in scrutiny activities may also vary according to the policy area and specific policy issue (Saalfeld 2003): Given the general preference structure of MPs, they can be expected to engage more actively in the scrutiny of highly salient EU issues, i.e. issues that affect clearly defined (large) groups at the domestic level and the domestic public is highly aware of.

Second, MPs will get involved in the scrutiny of EU affairs if they expect a payoff in terms of policy influence (Saalfeld 2005, Winzen 2013). Generally, members of the governing PPGs will be more inclined to leave EU politics to their government if they trust the latter to represent their mutual policy preferences in the EU negotiations. This trust can be assumed to be greatest in the case of single party governments. Although government MPs and ministers may not agree on every single issue, we can expect their interests to be fairly similar – unless the party is deeply internally divided over EU issues. Divergent preferences - and thus less trust - can be expected for coalition governments. Here, coalition partners not only have to negotiate compromises, but they also have a stronger incentive to influence and control the other coalition partners' members of government (Martin and Vanberg 2004). Trust can finally be considered lowest in the case of minority governments, where the government cannot rely on stable support in parliament but has to negotiate majorities for its policies.

While rationalist approaches, and especially agency theory, have been the dominant way to analyse parliamentary involvement in EU affairs, they are also often criticised for their lack of any 'discernible relation to the actual or possible behaviour of flesh-and-blood human beings' (Simon 1976: xxvii). In particular, it has been argued that a rationalist approach is ill

suited to explain parliamentary behaviour as it cannot account for what has to be ‘irrational’ behaviour in a strategic sense (Rozenberg 2012): In many parliaments, MPs spend several hours per week scrutinizing EU documents, presenting parliamentary reports and drafting resolutions despite knowing that their activities will gain little attention from voters and have a limited impact on policy. Thus, it can be argued that MPs need motivations or incentives that go beyond vote or policy seeking. According to Searing (1994: 1253), the ‘difficulty with economic rational choice models is that their overly cognitive assumptions about self-interest tend to obscure and dismiss the wide variety of desires that shape and reshape our goals - and also our judgments about which courses of action will be most effective [or appropriate, the authors] for satisfying these goals’.

The following will therefore discuss alternative approaches to explaining parliamentary behaviour. Given the wide variety of approaches that rely on culture, beliefs, ideas and norms to explain behaviour, the following will not provide an in-depth discussion of the broad literature. Rather, the short overview will highlight some possibilities to conceptualise March and Olsen’s ‘logic of appropriateness’

The Role of Norms and Values

From a sociological institutionalism perspective, institutions do not simply provide opportunities or constraints for rational actors. Rather, institutions ‘mould their own participants, and supply systems of meaning for their participants in politics’ (Peters 1999: 26). Individuals do make conscious choices, but these choices are not purely guided by a personal pay-off in terms of exogenous preferences, but rather remain within the parameters established by the dominant institutional values and norms (Peters 1999: 29). One way to conceptualise the ‘logic of appropriateness’ is parliamentary culture. Political culture has

been described as 'a short-hand expression for a "mind set" which has the effect of limiting attention to less than the full range of alternative behaviours, problems, and solutions which are logically possible' (Elkins and Simeon 1979: 128). Therefore, the question of whether and how parliamentarians engage in scrutiny activities touches upon the question of how the process of European integration and its challenges to national parliaments affects these cultural factors, and how, in turn, scrutiny in EU politics is influenced by general parliamentary traditions and political culture. Whether a more cooperative or a more confrontational culture dominates the parliamentary system, for example, has an impact on legislative behaviour and the way parliamentary control and scrutiny of the executive is exercised. As Sprungk (2003) has argued, a co-operative relationship between parliament and the government may hamper intensive parliamentary control: Public confrontation with the government, especially through a more aggressive use of scrutiny rights and or by exerting pressure on the government to comply with parliamentary policy preferences, may not be considered appropriate. In addition, Sprungk argues that the general attitude of MPs towards European integration may impact their motivation to engage in scrutiny activity. A party favourable of European integration may view parliamentary scrutiny as a factor impeding smooth European policy making and thus as inappropriate. Such views were readily visible in the plenary debates over the implementation of parliamentary participation rights in the German Bundestag following the German Federal Constitutional Court's decision on the Lisbon Treaty (Auberger and Lamping 2009).

Similarly, MPs beliefs about the legitimacy of procedures and institutions or their assessment of the relative importance of parliamentary functions can have an impact on the their motivation to become involved in EU affairs. A study by Weßels (2005), for example, reveals the interrelation between parliamentary views about the relative importance of parliamentary functions and their attitudes towards how democratic legitimacy is to be achieved in the EU,

on the one hand, and their views on the role national parliaments should play in EU politics, on the other hand. The findings show, for example, ‘that working parliaments – those where the governance function is obviously dominant – regard themselves as powerful enough to play the European policy game in direct contact with the government, informal coordination and bargaining. ... Parliaments that serve more as houses of deliberation, [in contrast, the authors] use articulation and voice as the way to react to European policy-making’ (Weßels 2005: 463f.). The study’s results suggest that different parliamentary norms and beliefs will have an impact not only on the general motivation of MPs to engage in scrutiny, but also, for example, on the extent to which they feel the need to become directly involved in the policy process at the EU level, for example through new instruments such as the Early Warning Mechanism or the Political Dialogue.

Finally, role theory provides a means of incorporating values and beliefs and thus the logic of appropriateness. While our research is not directly concerned with parliamentary roles in EU politics, the notion of ‘parliamentary role’⁴ is nonetheless helpful as ‘roles are not merely individual beliefs and tastes, but articulate collective norms and values, which might have consequences for MPs’ behaviour inside and outside the parliamentary chamber’ (Blomgren and Rozenberg 2012b: 211). This emphasis on both shared and individual norms, expectations, ideas or beliefs, enable us to analyse and explain the motivation behind specific patterns of behaviour.

In his influential motivational approach to parliamentary roles, Searing (1994, 1991) famously distinguished between rules and reasons as two drivers for the selection of roles. The former links legislative behaviour to the expectations generated by institutional rules and formal positions of MPs. Thus, the assumption is that general expectations and norms connected to specific parliamentary offices or, more generally, to being a member of the opposition or the governing PPGs will have a – fairly predictable – impact on behavioural

patterns. At the same time, parliamentary positions leave – depending on the precise office – more or less leeway to choose between different parliamentary activities MPs may focus on. The latter is driven by preferences that concern both, more strategic goals such as career advancement, and more emotional goals such as providing good constituency service. Rozenberg (2012), for example, shows that the chairmen of the European affairs Committees in the House of Commons and the French Assemblée Nationale adopt distinct parliamentary roles, such as ‘Chair’, ‘Clubman’, ‘Inquisitor and ‘the One who rubs shoulders with the Great and Powerful’. These roles, and the underlying motives for adopting them, helps understand the specific pattern of activity each committee developed, be it special attention to the detailed scrutiny of EU documents, an emphasis on hearings with ministers or a focus on informal participation to decision making. Such preferences are also not purely endogenous and completely shaped by the institutional environment (Searing 1994). MPs may enter parliament with given preferences yet these preferences may change and adapt to the situation as well as parliamentary institutions and norms (Searing 1994: 483). Preferences and the behaviour to pursue them are constructed within, but not determined by, the given organisation.

To sum up, we argue that attention to both institutional and actor-centred factors is required to explain how national parliaments operate in the EU, and crucial to understanding the diversity in their involvement in EU policy making and their responses to the new opportunities arising from the Lisbon Treaty. Answers to questions such as ‘How can we explain the variation in the level and type of engagement with EU politics across national parliaments?’ or ‘Why are some chambers much more active than others in making use of the new powers?’ can only be conclusively answered by looking into both capacity and motivation as possible explanatory factors. This has been the approach underlying the

empirical research that has been conducted in the context of the OPAL project and which is presented in the contributions to this volume.

The Performance of Parliaments in the European Union

The empirical research being presented in the contributions to this volume demonstrates how multi-faceted the role of national parliaments has become. The recent phase of European integration, and in particular the ‘double-whammy’ of the Lisbon reforms and the eurozone crisis, have created an entirely new set of opportunities and challenges to which parliaments had to respond. The research shows that in many cases parliaments have reacted to these changes but it also shows that these changes are far from uniform and that generalisation across the universe of legislatures in the EU remains highly problematic.

A first observation concerns what one might call the internal impact of Europe: the way in which legislatures have adapted their working mechanisms, procedures, staffing levels, and committee structures to the demands of a more prominent EU. One aspect here is the changing relationship between, on the one hand, elected MPs and, on the other hand, clerks in committee secretariats and other civil servants working as advisors and technical experts in parliamentary administrations. As Anna-Lena Högenauer and Christine Neuhold show in their contribution, MPs have, for a variety of reasons, become increasingly dependent on administrative support: the technical expertise required to deal with the growing number of incoming EU dossiers, the dynamic of increasing horizontal cooperation among parliaments in the EU, and the related practice of having parliamentary representative posted in Brussels. The latter, in particular, have developed an important role in providing informal access to information about developments within the various chambers, thus ‘short-circuiting’ the coordination of parliamentary action in the context of the EWS. However, the authors also

point out that across the EU significant variation remains in the roles that parliamentary officials carry out and that even though the majority of chambers now employ administrators possessing an agenda-shaping role, this remains in the service of, rather than as a replacement of, the primacy of political decision-making.

This ties in with the analysis conducted by Alexander Strelkov who argues that in the relative balance of ‘internal power’, parliamentary party groups maintain the upper hand vis-à-vis other parliamentary actors (such as committees and administrators), even if this – privileging party political preferences over technical expertise – leads to a somewhat ‘shallow’ scrutiny of EU legislation. A further internal dimension of adaption to Europe is the growing ‘mainstreaming’ of EU affairs (Gattermann, Högenauer and Huff, 2013) – the fact that the scrutiny of EU affairs is increasingly carried out beyond designated European Affairs Committees, as other sectoral committees engage with EU matters that pertain to their portfolio.

These internal developments are remarkable and significant, even if it remains difficult to link their incidence to the standard categories of parliamentary strength or institutional capacity. The contribution by Katrin Auel, Olivier Rozenberg and Angela Tacea tackles this question head-on, presenting the data of a large, quantitative analysis testing a number of hypotheses on the link between parliamentary activity and possible explanatory variables based on institutional capacities as well as political motivation. They conclude that in order to understand the driving forces of parliamentary activity it is essential to go beyond the idea of institutional strength and develop more sophisticated models looking at the likely effectiveness of instruments at the disposal of legislatures, and to consider the actual activity – resolutions, reasoned opinions, committee meetings or plenary debates – in more depth. The data shows that strong parliaments are not invariably the most active, and that beyond

institutional capacity motivational factors have significance in explaining parliamentary activity.

Katjana Gattermann and Claudia Heffler, in their more specific analysis of the driving forces behind the incidence of issuing reasoned opinions in the context of the EWS, come to a similar conclusion: having tested for a range of possible explanatory factors, their paper demonstrates that MPs are more likely to vote for a reason opinion if certain conditions (party political contestation, the salience and urgency of EU draft legislation and an adverse macro-economic context). This is further evidence that one must go beyond the formal powers and institutional capacity of chambers in order to understand what drives their engagement with the EU level.

Beyond the narrow confines of the EWS, parliaments have been challenged by the eurozone crisis, be it in terms of voting on proposed bail-out packages or on the conditionality that has come with these packages for the programme countries. The widespread view has been that the technocratic governance and intergovernmental nature of the crisis-management carried with it the risk of further ‘de-parliamentarisation’ – an important question explored by Katrin Auel and Oliver Höing in their contribution to this volume. Again the finding here is that there is significant variation in the way in which legislatures have responded to the impact from the European level. Unsurprisingly, parliaments in eurozone member states have been more active than those outside, but even within the eurozone certain differences have been identified by the authors: debtor countries have seen much less parliamentary activity than creditor countries, and stronger parliaments have managed to cope better with the increasing demands. There is thus no blanket weakening of legislatures due to the intergovernmental nature of crisis-management, but rather the exacerbation of existing strengths and weaknesses. Indeed, some legislatures, such as the German *Bundestag*, have been able to expand their powers in these circumstances.

Another area of EU policy-making which has seen a greater degree of engagement by national parliament in recent years has been foreign and security policy, and in her contribution, Ariella Huff provides an in-depth analysis of the way in which parliaments have performed in this area. Her study adds to the body of evidence that demonstrates that formal powers are not the only, and perhaps not even the main, guide to parliamentary activity. Huff shows that the motivations of MPs matter a great deal when it comes to the parliamentary scrutiny of CFSP. Here the normative frame within which MPs perceive their role with regard to foreign policy, as well as the coherence – or lack of it – in party political positions on European integration have great influence on parliamentary activity: internal divisions among parties or coalitions are seen as a reason why their interest in parliamentary debates, and hence the scrutiny of EU foreign policy, is limited.

Conclusion

Taken together, the contributions to this volume validate the choice in favour of a neo-institutionalist framework that is sensitive to the relevance of both institutional capacity and motivational factors. Much of the past literature on national parliaments has focused on formal powers and defined parliamentary strength in terms of the formal rules and constitutional arrangements. While these are important dimensions, the articles in this volume make clear that the situation is more complex: what matters is not only what powers a legislature has in terms of scrutinising the national executive, or the EU decision-making process, but whether MPs are willing and able to make effective use of these. Access to resources – support staff, expertise, time – as well as the political incentives to engage with EU matters are relevant, and in some cases more so than the formal powers themselves.

The image of national parliaments and their activity in the European Union that emerges from these studies is varied, and does not lend itself to easy generalisation. Parliaments have not emerged from the Lisbon Treaty reforms as being empowered and fully-engaged with the European project. There remains much scepticism, ambivalence and even ignorance within national legislatures about developments at the European level. Some of this can be put down to limited capacities, with many MPs either lacking the time to devote the attention required to EU legislation, or else making a calculated decision to focus on higher-profile domestic issues. Inevitably, parliamentary activity on European affairs remains selective, with issue salience and party politics important intervening variables in explaining how (in)active a particular chamber is with regard to Europe.

At the same time, it has to be recognised that there are certain dynamics at play which have fundamentally transformed the situation compared to only a few years ago. The first of these is a discursive change which has seen national parliaments widely regarded as a key part in any future reform of democratic procedures of the European Union – a discourse that includes contributions from both Eurosceptics wanting to ‘repatriate’ powers from the European level, and from advocates of further integration seeking engagement with national parliaments as a way of strengthening the EU’s legitimacy. Even though some of these expectations are out of tune with the more modest reality in current practice – as the following contributions also demonstrate – this has not stopped this discourse from developing along these lines in the post-Lisbon era (Groen and Christiansen, 2015).

A second dynamics has been that of inter-parliamentary cooperation, building on but moving beyond the traditional and highly formalised mechanisms such as COSAC or the Conference of Speakers. While such long-standing institutions have been upgraded in the context of the Early Warning Mechanism, informal relations between parliaments have become more widespread and more important. This includes both collaborations between elected members

and between parliamentary officials and clerks, be it to facilitate information exchanges or the coordination of activities in the context of the EWS. To some extent, such exchanges between chambers in different member states is driven by the very divergence that has been alluded to above: those from parliaments in the ‘avant-garde’, with greater desire and/or resources to make their voice heard at the European level, are looking for the support from others in order to achieve a greater impact, or are being approached for access to information or expertise.

A related development concerns the vertical relations between national parliaments and the EP. Also these have become increasingly formalised, both inside the institutions – the EP now has not one but two Vice-Presidents for Relations with National Parliaments – and through the creation of new bodies bringing together deputies from the national and the European level such as the Art.13 Conference in the area of economic governance or the Inter-parliamentary Conference on CFSP. However, while these enhanced relations between national and European level is recognition of the importance of cooperation between legislatures – somewhat belatedly in view of decades of administrative ‘fusion’ on the executive side (Wessels 1997) – it has also made the potential for disagreements between the EP and national parliaments more apparent (Cooper, 2014). Far from being natural allies, the EP and national chambers are also competitors in the market-place for the provision of democratic legitimacy and rivals in the search for voters’ attention.

Future reform of the European Union is likely to include an agenda for further structural improvements concerning the legitimacy of decision-making, in particular regarding the area of fiscal stability and economic governance. It is here that institutional solutions to some of the persisting dilemmas facing the Union will have to be found – maintaining decisional efficiency while ensuring democratic legitimacy and transparency. The differentiated nature of economic governance, with more far-reaching decision-making now only affecting the

member states of the eurozone, creates increasing tensions for the existing institutional arrangements, raising questions whether EU institutions can continue to serve the eurozone, or whether new bodies – either with mixed national-European membership or sub-committee of the EP – need to be set up for the scrutiny of decision-making in this particular area. It is with a view to this reform agenda that the EP and advocates of greater powers for national parliaments already find themselves on opposite sides of the debate (Deubner 2013).

The involvement of national parliaments in EU affairs has developed significantly since the Lisbon Treaty and the eurozone crisis brought both new opportunities and new challenges. It certainly has come a long way since questions were raised about them being ‘victims’ (O’Brennan and Raunio 2007), ‘losers’ or ‘late-comers’ (Maurer and Wessels 2001). A sizeable number of chambers have chosen to engage with EU affairs as a matter of course, have been adapting their internal procedures and institutional capacity, and are linking up with other parliaments on a regular basis. However, the degree of parliamentary activism remains patchy, and it would be wrong to talk of a generalised empowerment of national parliaments, either vis-à-vis the national executives or the European institutions.

The research presented in this volume sheds some light both on the patterns of variation and on their causes. As such, it advances our knowledge of this complex domain and provides new insights into the possibilities for, and the limitations of, national parliaments to scrutinise and influence EU decision-making in the post-Lisbon era. The findings presented in the articles of this issue demonstrate the importance of focusing on both institutional and motivational factors in the research on national parliaments, and to work with both qualitative and quantitative methods in doing so.

At a time when national parliaments have arrived in ‘Europe’ and are there to stay, the publication of this research will be valuable in gaining a better understanding of the difference that national parliaments can make, under what conditions and at what price.

Certain patterns have been identified which help us making sense of the diverse nature of this interaction between national and European actors, between legislatures and executives and between elected politicians and civil servants.

This area remains an aspect of European integration that is bound to develop further, with the search for ways of improving the legitimacy of EU decision-making continuing, not least in the face of the results of the 2014 European elections. High hopes are attached to the role that may be played by national parliaments in this regard, and in this context the contributions to this volume not only advance the scientific discussion, but will also be valuable in the context of future debates about institutional reform.

Notes

¹ For excellent overviews see Goetz and Meyer-Sahling 2008, Raunio 2009, Winzen 2010 and Rozenberg and Heffler 2015.

² For details about this project, see <http://www.opal-europe.org>. Contributors draw on both qualitative and quantitative data. In the context of the OPAL project, several large-scale surveys were conducted and unique empirical databases developed. Most important among these are: a) a qualitative database on institutional provisions both in domestic and European Affairs with contributions from national experts on all 28 parliamentary systems in the EU (including Croatia; for excerpts see www.opal-europe.org), and b) a quantitative data collection of parliamentary activities between 2010 and 2012 in all 40 national chambers across the EU. In addition, members of OPAL have collected quantitative and in-depth qualitative data on a broad range of national parliaments, specific institutional capacities and parliamentary activities.

³ A comprehensive overview over the scrutiny provisions in all national parliaments can be found in Heffler et al. 2015.

⁴ For an extensive literature overview see Blomgren and Rozenberg 2012a.

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