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## **Chapter 21**

### **Europeanization of National Parliaments**

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#### **Introduction: The challenges of European integration**

‘Europeanization’ is a concept used to analyze a variety of changes within European Union and member states’ policies, politics and polities resulting from the process of European integration. Most often, the term is used to characterize ‘domestic change and adaptation to pressures emanating directly or indirectly from EU membership’ (Featherstone 2003: 7; see also chapter 29 by Ladrech in this volume). Even more generally, one could define Europeanization as what happens ‘when something in national political systems is affected by something European’ (Vink 2003: 63). As these definitions imply, there are two sides to the process of Europeanization: *Passive Europeanization* describes the pressures emanating from European integration or, in other words, the impact of European integration on national policies, institutions or actors; *active Europeanization*, in contrast, refers to the domestic reaction to these changes.

Scholars began to point out the pressures and challenges of European integration for national parliaments as early as the 1970s (e.g. Niblock 1971);

however, it was only in the 1990s, triggered by the difficult ratification of the Maastricht Treaty and the famous ‘Maastricht decision’ by the German Federal Constitutional Court (BVerfGE 1993), that the growing debate over the democratic legitimacy of the European Union (or the lack thereof) focused the spotlight squarely on national parliaments. Notably, this debate concentrated primarily on the passive form of Europeanization, perceiving national parliaments as the objects (or, indeed, victims) of the integration process: For the most part, Europeanization was something that happened to them. Indeed, at that time, most scholars probably would have replied to a hypothetical Eurobarometer question that European integration was ‘a bad thing’ for national parliaments and for parliamentary legitimacy in general.

Since then, much of the debate has centred on the question of whether or not European integration leads to the ‘de-parliamentarisation’ of politics (O’Brennan and Raunio 2007a).<sup>1</sup> According to the ‘de-parliamentarisation’ thesis, European integration has weakened national parliaments in two ways. On the one hand, it had a direct impact on their legislative sovereignty by transferring legislative competencies to the EU level. Parliaments have lost agenda-setting power (since the right to initiate EU policies has been delegated to the European Commission and, increasingly, to the European Council) and policy-making competencies to EU institutions including the Council, the European Parliament, the Commission and a multitude of other actors. Parliaments have even lost the right to make the final decision on legislation, as EU law receives this final approval at the EU level. Depending on the type of legislation, national parliaments do retain the

possibility to amend or delay European legislation through the transposition of European directives, but member states are ultimately forced to comply. European law also has to be taken into account in domestic legislation, which may further restrain remaining national legislative powers. Scholars have attempted to measure the impact of European integration on the legislative competences of national parliaments, and despite all the methodological concerns associated with the quantification of Europeanization processes (Brouard *et al.* 2012; Töller 2012), they have firmly consigned the prophecy made by Jacques Delors in the late 1980s – namely, that within ten years 80 per cent of domestic legislation in economic affairs would come from Brussels – to the realm of myth. However, this work has shown that a fairly large proportion of current domestic legislation has indeed been Europeanized, ranging from less than 8 per cent in the areas of defence, housing or social welfare to over 30 per cent in agriculture or environmental policy (based on data from 1987 to 2005; König and Mäder 2012: 224). Depending on the operationalization of ‘Europeanization’ and ‘domestic law’, other authors have observed even a greater share of Europeanized legislation (for a discussion of various studies, see Töller 2012).

On the other hand, European integration has also had a more indirect effect by altering the power balance between national parliaments and their governments. Since the latter are directly involved in policy-making at the EU level, executives can act as gatekeepers between the national political system and the EU level. As Moravcsik (1994) argues, this role gives them power over what he calls the ‘four I’s’: initiative, institutions, information and ideas. Governments can *initiate*

negotiations on policy issues without prior consultation, and they are able to dominate *institutional decisions*; their legislatures are later faced with ‘take-it-or-leave-it’ choices because renegotiations are impossible. They can also manipulate *ideological justifications* for a particular policy, in part because they have access to a steady stream of *information*, a resource that parliaments can only obtain at considerable expense. What makes the situation even more difficult for national parliaments is the fact that each can control only its own government in the Council – but when exercising its legislative competencies, the Council acts as a collective actor. Thus, where the Council decides under unanimity, individual Council members can veto a decision, but they cannot enforce the adoption of a particular policy against the will of other members. Where the Council uses qualified majority voting (QMV), even the power to veto a policy is no longer given as Council members can potentially be outvoted. In such a case, national parliaments may be compelled to adopt policies that even their own governments did not agree to.

European integration has thus had a strong impact on the role of national parliaments and domestic executive-legislative relations. However, institutions or actors rarely just accept a loss of power without any resistance, and this has held true for national parliaments. The debate over the democratic deficit of the European Union, and above all their interest in preserving their power have motivated parliaments to implement a range of institutional reforms designed to address the power shifts caused by European integration. The following section examines these institutional changes within national parliaments (active

Europeanization), while the third section discusses the use of scrutiny rights in practice, outlining incentives and constraints for parliamentary involvement in EU affairs. The fourth section will then focus on more recent challenges and opportunities for national parliaments in EU politics: the new participation rights enshrined in the Lisbon Treaty (in particular, the Early Warning System) and the impact of the ‘Eurozone crisis’. The final section concludes.

### **‘Backbenchers learn to fight back’: Institutional Europeanization**

During the 1990s, a wave of studies (among many: Laursen and Pappas 1995; Norton 1996a) painted a rather dire picture of the decline of parliamentary power that seemed to confirm the idea that national parliaments had been ‘left behind in the rush’ (Norton 1996b: 192). As Weiler (1999: 266) summarizes, EU integration ‘pervert[s] the balance between executive and legislative organs of government of the State. [...] [N]ational parliamentary control, especially in large member states, [is] more an illusion than a reality.’

The gloom and doom of the early ‘de-parliamentarization’ debate is not really surprising. In fact, the early period of integration (from the 1950s to the late 1980s/early 1990s) was characterized not only by parliamentary non-involvement but also by a general disregard for EU affairs on the part of most parliaments. Since then, however, national parliaments have learned ‘to fight back’ (Raunio and Hix 2000) and have implemented stronger scrutiny rights (for an analysis of

the development of parliamentary oversight institutions over time, see Winzen 2012, 2013). These include the right to receive more comprehensive information on European issues from their governments. Second, national parliaments have professionalized by setting up European Affairs Committees (EACs) and by implementing procedures (formal or informal) to involve their specialized standing committees in the scrutiny process. Third, scrutiny procedures have been strengthened by establishing or extending the parliaments' right to voice their positions on EU policies.

Beyond these broad similarities, the institutional reforms – and their effectiveness – have been far from uniform across the EU Member States.<sup>2</sup> Effective scrutiny obviously depends to a large degree on the amount and quality of information that parliaments receive, and there are still significant differences with regard to parliamentary access to internal or confidential EU documents or to additional information from the government in the form of explanatory memoranda (COSAC 2012). In addition, we find discrepancies with respect to the parliamentary infrastructure established to manage and process this information. All national parliaments have set up European Affairs Committees, but there is variation in the number of committees involved in European affairs. Involvement of the standing committees (or the establishment of specialized sub-committees) has the advantage of increasing the number of MPs occupied with EU affairs; more importantly, scrutiny of EU policy will be informed by their specialized policy expertise. In some parliaments, the scrutiny of EU policies has therefore been formally delegated to the standing committees according to their policy

areas. In many parliaments, however, the EAC remains the main forum for dealing with European issues, and standing committees have at best an advisory role.

In addition, we can also identify variation in the parliaments' approach to scrutiny. Although the addressee of the scrutiny procedure is ultimately the government, systems differ in terms of whether the parliament scrutinizes EU documents, the government's position for the negotiations in the Council or both. While some parliaments issue written statements, others communicate their position on European issues to the government orally during committee sessions; still others use both procedures. Most importantly, the consequences of such statements vary widely. In some cases, the government is legally – or strongly politically – bound to their parliament's statement. This 'mandating procedure' means that the national representative must follow parliamentary instructions when negotiating a European policy in the Council of the EU. In many cases, however, these statements are merely the expression of the parliament's opinion and have no binding effect. Finally, 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 still underway.

**Table 21.1: scrutiny provisions in national parliaments JUST ABOUT HERE**

A number of studies have classified and ranked national parliaments according to their institutional strength in EU affairs. Although these rankings differ slightly due to varying emphasis on specific institutional provisions, the overall picture is fairly consistent. As recent rankings by Karlas (2012), Winzen (2012) and Auel *et al.* (2014) show (see Table 21.1), we can identify a group of strong, mainly North European, parliaments, including those of Denmark, Finland, Sweden, but also Germany and the Netherlands. These parliaments generally have broad access to information, fairly strong mandating rights and, with the exception of Denmark, systematically involve their standing committees in the scrutiny process. In contrast, relatively weak parliaments can be found primarily in Southern member states, such as Cyprus, Greece, Portugal and Spain, but also in Belgium, Ireland and Luxemburg. Austria, France, Italy, Malta and the UK fall somewhere in between these two extremes. The new Central and Eastern European (CEE) member states have faced specific challenges related to their adaptation to both democratization and accession to the EU. At first, accession negotiations in combination with the obligation to implement the complete European *acquis communautaire* resulted in a serious net increase in power for national executives vis-à-vis other domestic actors, especially parliaments (Dimitrova and Mastenbroek 2006; Goetz 2005; Raunio and O'Brennan 2007b). As Sadurski has argued, executive control over the accession process was almost complete, but this was 'perhaps no bad thing, given the notorious inefficiency and incompetence of parliamentary institutions in post-communist states, and [...] arguably the only way to ensure that the enormous body of EU law was transposed into domestic

legislation' (Sadurski 2006: 7). However, the new constitutions of these countries tend to grant a more significant role to legislatures than most of the recent Western European constitutions (Malovà and Haughton 2002), and many of their parliaments can – at least with respect to their formal institutional position – be considered relatively strong.

**Table 21.2 Institutional Europeanization: Ranking national parliaments according to their institutional strength in EU affairs just about here**

How can we explain these differences? One rather straightforward explanation is that parliamentary power in EU matters mirrors parliamentary strength in domestic matters, since parliamentary scrutiny procedures are intended to re-establish the executive-legislative power balance affected by European integration. As Raunio notes, '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' and *vice versa* (Raunio 2009: 330, footnote 11). The degree of public support for the EU in the member state and the existence of anti-European parties (Raunio 2005; Saalfeld 2005) also seem to be important factors. In addition, member states that joined the EU later tend to have tighter scrutiny procedures than the earlier members, which can be explained by the fact that the salience of EU affairs has risen over time due to the increasingly important role of

the EU and its growing impact on the member states (Winzen 2013). Moreover, parliaments have also learned from one another. For example, the Finnish and Swedish parliaments borrowed many elements of the Danish scrutiny system when devising their own procedures; we can also see this institutional learning in the parliaments of the new member states, particularly with regard to their close inter-parliamentary cooperation and the use of ‘old’ member states as role models for the development of scrutiny procedures (O’Brennan and Raunio 2007b).(see Table 21.2.)

### **‘Are they really fighting back?’ The Europeanization of parliamentary behaviour**

The institutional Europeanization of national parliaments is by now well documented in the literature. However, formal institutional provisions tell only part of the story; to obtain a complete picture of the Europeanization of national parliaments, we also need to take the adaptation of parliamentary behaviour into account. Parliamentary institutions are crucial because they provide formal constraints and opportunities for parliamentary activity. However, institutional opportunities remain latent until they are utilized used. To what extent do MPs actually get involved in the scrutiny of EU affairs? Do they take advantage of their control rights and parliamentary instruments of influence?

There is still much unknown about actual parliamentary behaviour in EU affairs. However, existing studies suggest that parliaments differ with regard to

their formal institutional scrutiny provisions as well as in terms of their level of activity in EU affairs. A recent study provides, for the first time, comparative empirical data on parliamentary activities, namely parliamentary statements (resolutions and mandates), plenary debates on EU issues, EAC meetings, hearings with the Prime Minister and opinions issued in the context of the Early Warning System and the Political Dialogue (see below) between 2010 and 2012 (Auel *et al.* 2014). As the study shows, the powerful parliaments of Denmark, Finland, Germany and Sweden are also the most active, followed by the Austrian, Dutch, Estonian, Italian and Lithuanian parliaments. The Portuguese parliament is also in this group of active institutions, although the *Assembleia* focuses primarily on sending opinions within the Political Dialogue. Among the least active are the parliaments of Bulgaria, the Czech Republic, Greece, Cyprus, Hungary and Malta. The parliaments of Belgium, France, Ireland, Latvia, Luxemburg, Poland, Romania, Slovakia, Slovenia, Spain and the UK form a large intermediate group. These findings indicate that despite their initially weaker position vis-à-vis their executives during and after the accession process, a number of the new CEE parliaments have now become very active in EU affairs. (Textbox 21.1.)

**Textbox 21.1: Parliaments in action: Scrutiny in Finland and France**

**Scrutiny in the Finnish *Eduskunta*:** In the *Eduskunta*, the Grand Committee, which coordinates parliamentary scrutiny of EU policies, and the Foreign Affairs Committee, which deals with EU foreign and security policy matters and Treaty amendments, are the two main committees responsible for EU policies. The government must inform the *Eduskunta* without delay of proposals for Council decisions and other EU matters, usually through a letter outlining the content of a European document and the government's position on it. Although the Grand

Committee is the main parliamentary actor in EU affairs and is responsible for mandating the government, the standing committees are systematically involved: The Speaker of the *Eduskunta* requests one or (usually) more standing committee(s) to submit their opinion on the issue to the Grand Committee. The Grand Committee then debates the matter and formulates a parliamentary recommendation, which is forwarded to the government without any involvement of the plenary. To allow the *Eduskunta* to monitor and guide the negotiation behaviour of the government as early in the process as possible, the Grand Committee seeks to formulate its view before the consideration of the matter begins in the preparatory bodies of the Council. Although the recommendations and opinions of the Committee are not constitutionally binding, they are considered to be politically binding for the government, which must justify all deviations from the parliamentary opinion *ex post*. In comparative studies of parliamentary EU scrutiny mechanisms, the *Eduskunta* is unfailingly categorized as one of the strongest and most active parliaments in EU affairs, and several national parliaments (for example, the parliaments of the Baltic countries, Hungary and Slovenia) have adopted features of the Finnish scrutiny model.

**Scrutiny in the French *Assemblée Nationale*:** The main committee dealing with EU affairs in the *Assemblée Nationale* is the *Commission des affaires européennes*; however, this commission remains subordinate to the standing committees in this role. European documents are first sent to the EAC, which can designate one or more rapporteurs to draw up a detailed report (*rapport*). The outcome can be the tabling of a resolution proposal, but the report may also remain informative in character (*rapport d'information*), including the mere expression of conclusions on the document. Conclusions only express the view of the Commission; formal resolutions, in contrast, require the involvement of one of the standing committees. In addition, the EAC shares with individual MPs the right to table motions for resolutions. The responsible standing committee appoints its own rapporteur and takes a position on the Commission's resolution proposal, which it can adopt 'as is' (and often does), amend or reject. Finally, following the distribution of the standing committee report, the motion for a resolution can be placed on the agenda of the plenary upon the request of a party group, committee chair or the government. If no request for a plenary debate is made, the text adopted by the standing committee is considered final and is transmitted to the government. Resolutions, however, are explicitly non-binding and have less of a politically binding effect as well. Long considered a rather weak parliament in EU affairs, today the *Assemblée Nationale* plays a more active role and is situated midfield in most rankings.

The data does, of course, not provide a comprehensive overview of parliamentary activities in EU affairs. For example, it does not measure the use of other parliamentary control instruments (such as parliamentary questions) or capture time spent on EU affairs in parliamentary party group meetings. It also tells us little about the impact of parliamentary activity, i.e. whether more active parliaments actually wield greater control over their governments and more influence over EU policy-making. However, it does offer a first comparative impression of the Europeanization of parliamentary behaviour. It also illustrates the large variation in the level of activity in EU affairs as well as the fact that institutional strength does not always translate into active parliamentary involvement, and *vice versa*.

Rational explanations for legislative behaviour in EU affairs have pointed out that parliaments are in fact rather busy institutions. Parties and MPs have only limited time resources and thus have to consider the costs and benefits of spending time and energy on the scrutiny of EU affairs. Costs associated with scrutiny are fairly straightforward: They relate to the resources that need to be invested in oversight activities, such as time, the costs of information gathering and opportunity costs of not investing resources in other activities. But what are the incentives for scrutiny in EU affairs?

First, it can be argued that MPs need electoral incentives to invest limited resources in the scrutiny of European affairs (Raunio 2005; Saalfeld 2005). In

member states in which EU issues are more salient and public opinion is generally more critical of EU integration, MPs have a greater incentive to become active in EU affairs due to the potential electoral impact of EU politics. In contrast, in countries where 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. This argument has been used to explain the relative weakness of the parliaments in the Southern European member states Greece, Spain and Portugal. Until just recently, these countries were among the member states with the most consistently Europhile public (and elite), which resulted in an uncritical perception of the European integration process and thus undermined effective parliamentary scrutiny in EU matters (Magone 2007). However, since the 'Eurozone crisis' (see below), EU affairs have certainly become much more salient in these member states and throughout the EU in general.

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 speaking, governing party groups will be more inclined to leave EU politics to their government if they trust it to represent their mutual policy preferences in EU negotiations. This trust can be assumed to be greatest in the case of single-party governments. Although government MPs and ministers might 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 in the case of coalition governments. Here, coalition partners not only have to negotiate compromises, but they also have a stronger incentive to

attempt to influence and control the other coalition partners' members of government. Trust would thus be lowest in minority governments, explaining why the Scandinavian parliaments are especially powerful and active in EU affairs. Sweden and Denmark frequently have minority governments;<sup>3</sup> these governments cannot rely on the trust and support of a loyal majority in parliament but instead have to negotiate policies with at least part of the parliamentary opposition. Even without a formal mandating procedure, minority governments have to ensure that the policies agreed to at the European level can actually be implemented at the national level.

In addition, Auel and Benz (2005) argue that EU politics pose a dilemma for actors in a parliamentary system, in particular for governing parties. For national MPs, challenge lies not only in deciding whether they want to invest limited resources in scrutiny processes, but also in balancing conflicting incentives. If they publicly bind or control their ministers in the Council, governing parliamentary party groups run the risk of undermining the trust between the government and its backbenchers. In addition, there is the danger of damaging the bargaining power of the government in Council negotiations by reducing its room for manoeuvre. However, if they renounce control of their government in European policy-making, they abdicate power in the national arena. Neither is in the interest of the governing party groups. As a result, MPs do not always make full use of their institutional rights; but also develop more informal strategies to avoid this dilemma. These strategies include, for example, the close cooperation with the government behind closed doors (*in-camera* committee sessions or

private parliamentary party group meetings) and attempts to exert influence directly at the European level or to hold the government publicly to account.

However, whether MPs use their formal competencies or more informal strategies, purely rational explanations cannot always account for what would have to be considered ‘irrational’ behaviour: In many parliaments, MPs spend several hours per week scrutinizing EU documents, presenting parliamentary reports and drafting resolutions, even though they know that their activities will attract little attention from voters (or frontbenchers, for that matter) and will have very limited impact on policy. Rozenberg therefore argues, on the basis of a comparison of the EAC Chairs in France and Britain since the late 1970s, that emotional incentives and role perceptions also have an impact on the extent and direction of their involvement in EU affairs (Rozenberg 2012). MPs are thus not simply vote- or policy-seekers. Whether and in what ways they involve themselves in EU affairs also depends on how ‘their favourite parliamentary role adapts itself to this new position because emotional gratifications proper to this role can be developed through the involvement in EU affairs’ (ibid.: 13).

### **New challenges and opportunities**

Over the last few years, two developments have had an enormous impact on the role and position of national parliaments in EU politics. One is the coming into force of the Lisbon Treaty in December 2009. Often hailed as the Treaty of Parliaments, it not only strengthened the position of national parliaments within

the domestic arena, primarily by giving them direct access to European documents, but also, for the first time, provided them with direct input in the legislative process at the European level. At the same time, however, parliaments also face new challenges due to the Eurozone crisis and the European counter-measures, which increasingly subject budgetary authority – a key prerogative of parliaments – to influence from EU institutions both within and outside of the EU Treaty framework. The following section will discuss these new developments in turn.

### ***Becoming subsidiarity watchdogs: The Lisbon Treaty***

Although earlier Treaty revisions had recognized the role national parliaments play in providing democratic legitimacy for European policy-making, the Lisbon Treaty represents a new departure in this respect. Not only does the Treaty grant national parliaments direct access to the Treaty amendment process through the Convention on the Future of Europe, but it also explicitly mentions national parliaments and areas of their involvement for the first time (Article 12 TEU).<sup>4</sup> This role is then further outlined in two protocols annexed to the Treaty. According to the first, the ‘Protocol on the Role of National Parliaments in the European Union’, national parliaments are to receive all draft European legislative acts directly (rather than via their governments); in addition, they will receive a broader range of non-legislative documents, such as the annual reports of the Court of Auditors and the Commission’s annual legislative programme. The second, the ‘Protocol on The Application of the Principles of Subsidiarity’,

outlines the provisions for the control of the subsidiarity principle by national parliaments, the so-called Early Warning System (EWS, see Textbox 21.2). As the name implies, the ESW provides for *ex-ante* subsidiarity checks, but the Treaty also opens up the opportunity for *ex-post* control: According to Article 8 of the Protocol, the Court of Justice of the European Union (CJEU) 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 before the Court by national parliaments through their governments.

**Textbox 21.2: The Early Warning System**

According to Article 7.1 of the ‘Protocol on The Application of the Principles of Subsidiarity’ attached to the Treaty of Lisbon, national parliaments have the right to submit, within eight weeks, a ‘reasoned opinion’ to the Commission if they consider a legislative draft act to violate the subsidiarity principle (Article 7.1). These opinions are akin to votes, and each member state has two votes – one for each chamber in bicameral parliaments and two for unicameral parliaments. If national parliaments representing one-third of the votes (18 out of 54 votes) submit a reasoned opinion, the Commission must formally review the proposal; it may withdraw or amend the proposal, but can also maintain it unaltered (Article 7.2). In these cases, national parliaments show the Commission the ‘yellow card’, but they cannot force it to take their concerns into account. If, however, national parliaments representing at least half of the votes 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’). If either body decides with a majority of 55 per cent that the proposal is incompatible with the principle of subsidiarity, the ‘legislative proposal shall be given no further consideration’ (Article 7.3b).

Yet to what extent has the EWS truly strengthened national parliaments in EU affairs? On the plus side, the new provisions enshrined in the Lisbon Treaty, especially the requirement that the subsidiarity check be conducted within eight weeks, have led to a general overhaul of parliamentary scrutiny procedures in a number of national parliaments. Parliaments now receive better information, not just through the direct transmission of EU documents, but also increasingly through explanatory memoranda from their own governments that outline the content and importance of the government's stance on EU bills. In addition, the EWS encourages a more systematic and timelier scrutiny of EU documents.

However, there are also grounds for scepticism. First of all, the subsidiarity check is merely a 'negative' right with a rather narrow remit. Thus, it does not give national parliaments the right to reject a proposal for reasons related to the policy content, nor does it provide them with the opportunity for more constructive input. Second, the right can only be used collectively. Thus far (November 2013), the quorum for a 'yellow card' has been reached twice, with regard to the proposal for the so-called 'Monti II' Regulation and for a regulation on the establishment of the European Public Prosecutor's Office.<sup>5</sup> In the case of the Monti II regulation, the Commission subsequently withdrew the proposal, but stated that this was not due to parliamentary concerns, since a breach of the subsidiarity principle was not evident in the opinions. Rather, the Commission explained, the proposal was withdrawn because it was 'unlikely that to gather the necessary political support within the European Parliament and the Council'.<sup>6</sup>

Given that the Commission might not have withdrawn the proposal without parliamentary intervention, a certain success on the part of the parliaments cannot be denied. But the example also suggests that the success of the EWS will depend to a large degree on whether or not the national government support the legislative proposal. However, if the ‘government foresees problems with the legislative proposal, what then does a parliamentary reasoned opinion add to a critical voice or “no” vote by the government in the Council?’ (De Wilde 2012: 9) With regard to the proposal concerning the European Public Prosecutor’s Office, the Commission has already indicated that it will maintain the proposal despite the yellow card (European Commission 2013d).

Against this background, another potentially positive effect of the new procedures, namely the establishment of a closer dialogue between national parliaments and the Commission, must be viewed with some scepticism. Since 2006, as part of the ‘Political Dialogue’, the Commission sends all legislative proposals and consultation documents directly to national parliaments, inviting them to express their opinions on these documents without any restriction to issues of subsidiarity. In turn, the Commission has promised not only to reply to all opinions, but also to take them under due consideration (Preising 2011: 152). National parliaments have made varying but overall active use of this opportunity. Thus far, however, the political dialogue does not seem to have had any discernible impact. Not even the Commission points to a single instance in its annual reports<sup>7</sup> in which it actually took parliamentary concerns into account and

amended a proposal accordingly. Given the variety of concerns and suggestions expressed in the national opinions, it is also unclear exactly how the Commission is supposed to do that exactly. As long as national parliaments fail to coordinate their positions more closely, the Commission will probably continue to send its polite - but inconsequential - thank-you notes.<sup>8</sup>

### *National parliaments and the Eurozone crisis<sup>9</sup>*

Although the global crisis began much earlier,<sup>10</sup> it fully hit the EU in early 2010 with the advent of the Greek sovereign debt crisis. Since then, it has spread to other member states, most notably Ireland, Portugal, Spain, Italy and Cyprus, and EU member states have agreed on a number of economic governance reforms to manage and overcome what is now a ‘Eurozone crisis’(for an overview, see Kunstein and Wessels 2012). These reforms include the initial European Financial Stability Facility (EFSF, in force since June 2010) and the permanent European Stability Mechanism (ESM, in force since October 2012), special-purpose vehicles established to provide aid to Eurozone member states in need of financial assistance. Other measures are targeted at reforming the Stability and Growth Pact and improving the coordination of economic governance within the EU to prevent future crises; among these are the so-called ‘six pack’ (including the ‘European Semester’<sup>11</sup>), the ‘two pack’ and the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG, commonly known as the ‘Fiscal Compact’), which requires member states to achieve a surplus or at

least a balanced budget, to establish constitutional or statutory mechanisms to limit public borrowing and to accept sanctions in case of non-compliance.

The crisis has impacted national parliaments in a number of ways. First and foremost, parliaments in financially threatened member states have lost some of their freedom of action due to the dire financial situation; they must also comply with rather strict obligations, laid out in the Memoranda of Understanding, to consolidate their budgets as a precondition for receiving financial assistance from the EFSF and ESM. This places a heavy burden on their citizens in terms of unemployment, salary and pension cuts and the retrenchment of social welfare programmes. The donor countries, in contrast, have to shoulder large financial guarantees, which may severely limit their own future room for manoeuvre. In addition, instruments such as the European Semester and the Fiscal Compact greatly impact fiscal and economic policy for the parliaments of all (participating) member states.

Second, some of the measures have been implemented within the legal framework of the EU Treaties and thus apply to all member states; these include the ‘six-pack’ and the European Semester. However, other important measures, such as the EFSF and ESM (Eurozone members only) and the Fiscal Compact (signed by all EU member states except the Czech Republic and the United Kingdom), are based on intergovernmental agreements or Treaties outside of the EU legal framework (Kunstein and Wessels 2012). As a result, national governments have

treated (or have tried to treat, see below) the latter as foreign rather than EU policy, which limits the involvement of national parliaments.

Closely related is a third development: the dramatic strengthening of European executives. With the EU in full crisis mode, the European Council has become the most important forum for decision-making in EMU affairs. The Eurozone member states have also set up their own decision-making body, the Euro Area Summit. The transfer of decision-making powers to these bodies has transformed them into something like a European economic government (Wessels and Rozenberg 2013). In fact, the financial crisis provides a perfect illustration of Moravcsik's argument concerning the executive's gatekeeper role: Not only do governments initiate crisis-related policies and control their institutional design, but they can also manipulate ideological justifications. As Puntischer Riekman and Wydra assert, 'National governments defend policies agreed on at the European level and present national parliaments with a *fait accompli*. [...] This becomes particularly clear in their discourse on the rescuing of the Eurozone and of the single currency as the European common good, whereas national parliaments' representation claims are thwarted as particularistic and parochial' (Puntischer Riekman and Wydra 2013: 570). In a similar vein, some of the measures have strengthened the European Commission considerably. This is especially true of the European Semester, which empowers the Commission to define general EU-wide policy goals that member states must follow; the Commission now also evaluates and makes specific recommendations regarding

national reform programmes, thus interfering in areas of genuine parliamentary authority (Hallerberg *et al.* 2012). However, both general and member state-specific recommendations have to be approved by the European Council and the Council, thus providing national parliaments with potential influence via their governments.

As was the case with EU politics in general, parliaments have also responded to the developments outlined above. However, parliamentary participation rights – for example, in relation to *ex-ante* and *ex-post* scrutiny of EU Councils and Euro Area Summits (Wessels and Rozenberg 2013) and new instruments such as the EFSF or ESM – vary considerably; some parliaments enjoy extensive oversight and veto rights for decisions at the European level, while others have mere informational rights or almost no involvement in the process at all (Deutsche Bank Research 2011). Powerful parliaments include the ‘usual suspects’ among the Eurozone members, such as the Scandinavian parliaments and the parliaments of Germany, Austria, Estonia and the Netherlands. In Germany, the *Bundestag* has been significantly strengthened due to decisions issued by the German Constitutional Court (for details, see Höing 2013); for example, the Court has ruled that crisis measures outside of the EU legal framework are essentially European policies and that the *Bundestag* must therefore be involved accordingly. It also obliged the government to obtain the prior approval of the *Bundestag* or its budget committee before agreeing to any financial guarantees or to the release of bailout funds. The Austrian parliament, in contrast, used the ratification of the

Article 136 TFEU amendment<sup>12</sup> to secure more extensive parliamentary codecision rights, obliging the government to obtain a prior mandate from parliament before agreeing to ESM-related measures. In addition, a new permanent sub-committee of the budget committee now monitors the government's ESM-related activities (Konrath 2012). However, this strengthening of some parliaments has also had a paradoxical inter-parliamentary impact, as the oversight rights of donors' parliaments may clash with the sovereignty of the recipients' parliaments. One of the conditions for financial assistance is that debtor countries make their economic programmes and budget plans available for review by the other member states – and, in some cases, their parliaments. It famously 'came as a shock to many members of the Irish Dáil to discover in November 2011 that their government's draft budget plans for the next financial year, including a new proposal to raise value added tax by 2 per cent, had been seen by members of the Bundestag before it had been made available to them' (Fox 2012: 465–6).

Overall, the crisis has thus has a complex impact on national parliaments. On the one hand, the reforms do impact core areas of parliamentary authority to an unprecedented degree. On the other hand, some national parliaments have been able to assert their power, while others have been side-lined. Not only has the crisis affected Eurozone and non-Eurozone parliaments as well as donor and debtor parliaments differently, but it has also weakened precisely those parliaments that are generally weaker in EU affairs (see also Auel and Höing

2013). As a result, the crisis has firmly cemented the gap between stronger and weaker parliaments.

## **Conclusion**

Despite the broad literature on national parliaments and the EU, our understanding of the Europeanization of national parliaments remains limited. While the institutional Europeanization of national parliaments is by now well documented in the literature, we still know too little about the role parliaments actually play in EU affairs. More research is needed on the Europeanization of parliamentary behaviour and on the actual impact and effectiveness of parliamentary involvement in EU politics, i.e. the extent to which national parliaments are indeed capable of controlling their governments in EU affairs and influencing EU policy. As a result, there is also still much disagreement over whether national parliaments have become more powerful and effective scrutinizers or remain essentially marginalized in EU politics.

However, analyzing parliamentary Europeanization also poses more fundamental challenges, mainly in terms of operationalization and measurement. While parliaments can be classified according to their institutional strength in EU affairs, it is far more difficult to assign labels of ‘more’ or ‘less Europeanized’ on that basis. This is not only a question of institutional vs. behavioural Europeanization,

but also relates to the yardstick used to measure the extent of both passive and active Europeanization. If, as argued above, the institutional adaptation of national parliaments mirrors their strength in domestic affairs, then a weak parliament with weak institutional rights in EU affairs could be just as ‘Europeanized’ as a powerful parliament that has established tight scrutiny provisions. Alternatively, the standard could be based on a definition of the parliamentary functions that we expect parliaments to fulfil in EU affairs. The problem here is that different parliaments emphasize different functions, both in domestic and EU affairs, making comparative assessments difficult; in addition, scholars do not agree on what the functions of national parliaments actually are or ought to be in EU politics (Auel 2007). Raunio and Wiberg (2010: 76) define Europeanization more broadly as ‘the extent to which national parliaments have “re-oriented” their activities on account of European integration’, which includes the share of EU-related laws and time spent on EU issues in committees, party group meetings and the plenary, but also the use of control instruments such as parliamentary questions and votes of no confidence. However, as the authors point out, European and domestic matters have become so intertwined that it is increasingly difficult even to define what actually constitutes a European issue.

Closely related to these concerns is another potential pitfall of Europeanization research (Radaelli and Pasquier 2007) – namely, the danger of attributing too much to the EU and thus overestimating the impact of European integration on national parliaments. While it may be fairly easy to identify institutional scrutiny

arrangements or specific EU activities as a reaction to European integration (and thus as active Europeanization), isolating the impact of European integration on national parliaments in terms of parliamentary power or executive-legislative relations is far more problematic. Indeed, lamentations over ‘de-parliamentarization’ often tend to be based on a somewhat idealized view of parliamentary power in domestic politics, as if there existed some sort of ‘golden age of parliamentarism’ before ‘the EU cast its long shadow over national politics’ (O’Brennan and Raunio 2007a: 8). However, in reality, most national parliaments in Europe were at best modest policy influencers to begin with, and European integration is just one among the many challenges that national parliaments must face, such as globalization and the growth of the regulatory state (see also chapter 18 in this volume).

In fact, compared to developments in domestic politics, we can even observe a remarkable resilience among national parliaments in the European context. Power shifts in executive-legislative relations caused by European integration are primarily based on explicit institutional decisions (such as successive Treaty amendments), a process that – despite some delay – has induced national parliaments to respond more decisively. With the provisions enshrined in the Lisbon Treaty, national parliaments have even acquired participation rights in EU politics beyond the domestic sphere, although these are limited and collective in nature. Whether and to what extent the Eurozone crisis and the changes to economic governance in the EU will erode this progress in terms of parliamentary

legitimacy is difficult to predict. Processes of ‘passive Europeanization’ have certainly reached a new level: Crisis management ‘by summit’ has become the norm; intergovernmental treaties outside the EU legal framework have weakened parliamentary participation rights; and strict austerity measures, financial guarantees, closer economic policy coordination and enforced budgetary discipline have all impacted core areas of parliamentary authority. However, reforms are on-going, and there are already signs pointing towards greater parliamentary legitimacy at both the European and the domestic level.

European integration and the associated challenges are thus no reason to write off national parliaments. Arguments about ‘de-parliamentarization’ tend to overlook the fact that national parliaments have become far more involved in EU politics over recent decades; in addition, their proponents often expect parliaments to be more assertive and more powerful policy influencers in EU affairs than they are in domestic decision-making processes. In turn, it must also not be overlooked that national parliaments differ with regard to their level of active Europeanization in terms of both, their institutional adaptation and strength and their level of activity. As a result, citizens of EU member states enjoy different levels of parliamentary representation when it comes to EU affairs. One of the main challenges for EU democracy, especially in the context of the current crisis and the emerging new system of economic governance, will be to avoid the exacerbation of existing power imbalances between national parliaments in EU affairs.

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**Table 21.1: Scrutiny provisions in national parliaments**

<b>Member state</b>	<b>Title of the committee/ composition</b>	<b>Involvement of standing committees</b>	<b>Scope of scrutiny/binding character/scrutiny reserve</b>
<b>Austria</b> <i>Nationalrat</i>	Main Committee on EU Affairs, 26 members  Standing Subcommittee on EU Affairs, 16 members	No systematic involvement	Mainly EU documents  Position is formally binding, gov't. has to re-negotiate  No scrutiny reserve
<b>Belgium</b> <i>Chambre des représentants</i>	Federal Advisory Committee on European Affairs (joint committee with <i>Sénat</i> ), 10 senators, 10 members of the <i>Chambre</i> and 10 Belgian MEPs	Advisory involvement	Mainly EU documents  Position is non-binding  No scrutiny reserve
<b>Bulgaria</b> <i>Narodno sabranie</i>	Committee on European Affairs and Oversight of the European Funds, 18 members	Advisory involvement	Mainly EU documents  Position is non-binding  Scrutiny reserve
<b>Cyprus</b> <i>Vouli ton Antiprosopon</i>	Committee on European Affairs, 10 members	Advisory involvement	Mainly EU documents  Position is non-binding  No scrutiny reserve
<b>Czech Republic</b> <i>Poslanecká sněmovna</i>	Committee for European Affairs, 15 members	No systematic involvement	Mainly EU documents  Position is non-binding  Scrutiny reserve
<b>Denmark</b> <i>Folketing</i>	European Affairs, 29 members	Advisory involvement	Mainly gov't. position  Position is formally binding, gov't. has to re-negotiate  Scrutiny reserve
<b>Estonia</b> <i>Riigikogu</i>	European Union Affairs Committee, at least 15 members	Advisory involvement	Both documents and gov't. position

			Parliamentary position is politically binding, gov't. has to justify deviation  Scrutiny reserve
<b>Finland</b> <i>Eduskunta</i>	Grand Committee, 25 titular members and 13 substitutes with right to attend and speak	Full involvement	Both documents and gov't. position  Parliamentary position is politically binding, gov't. has to justify deviation  Scrutiny reserve
<b>France</b> <i>Assemblée nationale</i>	Committee on European Affairs, 48 members	Full involvement	Mainly EU documents  Position is non-binding  Scrutiny reserve
<b>Germany</b> <i>Bundestag</i>	Committee on the Affairs of the European Union, 33 MPs and 16 German MEPs without voting rights	Full involvement	Mainly EU documents  Position is politically binding, gov't. has to try to find consensus with BT and justify deviation  Scrutiny reserve
<b>Greece</b> <i>Vouli ton Ellinon</i>	Special Standing Committee for European Affairs, 31 members	Advisory involvement	Mainly EU documents  Position is non-binding  No scrutiny reserve
<b>Hungary</b> <i>Országgyűlés</i>	Committee on European Affairs, 21 members	Advisory involvement	Both documents and gov't. position  Parliamentary position is politically binding, gov't. has to justify deviation  No scrutiny reserve
<b>Ireland</b> <i>Houses of the Oireachtas</i>	Joint Committee on European Union Affairs, 9 members	Full involvement since 2011	Mainly EU documents  Position is non-binding

	of the <i>Dáil Eireann</i> , 5 members of the <i>Seanad Eireann</i>		No scrutiny reserve
<b>Italy</b> <i>Camera dei Deputati</i>	Committee on EU Policies, 43 members	Full involvement	Mainly EU documents  Position is politically binding, gov't. has to justify deviation  Scrutiny reserve
<b>Latvia</b> <i>Saeima</i>	European Affairs Committee, 17 members	No systematic involvement	Mainly gov't. position  Position is politically binding, gov't. has to justify deviation  Scrutiny reserve
<b>Lithuania</b> <i>Seimas</i>	Committee on European Affairs, not less than 15 and not more than 25 members; currently 21 members	Advisory involvement	Both documents and gov't. position  Position is politically binding, gov't. has to justify deviation  Scrutiny reserve
<b>Luxembourg</b> <i>Chambre des Députés</i>	Committee for Foreign and European Affairs, for Defence, for Cooperation and for Immigration, 12 members	Full involvement	Mainly EU documents  Position is politically binding, gov't. has to justify deviation  No scrutiny reserve
<b>Malta</b> <i>Kamra tad- Deputati</i>	Standing Committee on Foreign and European Affairs, 9 members	No systematic involvement	Mainly gov't. position  Position is non-binding  Scrutiny reserve
<b>Netherlands</b> <i>Tweede Kamer</i>	Committee on European Affairs, 24 members	Full involvement	Both documents and gov't. position  Formally, position is non-binding, but gov't. will usually justify deviation  Scrutiny reserve

<b>Poland</b> <i>Sejm</i>	European Union Affairs Committee, not less than 15 and not more than 46 members (10% of the <i>Sejm</i> ); currently 44 members	No systematic involvement	Both documents and gov't. position  Position is politically binding, gov't. has to justify deviation  No scrutiny reserve
<b>Portugal</b> <i>Assembleia da República</i>	Committee on European Affairs, 21 members	Advisory involvement	Mainly EU documents  Position is non-binding  No scrutiny reserve
<b>Romania</b> <i>Camera Deputaţilor</i>	Committee on European Affairs, 25 members	Full involvement	Mainly gov't. positions  Position is non-binding  No scrutiny reserve
<b>Slovakia</b> <i>Národná rada</i>	Committee on European Affairs, 11 members	Advisory involvement	Mainly EU documents  Position is politically binding, gov't. has to justify deviation  Scrutiny reserve
<b>Slovenia</b> <i>Državni zbor</i>	Committee for EU Affairs, 14 members	Advisory involvement	Mainly gov't. position  Position is politically binding, gov't. has to justify deviation  Scrutiny reserve
<b>Spain</b> <i>Cortes Generales</i>	Joint Committee for the European Union, 43 members	Advisory involvement	Mainly EU documents  Position is non-binding  No scrutiny reserve
<b>Sweden</b> <i>Riksdag</i>	Committee on EU Affairs, 17 members and 42 alternates	Full involvement	Both documents and gov't. position  Parliamentary position is politically binding, gov't. has to justify deviation  Scrutiny reserve

<b>United Kingdom</b> <i>House of Commons</i>	European Scrutiny Committee, 16 members  European Committees, 13 members ( <i>ad-hoc</i> membership)	No systematic involvement	Mainly EU documents  Position is non-binding  Scrutiny reserve
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Sources: Heffler *et al.* 2014 and COSAC 2013

**Table 21.2: Institutional Europeanization: Ranking national parliaments according to their institutional strength in EU affairs**

Member State	Rank Order Karlas 2012	Rank Order Winzen 2012	Rank Order Auel <i>et al.</i> 2013
Estonia	1	4	4
Finland	1	2	1
Lithuania	1	2	3
Denmark	2	1	3
Poland	3	5	8
Slovenia	3	5	5
Sweden	3	6	3
Germany	4	4	2
Hungary	4	5	8
Austria	5	6	7
Latvia	5	5	7
Netherlands	5	6	4
Slovakia	5	2	7
Romania	6	3	10
France	7	9	6
Italy	8	7	8
Bulgaria	9	5	9
Czech Rep.	9	6	6
UK	10	7	7
Luxembourg	10	11	9
Malta	11	8	8
Belgium	12	11	12
Cyprus	12	12	11
Greece	12	10	12

Ireland	12	8	9
Portugal	12	8	9
Spain	12	10	9

Parliaments (lower chambers only) were ranked on a scale from 1 (strongest) to 12 (weakest) using the ranking in Karlas (2012) and the scores in Winzen (2012) and Auel *et al.* (2014).

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## ENDNOTES

<sup>1</sup> Due to space limitations, this article cannot present a comprehensive overview of the literature, but Goetz and Meyer-Sahling (2008), Raunio (2009) and Winzen (2010) provide excellent reviews.

<sup>2</sup> A comprehensive overview of the scrutiny provisions in all national parliaments can be found in Heffler *et al.* (2014).

<sup>3</sup> In contrast, Finland often has oversized coalition governments.

<sup>4</sup> The following focuses mainly on the role of national parliaments as guardians of the subsidiarity principle. The Treaty, however, also empowers national parliaments in other ways. For an exhaustive list, see Kiiver (2012).

<sup>5</sup> 12 parliaments with 19 votes overall submitted a reasoned opinion on the ‘Proposal for a Council Regulation on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services’(Monti II) (COM/2012/0130). On the proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office (COM(2013) 534), the Commission received reasoned opinions from 11 parliaments representing 19 votes.

<sup>6</sup> See European Commission (2013a).

<sup>7</sup> See the Commission's report on ‘Subsidiarity and Proportionality – Better Lawmaking’ (European Commission 2013b) and the annual report on ‘Relations Between the European Commission and National Parliaments’(European Commission 2013c).

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- <sup>8</sup> Parliamentary opinions and replies from the Commission can be found online at European Commission (2013c).
- <sup>9</sup> On the following see also Auel and Höing 2013.
- <sup>10</sup> Since 2008, EU member states, in particular those within the Eurozone, have experienced a succession of crises; this started with the banking crisis following the collapse of Lehman Brothers and has culminated in the current ‘Euro crisis’.
- <sup>11</sup> The ‘six pack’ is a set of five regulations and one directive aimed at tightening the Stability and Growth Pact and addressing macro-economic imbalances. The ‘European Semester’ provides a framework to improve economic policy coordination in the EU.
- <sup>12</sup> The amendment to Article 136 of the Treaty on the Functioning of the European Union (TFEU) paved the way for the establishment of the ESM by the Eurozone members.