

## **INTRODUCTION**

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The role of national legislatures in European integration has received much-needed attention in recent years. This interest is primarily explained by the rapid growth in the policy competence of the European Union (EU) and by the realization, in line with the deparliamentarization thesis outlined in this chapter, that parliamentary bodies were, both individually and collectively, becoming increasingly marginalized in the EU policy process. Hence both scholars and politicians began to consider ways of making national MPs more involved in the processing of EU matters. In a broad context parliaments are central institutions in European systems of government. They elect and control the government, approve legislation, and as the bodies responsible for amending the constitution hold the ultimate power in society. Yet such constitutional perspective is arguably increasingly divorced from reality. National parliaments are almost without exception portrayed in the literature as reactive institutions, casting rather modest influence on policy initiatives coming from the executive.

There is no doubt that the EU has gone through a period of rapid constitutional transformation since the mid-1980s, with a series of Intergovernmental Conferences (IGC) leading to substantial transfers of power from the national level to the European level of policy-making. While scholars could still prior to the Maastricht Treaty (signed in 1992) claim that member states would not delegate powers to the Union in so-called ‘high politics’ areas, these arguments sound somewhat hollow now as the jurisdiction of the EU extends basically to all policy areas, ranging from funding cultural projects to the gradual development of common security and defence policies, so that ‘nearly every conceivable area of policy is now subject to shared national and EU competence’.<sup>1</sup> With successive enlargements west (1973), south (1981, 1986), north (1995), and finally, east (2004) the geographic scope of the European project has also extended far beyond its original sphere.

The total size of the EU budget (less than 1.2 per cent of total EU GNI) is admittedly small, but the redistributive capacity of the Union should not be underestimated, as its agricultural and regional policies have a profound impact on the farming sector and on the less wealthy areas of the Union. The EU deregulates exchange by removing various barriers to trade while simultaneously regulating trade by setting up common standards that apply across the Union. More importantly, the introduction of the single currency with independent monetary policy decided by the European Central Bank (ECB), together with the increasing coordination of national economic policies, means that the economic policies of member states are to a large extent tied to rules agreed at the European level. And, the decisions of the EU are enforceable by the Commission and the European Court of Justice (ECJ), with the binding supranational legislation setting increasing limits on what national governments can do.<sup>2</sup>

Despite the economic and political powers of the Union, its decision-making process is still strongly influenced – some would argue even dominated - by national governments. Amendments to the Treaty, the constitution of the Union, are subject to unanimous agreement by the member states, with the EU institutions having no formal role in IGCs. Most of the important policy decisions, such as agreements on the timetables of the Economic and Monetary Union (EMU) and the consecutive enlargements, decisions on key appointments (such as candidates for the Commission President, the President and board members of ECB), and setting the Union's long-term employment and economic policy strategies are taken by heads of governments in the summits of the European Council, the real board of directors of the Union. Despite the extended application of the co-decision procedure, the Council remains still far ahead of the European Parliament (EP) in its legislative powers. The role of the Commission in initiating and implementing legislation is overseen by national governments, whose civil servants participate in the hundreds of committees and working groups that draft the EU's legislative initiatives and oversee their eventual implementation.

The importance of national governments in the EU policy process makes it essential to study the role of national legislatures within the European integration system. After all, the defining criterion of parliamentary democracy is that the government is accountable to the legislature and can be voted out of office by it. However, most of the literature on national parliaments frames national parliaments as the main victims of integration. The next section of this introductory chapter revisits this literature, and presents the main arguments which support the case for national legislatures losing out as European integration unfolds. The following section then examines how national parliaments have responded to this challenge, with the

next section explaining how national parliaments get involved in EU affairs. The final section then outlines the structure of the book.

## **DEPARLIAMENTARIZATION – IS EUROPE TO BLAME?**

According to the so-called ‘deparliamentarization’ thesis, the development of European integration has led to an erosion of parliamentary control over executive office-holders. The argument about deparliamentarization is based both on constitutional rules and on the political dynamics of the EU policy process.<sup>3</sup> Constitutionally, the issue is relatively straightforward. Powers which previously were under the jurisdiction of national legislatures have been shifted upwards to the European level -- by national governments and legislatures themselves, thereby signaling that the benefits accruing to member states from integration outweigh the losses to national parliamentary sovereignty. Amendments to the EU’s constitution are subject to unanimous agreement between the national governments. But, after the negotiations in the IGCs have been completed, these constitutional bargains are usually presented as ‘take-or-leave-it’ packages to national parliaments, where the only options for domestic legislatures are to accept the constitutional bargains without amendment or to reject the packages and plunge the EU into constitutional crisis (as happened when the French and Dutch rejected the Constitutional Treaty in referenda in May and June 2005). Indeed, constitutional bargains between member state governments have only twice been rejected by national parliaments. In 1954 the French National Assembly failed to ratify the plan for a European Defence Community (EDC), and in January 1986, the Danish Folketinget rejected the Single European

Act (SEA), only for the will of the parliamentary majority to be overturned by a consultative referendum held in February that year.

Politically, in the control of European-level executive powers and in the adoption of legislative acts at the EU level, neither domestic parliaments nor the EP are sovereign bodies. The increased use of qualified majority voting (QMV) in the Council makes it difficult for national parliaments to force governments to make detailed *ex ante* commitments before taking decisions at the European level. Also, despite its increased role in the EU political system, the powers and legitimacy of the EP fall far short of full compensation for the loss of power of national parliaments. And, even if the EP were to become a true co-legislator with the Council, a section of national MPs would not view this positively as such a move would reduce the powers of national governments in the Council. Moreover, through the centrality of technical expertise in the EU policy-process, the true winners of European integration have arguably been bureaucrats and organized private interests at all levels of government and not directly-elected parliamentarians — the traditional holders of legitimacy in European systems of parliamentary government.<sup>4</sup>

Research on the impact of the EU on national politics has provided strong support for the deparlamentarization thesis. This research has usually approached the question under the theoretical framework of ‘Europeanization’, defined originally by Ladrech as ‘an incremental process reorienting the direction and shape of politics to the degree that EC (European Community) political and economic dynamics become part of the organizational logic of national politics and policy-making’.<sup>5</sup> Europeanization is hence primarily a top-down

concept, employed for analyzing the impact of integration on developments at the national level.<sup>6</sup> Most of this burgeoning literature has focused on whether the EU alters the balance of power between domestic actors. The EU creates new exit, veto, and informational opportunities for domestic actors and therefore changes the national opportunity structure for exerting political influence. The idea is thus simple: states are not homogeneous, monolithic entities and the process of European integration may empower certain groups or institutions while reducing the power of others.

Reviewing briefly this literature, we can identify two partially conflicting schools of thought. According to the liberal intergovernmentalist approach associated with Moravcsik, European integration strengthens domestic governments as they, and not backbench parliamentarians or people outside the executive branch, participate in decision-making in the various EU institutions. The main beneficiaries are the ministers in charge of most ‘Europeanized’ portfolios (notably prime ministers and finance ministers) and the civil servants within ministries responsible for EU matters. The key aspect behind this argument is information. National executives use the European institutions in a two-level game to strengthen their autonomy *vis-à-vis* other national actors, primarily the representative bodies. The dominant position of domestic governments in both national and European politics, combined with the constant interaction and policy co-ordination between the two levels, reduces the influence of parliaments at all stages of the decision-making process -- hence deparliamentarization.<sup>7</sup>

According to the multi-level governance scenario, on the other hand, the EU policy process can also weaken the position of the government, as societal groups can bypass the national

government and use the new supranational channel for pursuing their policy objectives.<sup>8</sup> National executives are significant and probably the most important actors in EU decision-making, but they are not gate-keepers preventing access from domestic groups to the European level. This tendency is facilitated by EU institutions, most notably the Commission and the EP, that have consistently sought to establish and consolidate links with both European and national non-governmental organizations. The introduction of structural funds has strengthened the regional level in several member states, with regional authorities, encouraged by the Commission, circumventing national authorities and establishing direct contacts with the EU bodies. Indeed, as indicated by the thousands of lobbyists working in Brussels, regions and national interest groups make active use of the 'EU channel' to achieve their policy objectives. Another aspect of multi-level politics is that the process of integration, and particularly the increasing interdependence of European and national agendas, will reduce the autonomy of all actors with national policy choices constrained by the existing EU rules and legislation and by what is politically feasible in light of the preferences of other member states and the EU institutions. Importantly, while the multi-level governance framework does not posit national governments the same weight as the intergovernmental approach, it does not view national legislatures as beneficiaries of the process either. If anything, their role becomes weaker in the multi-level political system where intergovernmental policy coordination and negotiations are the primary mode of governance.<sup>9</sup>

Turning to the results of selected key cross-national research projects, the volume edited by Rometsch and Wessels uncovered certain similarities between the member states: the strengthening of the position of the prime minister; the central role of the governments coupled with decentralization and flexibility in decision-making; the bureaucratization of

public policy-making; high administrative coordination in national EU policy, and, significantly, low involvement of national parliaments.<sup>10</sup> The follow-up volume edited by Wessels, Maurer and Mittag largely confirmed these findings. However, that study argued that national parliaments were now starting to be more involved in the EU policy process: ‘It can be concluded that in nearly all Member States, national parliaments have strengthened their formal role in the EU decision-making process. Though decision-making continues to be primarily in the hands of governments, their room for manoeuvre in Brussels negotiations will be restricted to an increasing extent by national parliaments and particularly by their specialized committees’.<sup>11</sup> Despite such improvement, they concluded on a pessimistic note that ‘continuous deficits in parliaments’ ability to play the multi-level game reduce the influence of national deputies. The involvement of parliaments in the EU policy-cycle remains weak and largely reactive’.<sup>12</sup> The volume edited by Kassim, Peters and Wright focused on national coordination of EU policy. Summing up the role of national parliaments in this policy coordination, Kassim observed that parliaments have ‘very little ability to scrutinize Union proposals, still less to influence their content, and are able only in very exceptional cases to direct the actions of their respective governments’.<sup>13</sup> Country-specific accounts of Europeanization largely confirm the findings of these comparative projects.

Furthermore, EU membership imposes severe constraints on the policy autonomy of the member states and their parliaments. Apart from EU directives that require national transposition, an increasing share of domestic legislation originates in the European Union institutions, increasingly in recent years in the form of policy diffusion and peer pressure under the Open Method of Coordination (OMC) and other ‘soft law’ coordination efforts. However, it must be at the same time emphasized that the prediction made by the



Commission President Jacques Delors in the late 1980s about the share of legislation that would flow from Brussels has proven to be quite misplaced.<sup>14</sup> Research has shown this share to be much lower, even when including domestic laws that were in some way ‘inspired’ by the EU. For example, Töller demonstrates that while the share of EU-inspired legislation enacted by the Bundestag has doubled since the mid-1980s, between 1998 and 2002 34.5 per cent of laws approved by the Bundestag’s were related to the European Union.<sup>15</sup> According to Hegeland only 6 per cent of the legislation adopted by the Swedish Riksdag between 1995 and 2004 contained a reference to an EU law.<sup>16</sup> Johannesson in turn showed that between 1998 and 2003 20 per cent of Riksdag’s legislation was related to binding EU legislation, with an additional 10 per cent in some way related to the Union.<sup>17</sup> In Finland between 1995 and 2003 12 per cent of the laws enacted by the Eduskunta contained a reference to an EU law.<sup>18</sup> The most likely explanation for this relatively low share of EU-related domestic laws is that most of the legislation adopted by national parliaments deals with policy sectors where the EU has no formal competence to enact its own laws.

This brief overview of recent literature on the Europeanization of political systems shows that the evidence is quite heavily stacked in favour of the executive branch. The executive has strengthened its position, with particularly the status and visibility of the prime minister reinforced through the summits of the European Council and through her leading role in the coordination of national EU policy. The sectorization of EU decision-making puts a premium on policy-specific technical expertise, and this coupled with the (alleged) rise of regulatory or managerial style of politics and delegation of authority to various agencies arguably empowers civil servants at the expense of democratically elected office-holders.<sup>19</sup> In addition, integration imposes on national parliaments a political environment where not only have the

legislatures lost out constitutionally, with power delegated upwards to European institutions, but also politically, as member states are involved in a political system where policies which strongly diverge from the status quo are to an increasing extent in most policy areas no longer feasible.

From the point of view of national legislatures, the conventional wisdom thus paints a rather bleak picture. However, to what extent is this alleged deparliamentarization a result of European integration? Comparative studies of parliaments have sought to categorize legislatures with respect to their powers and overall standing in the political system. Since legislatures and national political systems vary quite significantly, the resulting typologies have been rather crude, serving more as indicators of influence than as exact approximations of their powers. Furthermore, the operationalization of parliaments' influence is highly problematic, as quantitative indicators, such as the ability of the legislature to get its amendments accepted or the use of parliamentary questions, tell us rather little and such activity can in fact also be interpreted as a sign of institutional weakness. Stronger legislatures do not often have to rely on such measures, as they can influence the content of the bills already before they are introduced in the parliament. Such anticipatory behaviour is arguably particularly pronounced in countries with minority or minimum winning coalition cabinets.

Two comparative analyses from the 1970s merit our attention here. Blondel measured power as 'viscosity' — meaning the ability of the chamber to influence initiatives emanating from the executive.<sup>20</sup> In a more developed model, Mezey proposed two yardsticks: the ability of the legislature to modify and veto policy proposals, or to even balance or substitute the

executive's agenda with that of its own; and the support enjoyed by the parliaments among the elites and the public, with the latter particularly relevant for the long-term stability of the legislature.<sup>21</sup> These analyses, based mainly on evaluations from the 1960s and 1970s, classified the European legislatures as casting, all things considered, rather modest influence on policy-making. Legislatures were portrayed as reactive rather than active, with their primary function being that of approving – and perhaps amending -- initiatives coming from the executive.

More recent comparative projects have largely arrived at a similar conclusion. There appears to have also been relatively little change in the overall influence of the parliaments over the decades. If anything, their position has arguably become weaker.<sup>22</sup> The problem with these comparative studies is that through focusing on parliaments alone, they fail to take into account broader changes in the respective political systems. Indeed, analyzing the development of West European democracies since the Second World War, the volume edited by Strøm, Müller and Bergman shows that in many ways parliaments have become better at controlling governments – they have reformed their rules of procedure and committee systems to facilitate oversight of the government, with MPs also making more active use of various control mechanisms such as parliamentary questions.<sup>23</sup> However, that study also clearly shows that national parliaments are subject to much more external constraints than before, with particularly global and European rules and the stronger role of courts impacting on the sovereignty of parliaments.

Moreover, cabinet duration has increased over the decades, with more stable governments in charge of more professional public administrations.<sup>24</sup> European democracies have in the past decades moved towards a more executive-oriented system, with a powerful prime minister in charge of a cabinet, whose ministers have considerable autonomy in their respective policy fields. An increasing share of cabinets stays in office for the whole electoral term, with party groups of the government parties providing the needed parliamentary support. As King pointed out in his seminal contribution, the executive-legislative relationship must not be portrayed as one between two separate institutions, but as a more complex phenomenon, with significant variation across countries.<sup>25</sup> The government-opposition dimension crosscuts the institutional divide, and is arguably the more significant of the two. Since government survival depends on the confidence of the parliamentary majority, cohesive party groups provide the necessary means for providing that support. Instead of the whole parliament as an institution criticizing the executive, checking the government takes place largely within parties, for example, through weekly meetings between government parties' parliamentary groups and the party leaders, including the ministers.<sup>26</sup> In member states with cohesive, disciplined parties — such as Austria, Denmark, Finland, Germany, the United Kingdom, Spain, and Sweden — the executive and the parliament are often so intertwined that measuring their independent influence in decision-making is at best very difficult.

Information is a key factor in shaping the relations between the government and the parliament. There is no doubt that in all EU member states the government by virtue of its sheer size and the position it occupies within the political system enjoys a huge informational advantage over the legislature. Parliaments can obviously reduce this information deficit through cost-effective procedural reforms. Research has shown that extensive use of

committees facilitates stronger government scrutiny. Especially committees with jurisdiction paralleling executive departments, small and stable memberships, and amendment rights are well equipped to exercise oversight of the cabinet.<sup>27</sup> Thus legislatures with strong committees, such as the Nordic parliaments, the Italian Camera dei Deputati and German Bundestag, are normally ranked as the most powerful in Europe.

But, despite such investment in committee work, governments remain firmly in control of the parliamentary agenda and the passage of legislation. Nowhere is this more pronounced than in policy initiation. To quote Norton: ‘the effect has been to confirm or to shift the onus for formulating -- or ‘making’ -- public policy onto government. Whatever the formal status of the legislature, the principal measures of public policy emanate from the executive’.<sup>28</sup> With (arguably) modest influence over domestic legislation, analysts have underlined the importance of legislatures contributing to regime legitimacy and stability. Parliaments and regular elections provide the MPs and the electorate with a public forum for airing grievances. MPs are subject to more intensive lobbying by interest groups than before, and also contacts between citizens and their MPs have become more extensive.<sup>29</sup> However, public support for parliaments seems to be in decline. Strict party discipline, the representation of special interests, and the MPs’ alleged pursuit of self-interest attract most criticism from the citizens. Moreover, citizens may to an increasing extent feel that national institutions, particularly representative bodies, are no longer capable of defending their interests, as real power is seen to lie elsewhere: central banks (including ECB), large multinational corporations, government, and of course the European Union.<sup>30</sup>

This brief overview of literature has shown that – at least since the 1960s and 1970s – the executive branch has dominated decision-making in European systems of parliamentary government. European integration undeniably impacts on the work of national legislatures, both through transferring authority on a range of issues to the European level and through (indirectly) influencing also those policy areas still subject to national competence. But, national legislatures were already operating under a multitude of constraints even without any effects directly caused by integration or ‘Europe’. Hence the argument about deparliamentarization, and the role of European integration in contributing to the decline of legislatures, needs to be modified. First, it has been based on an unrealistic conception of parliamentary democracy, and has tended to mistakenly presume some kind of a golden era of parliamentary government that existed before the EU cast its shadow over national politics. The EU it is often argued fails the democracy test. Yet such views frequently rest on entirely misleading and unfair assumptions, as Andrew Moravcsik has pointed out.<sup>31</sup> Secondly, it is wrong to equate lack of active control with no control at all as MPs employ a variety of mechanisms to holding their governments accountable. Informal instruments can be no less effective for being informal in some political situations.

Nonetheless, irrespective of the validity of the deparliamentarization thesis, there is no denying that European integration is a major challenge to national parliaments. According to the Europeanization literature reviewed in this section, parliaments have been ‘victims’ of integration. But, as the next section shows, parliaments throughout the EU have gradually become better at playing the European game, exerting more control over their government in EU matters and incrementally accruing more influence on both the rules and the substance of the legislative game.

## **NATIONAL PARLIAMENTS' ADAPTATION TO EUROPEAN INTEGRATION**

Legislatures, like any institutions or purposeful actors, respond to changes in their environment. They do this in two ways: first, through reforming their own rules of procedure, and second, through shaping the terms of interaction with other institutions. In the case of national parliaments' adaptation to European integration, the former has primarily involved the establishment of European Affairs Committees (EACs) – or EU committees – and the gradual empowerment of sectoral committees in processing EU matters, while the latter covers both amendments to national constitutions and the establishment of various forms of European-level interparliamentary cooperation.

The adaptation by national parliaments can be divided into three stages, during which the legislatures have become more involved in the governance of the Union. The analytical framework in Table 1 and in the following discussion draws on the categorization by Norton.<sup>32</sup> The column 'individual role' refers to adaptation within national political systems – that is, those changes that have taken place domestically in the legislature-executive relationship. The column 'collective role' in turn refers to both interparliamentary cooperation and to constitutional recognition in the Treaties about the role of national parliaments.

**TABLE 1 HERE**

During the first stage (*limited involvement*) national parliaments showed little interest in European integration. This was mainly explained by the political system of the European Community (EC). Following the Luxembourg compromise (1966), Council decision-making was based on unanimity, and thus each government could veto initiatives. Secondly, the competence of the EC was relatively thin, covering mainly commercial and agricultural policies. The Community was thus effectively an intergovernmental organization until the mid-1980s, and national legislatures did not generally perceive that their sovereignty was under threat. And finally, public opinion in the founding six member states — Benelux countries, France, Italy, and West Germany — was supportive of integration, with most political parties also in favour of deeper integration. National legislatures thus remained marginal and passive actors in the arena of EC governance.

The situation began to change in 1973 as Denmark and the UK (and Ireland) entered the Community. The membership issue produced a notable cleavage in both countries, with party elites and public opinion much more hesitant about integration than in the other member states. The parliament had also traditionally occupied a central place in both the Danish and British polities. Hence it was no surprise that legislatures in both countries decided to establish EACs in order to keep a closer eye on developments in ‘Europe’. Particularly the model of scrutiny adopted by the Danish parliament was a major breakthrough – albeit one that was viewed with considerable suspicion outside of Denmark as many feared that such comprehensive scrutiny might jeopardize decision-making in the Council. In Denmark the



EAC of the Folketinget set up a system where Brussels-bound ministers had to appear before the committee before the Council meeting to explain the position and bargaining strategy of the government and to seek the support of the committee for the proposed course of action.<sup>33</sup> In the UK the House of Commons introduced in 1980 the so-called ‘parliamentary scrutiny reserve’, according to which the British ministers should not give their consent to decisions in Brussels before the Commons had completed processing of the issue.<sup>34</sup>

The second stage of the adaptation process, *responding to the challenge*, thus began tentatively already in the mid-1970s. However, the real spur to change was the internal market project. The Commission launched its White Paper on the single market in 1985, and the SEA was signed a year later. From the national parliaments’ point of view, the SEA brought two profound changes: the Community’s jurisdiction was extended to new areas, and the introduction of QMV in the Council — along with the assent and cooperation procedures which strengthened the legislative powers of the EP and the Commission — meant that national governments could no longer block Council decisions. The scrutiny and implementation of internal market directives also increased the workload of domestic legislatures. This was a rather unwelcome reminder of the erosion of national sovereignty, as laws that were previously firmly in the jurisdiction of national parliaments were now increasingly being decided in Brussels.

National MPs recognized the need to keep pace with Community politics. This was mainly done by either establishing EACs – the parliaments of Belgium, Greece, Italy (Camera dei Deputati), Luxembourg, The Netherlands (Tweede Kamer), Portugal, and Spain all set up

EACs between 1985 and 1990 -- or by strengthening the competence of the already existing ones (the first EAC had been established by the German Bundesrat in 1957). Integration matters were also now more frequently debated on the parliamentary floor, with especially the two IGCs on economic and political unions held in 1990-91 receiving expansive attention.

The Maastricht Treaty marked a significant change in the process of integration, with the name European Union indicating (at least a symbolic) move from primarily economic integration to the creation of a supranational political community. Majority voting was increased in the Council, the co-decision procedure gave the EP an equal status with the Council in certain issue areas, and the Treaty objectives included such ambitious goals as the single currency, EU citizenship, and the gradual development of a Common Foreign and Security Policy (CFSP). These developments did not go unnoticed among Europeans. The Maastricht Treaty marked by and large the end of passive or 'permissive consensus', as public opinion surveys showed the citizens had become increasingly sceptical of integration. National parties were also struggling to maintain unity on European matters. With policy competence transferred from the national to the European level, and with both the public and the parties divided over Europe, the post-Maastricht debate began to focus on the 'democratic deficit', defined normally as the weak role of directly elected institutions in EU governance, and bridging the perceived gap between 'Brussels' and EU citizens.

National parliaments were seen as one potential solution to correct the deficit – particularly, but not exclusively, among those that were against the deepening of integration. Almost all national legislatures sought a more active role for themselves, and thus the third stage of the

adaptation process (*addressing the democratic deficit*) began during the ratification of the Maastricht Treaty. The ratification process was overshadowed by tightly contested referenda in Denmark and France.<sup>35</sup> National legislatures were perhaps belatedly realizing the extent to which the successful implementation of the Treaty objectives would change Europe's political landscape. Some parliaments therefore made their ratification conditional upon receiving more powers *vis-à-vis* the government in European matters. For example, the French, German, and Portuguese constitutions were amended around this time to give the respective legislatures a stronger role in national policy formulation on EU legislation. Other national legislatures sought to establish practices that would at least guarantee them better access to information on EU matters.<sup>36</sup> Another important development was the specialized standing committees of national parliaments becoming gradually more involved in European questions. The delegation of authority from the EU Committees to standing committees was in part a recognition of the huge workload of the EACs, but was also motivated by the need to utilize the policy expertise of the MPs. However, this sectoral specialization has proceeded slowly and at a very uneven pace: while in some parliaments, such as the Finnish Eduskunta and the German Bundestag, the role of the specialized committees has by now become institutionalized, in most parliaments specialized committees remain marginal actors in EU matters, and certainly less important than the EACs..

In parallel with these national-level developments, the collective role of domestic legislatures also received more attention – both in the form of interparliamentary cooperation and in the role of national parliaments being recognized in the Treaties. The Maastricht Treaty included two Declarations on national parliaments. Declaration no. 13 stated that:

The Conference considers that it is important to encourage greater involvement of national Parliaments in the activities of the European Union. To this end, the exchange of information between the national Parliaments and the European Parliament should be stepped up. In this context, the governments of the Member States will ensure, *inter alia*, that national Parliaments receive Commission proposals for legislation in good time for information or possible examination. Similarly, the Conference considers that it is important for contacts between the national Parliaments and the European Parliament to be stepped up, in particular through the granting of appropriate reciprocal facilities and regular meetings between members of Parliament interested in the same issues.<sup>37</sup>

Declaration no. 14 tried to breathe life into the ‘Assizes’, the joint conference of the EP and national parliaments that had convened in 1990:

The Conference invites the European Parliament and the national Parliaments to meet as necessary as a Conference of the Parliaments (or ‘Assizes’) The Conference of the Parliaments will be consulted on the main features of the European Union, without prejudice to the powers of the European Parliament and the rights of the national Parliaments. The President of the European Council and the President of the Commission will report to each session of the Conference of the Parliaments on the state of the Union.<sup>38</sup>

While Declarations are not legally binding, their inclusion in the Treaty was nevertheless a political breakthrough, as this was the first time that national legislatures were recognized in the ‘constitution’ of the EC/EU. The Amsterdam Treaty (signed in 1997) marked another step

forward. Attached to the Treaty was a ‘Protocol on the role of the national parliaments in the European Union’.<sup>39</sup> Unlike Declarations, Protocols are legally binding instructions for the relevant individuals and institutions.

The Protocol consolidated and strengthened the provisions and language of the Maastricht Treaty Declarations. It set an exact time limit which the national parliaments and the EU institutions had to respect, and listed which documents the national legislatures had the right to receive. These included ‘all Commission consultation documents (green and white papers and communications)’ and ‘Commission proposals for legislation as defined by the Council in accordance with Article 151(3) of the Treaty establishing the European Community’. The former were to be sent to the parliaments directly from the Commission, whereas legislative initiatives were to be ‘made available in good time so that the Government of each Member State may ensure that its own national parliament receives them as appropriate.’ The time limit was set at six weeks.

Regarding the collective role, the important change concerned the replacement of the Assizes with the Conference of the European Affairs Committees (COSAC), which met for the first time in November 1989 following an initiative from Laurent Fabius, then the President of the French Assemblée Nationale. COSAC meets once every six months in the member state holding the EU Presidency, bringing together delegations from the national parliaments’ EACs and from the EP.<sup>40</sup> According to the Protocol COSAC ‘may make any contribution it deems appropriate for the attention of the institutions of the European Union’. Third pillar matters, fundamental rights, and subsidiarity were mentioned as areas where COSAC could

be particularly active. However, ‘contributions made by COSAC shall in no way bind national parliaments or prejudice their position’. In hindsight it was not surprising to see the Assizes dropped from the Protocol. The Assizes held in Rome in November 1990 had been dominated by the EP’s delegation, with several national parliaments feeling that the EP had used the Conference to further its own objectives.

But, the main qualitative leap occurred at the turn of the millennium. Declaration no. 23 of the Treaty of Nice listed four key questions which the next IGC should address, with one of them being ‘the role of national parliaments in the European architecture’.<sup>41</sup> And the Laeken Declaration from December 2001 put down more detailed questions about the contribution of national parliaments: ‘Should they be represented in a new institution, alongside the Council and the European Parliament? Should they have a role in areas of European action in which the European Parliament has no competence? Should they focus on the division of competence between Union and Member States, for example through preliminary checking of compliance with the principle of subsidiarity?’<sup>42</sup>

The role of national legislatures featured prominently in the debates of the Convention that met from February 2002 to July 2003 to draft a constitution for the Union. This was not really very surprising, as 56 out of the 105 members of the Convention represented national parliaments (alongside 28 representatives of national governments and 16 MEPs) – thus giving the national parliaments a stronger role than before, both individually and collectively, in shaping the EU’s Treaties. The Convention even established a separate Working Group

(WG IV), entitled ‘The role of national parliaments’, for debating the position of domestic legislatures.

The Constitutional Treaty, signed in October 2004, is the first time that national parliaments are mentioned in the actual main text of the constitution – as opposed to Protocols and Declarations that are attached to the Treaties. According to Article I-46 (The principle of representative democracy):

1. The functioning of the Union shall be founded on representative democracy.
2. Citizens are directly represented at Union level in the European Parliament.  
Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens.
3. Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.
4. Political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union.<sup>43</sup>

However, the main sections of the Constitutional Treaty dealing with national parliaments are still found in Protocols attached to the Treaty: the ‘Protocol on the Role of National Parliaments in the European Union’ and the ‘Protocol on the Application of the Principles of Subsidiarity and Proportionality’. The former Protocol is designed to make national

legislators better informed about EU decisions, while the latter focuses specifically on monitoring the subsidiarity principle.<sup>44</sup>

According to the Protocol on the Role of National Parliaments in the European Union ‘Draft European legislative acts sent to the European Parliament and to the Council shall be forwarded to national Parliaments. For the purposes of this Protocol, ‘draft European legislative acts’ shall mean proposals from the Commission, initiatives from a group of Member States, initiatives from the European Parliament, requests from the Court of Justice, recommendations from the European Central Bank and requests from the European Investment Bank for the adoption of a European legislative act’. This is a definite improvement upon the Protocol in the Amsterdam Treaty, as the legislative initiatives shall now be sent directly to national parliaments by the respective institutions, whereas under the present rules (in the Amsterdam Treaty) the ‘Government of each Member State may ensure that its own national parliament receives them as appropriate’. National MPs also gain better access to non-legislative documents. In addition to the Commission consultation documents (green and white papers and communications) that were already mentioned in the Amsterdam Treaty’s Protocol, the national parliaments will in the future also receive the Commission’s annual legislative programme, the annual reports of the Court of Auditors, ‘as well as any other instrument of legislative planning or policy to national Parliaments, at the same time as to the European Parliament and the Council.’ Moreover, the Protocol states that the ‘‘The agendas for and the outcome of meetings of the Council, including the minutes of meetings where the Council is deliberating on draft European legislative acts, shall be forwarded directly to national Parliaments, at the same time as to Member States’ governments’



The paragraphs dealing with interparliamentary cooperation basically just confirm the status quo. The EP and the national parliaments 'shall together determine how interparliamentary cooperation may be effectively and regularly organized and promoted within the European Union'. On COSAC the Protocol states that:

The Conference of European Affairs Committees may submit any contribution it deems appropriate for the attention of the European Parliament, the Council of Ministers and the Commission. That Conference shall in addition promote the exchange of information and best practice between Member States' Parliaments and the European Parliament, including their special committees. The Conference may also organize interparliamentary conferences on specific topics, in particular to debate matters of common foreign and security policy and of common security and defence policy. Contributions from the Conference shall in no way bind national Parliaments or prejudice their positions.<sup>45</sup>

The 'early warning system' included in the Protocol on the Application of the Principles of Subsidiarity and Proportionality can be primarily seen as an instrument designed to increase the legitimacy of European integration. However, through assigning national parliaments the potential to actually veto or at least obstruct EU legislation, it can also encourage national MPs to invest more resources in processing European issues. According to this system a national parliament can send the Commission a 'reasoned opinion' if it believes that the intended legislation violates the principle of subsidiarity. And, if these reasoned opinions represent at least one-third of the votes (at least a quarter in the case of Commission proposals

or initiatives emanating from a group of member states under the provisions of judicial cooperation in criminal matters and police cooperation) allocated to national parliaments, the Commission must reconsider its draft legislation. The Commission may then decide whether to maintain, amend or withdraw its proposal.<sup>46</sup>

This overview of developments clearly shows that national parliaments have gradually improved their position – both individually in the context of their own political systems, and collectively, through interparliamentary cooperation and through gaining recognition in the EU's constitution. National parliaments have responded quite logically to the empowerment of the EU: they all have established an EAC for coordinating parliamentary work in European matters, specialized committees are starting to play a bigger role in processing EU issues, and in general MPs pay more attention to EU politics. This is only natural, as the influence of European integration is basically felt in policy areas (and hence in all parliamentary committees). National parliaments have proven that they are capable of institutional adaptation and learning, with each parliament choosing its own method of scrutiny depending on the parliamentary traditions of the country and on what the parliament wants to achieve.<sup>47</sup> Whether this amounts to effective control is another matter, but at the very least national parliaments should no longer be simply labeled as losers or victims of integration. The next section explains how national parliaments get involved in EU affairs.

## **CONTROLLING THE GOVERNMENT IN EU MATTERS**

National parliaments have gradually attained quite extensive duties and rights in the EU's political system. Their main function in the EU's policy process is to control their executives, that is the governments that represent member states in the Council and the European Council. The ability of a legislature to control the government in European affairs depends on a variety of factors that include the constitutional rules and established 'ways of doing things' of the country, and party-political factors such as the composition of the governments and the cohesion of political parties.<sup>48</sup> This function brings national parliaments regularly into the game, as the Council holds meetings during most weeks of the year (excluding EU holidays), and the European Council meets several times every year. National parliaments are also responsible for adopting amendments to the EU's 'constitution' according to respective national constitutional regulations. Finally, national parliaments are involved, in some member states more than others, in the implementation of EU directives when this requires enactment of new domestic legislation.<sup>49</sup>

As parliamentary scrutiny of EU matters is largely based on controlling the government in individual pieces of supranational EU legislation, it is worth describing briefly how the system works at the national level. The reader should bear in mind that the following description is a simplification of how things work and that there are significant differences between the individual parliaments (Figure 1).<sup>50</sup>

FIGURE 1

As mentioned above, all national legislatures have established EACs, whose task is to coordinate parliamentary scrutiny of European matters and to monitor government representatives in the Council. MEPs are represented in the EACs of the parliaments of Belgium (joint committee of the two chambers), Germany (Bundestag), Greece, Ireland (joint committee of the two chambers), and Malta).<sup>51</sup> The process begins with the government submitting to the parliament Commission's legislative proposals that fall within the competence of the legislatures. The government informs the parliament of its stand, and the legislature takes note of the cabinet's position. As the overwhelming majority of EU legislation is in reality already decided in the Council's working groups and in the Committee of Permanent Representatives (COREPER), parliaments that only get involved in the process just before the relevant Council meeting have quite marginal possibilities to influence the decisions. It is also essential that the parliament is kept up-to-date, as the Council and the EP, particularly in legislation falling under the co-decision procedure, often quite significantly amend the initiatives.

The extent to which legislatures delegate European matters downward to specialized committees varies between countries. In most member states the specialized committees remain sidelined, either because EU matters are centralized to the EAC or because the committees themselves are not interested in processing European matters.<sup>52</sup> The same applies to plenaries, debates in the actual chamber of the parliament. The low involvement of plenaries means that the debating function of the parliament has remained marginal in European matters. One explanation for the lack of plenary debates is that political parties –

that tend to be divided over integration and are more pro-integrationist than their electorates – have an electoral incentive in downplaying EU issues.

Before the Council meeting the EACs receive the agendas of the meetings, in most countries together with government memoranda that explain the impact of the proposed law both domestically and at the European level. The responsible minister then appears, if requested, in person before the committee. The MPs have the opportunity to put questions to the minister, following which the EAC decides if there is a majority in favour or against the government position. There is notable variation in the frequency of committee meetings, with most EACs meeting on a weekly basis when the parliament is in session. Considering the work schedule of the Council, it is reasonable to assume that the more often the EACs meet, the better positioned they are to control ministers. After the Council meeting the minister reports back to the EAC, appearing in person if so required to give an account of the meeting. The same procedure applies more or less to monitoring European Council meetings and IGCs.

The ability to ‘mandate’ the ministers through setting the bargaining range or even issuing explicit voting instructions is usually emphasized in the literature. This results particularly from the Danish system, where the EAC of the Folketinget is famous for its ability to constrain ministers through issuing explicit voting instructions.<sup>53</sup> The EACs of the Austrian Nationalrat and the Danish Folketinget have the right to issue binding voting instructions to government representatives. The mandating power of the Austrian parliament is included in the constitution, whereas the practice in Denmark is so institutionalized that it is almost constitutional in character. The Dutch Tweede Kamer has similar powers in Justice and Home

Affairs matters as does the German Bundesrat where a proposal requires approval pursuant to domestic law or in instances where the Länder have jurisdiction. However, it must be emphasized that there is huge variation between the parliaments. In most countries the ability to mandate ministers is either completely lacking, or it is rarely exercised. In the majority of the member states the government merely sends information to the EAC, with a minister, or a civil servant from a ministry occasionally appearing before the committee, usually when more important matters are on the agenda.

However, this emphasis on mandating is not entirely unproblematic. After all, the government depends on the support of the legislature (which can throw the government out of office) even without any constitutional powers to mandate the ministers. Therefore governments can be expected to incorporate the preferences of the MPs into their negotiating positions even without any explicit mandating. This applies particularly to issues that require the approval of domestic legislatures, such as IGCs leading to amendments of the EU's constitution.<sup>54</sup> Secondly, while comprehensive and active scrutiny may well be a good strategy, issuing voting instructions may well work against successful defence of national interests. After all, should the EAC tie the hands of the government before the negotiations, this reduced ability of the government to build compromises might result in worse outcomes than what might be achieved with a more flexible bargaining strategy.<sup>55</sup> Despite these reservations, regular hearings with the ministers (including the possibility of issuing voting instructions) enable the parliament to engage in a wider consultation and negotiation process with the government than might otherwise be the case. Having explained the 'standard model' of parliamentary scrutiny of EU affairs, the final section introduces the research questions that guide the rest of the book.

## **OUTLINE OF THE BOOK**

The book is divided into three sections. Part one examines the main macro issues relating to national parliamentary oversight of EU affairs. As well as outlining some of the key concepts in the literature it also addresses issues related to European interparliamentary cooperation, the relationship between individual and collective action which national parliaments engage in across the broad spectrum of EU issues, and the position of national parliaments within the Convention process and the Constitutional Treaty which followed.

In chapter 2 Muiris MacCarthaigh introduces key concepts dealing with political accountability and legitimacy which broadly inform the approach of the book to the subject area. He considers why accountability, and in particular, parliamentary accountability, is so crucial to the democratic process in Europe. He posits accountability as a contested but nevertheless central referent in contemporary social science and explores how parliaments discharge their accountability functions. Introducing EU decision-making into the narrative he also considers the range of current challenges which face national parliaments in their efforts to protect the legitimacy of the political systems which they are embedded in. In the context of new and questionable accountability relationships emerging across the inter-connected arenas of governance in Europe, concerns proliferate about the contemporary scope and nature of parliamentary accountability. MacCarthaigh also demonstrates that the ability of parliaments to effectively control their executive bodies will depend crucially on both the

domestic political culture and the particular institutional matrix employed within the legislative arena. And if, as this chapter argues, the EU and Europeanization do indeed erode the influence of national parliaments within local political systems, it is also clear that national parliaments have to some extent benefited from the new focus on accountability and legitimacy as attention has turned toward achieving a suitable domestic ‘fit’ between that which is (in legislative terms) purely local and that which is supranational and European.

In chapter 3 Christina Bengston assesses the nature of contemporary inter-parliamentary cooperation in Europe. She identifies a progressive trajectory where national parliaments have become much more proactive in pushing inter-parliamentary cooperation in the directions they desire. The chapter argues that national parliaments, whilst having a lot in common with the European Parliament, national parliaments also pursue agendas which differ significantly from the EP. Cooperation in and through COSAC has gradually helped national parliaments to carve out a space for themselves in the EU decision-making arena. Importantly the work of COSAC has helped link the ‘domestic’ and the ‘foreign’ in national policy-making as EU issues are increasingly classified as both.

In chapter 4 Philipp Kiiver considers the role played by national parliaments within the EU process under the rubrics of both individual and collective activities. As individual entities national parliaments, acting in a domestic context, can be effective in calling their governments to account for both their behaviour in the EU Council and, more broadly, the policies adopted in an individual state as a result of membership of the EU. But what may seem like purely domestic oversight also has a potential collective impact at EU level in that a parliament that ties the hands of its minister in EU negotiations may as a result impede the search for a EU-wide consensus on that issue. Obviously, the greater number of parliaments



that act in such a way the greater the inefficiencies in the collective EU decision-making process. Similarly, as in the case of the French Parliament's rejection of the EDC in 1954, the decision of an individual parliament to reject an EU constitutional template may have a decisive impact on events at the collective level.<sup>56</sup> And although national parliaments can increasingly be viewed as a collective in an EU context the polycentric character of EU governance still does not allow for a genuinely collective role for national parliaments: each parliament still engages primarily with local issues in a local political context. Allowing for this Kiiver argues that recently developed domestic instruments of control such as formal legal provisions for mandating of government ministers and sharper scrutiny in committees means that the dualist role of national parliaments is collapsing. At the very least the domestic oversight of EU affairs can have significant repercussions at EU level.

In his contribution to part one of the book (chapter 5) Tapio Raunio considers the implications of the EU's Constitutional Treaty for national parliaments, focusing specifically on parliamentary access to information and on the process of monitoring compliance with the subsidiarity principle. He argues that while the Constitutional Treaty will strengthen the position of national parliaments in the EU policy process, this empowerment does not constitute a significant departure from present arrangements. The positive developments in respect of greater parliamentary control evident since the Maastricht Treaty are enhanced again but in the end it is up to national MPs themselves to decide how and to what extent they want to engage with EU affairs. One positive change which the Constitutional Treaty brings is in access to information. National MPs shall receive more documents from the European level, and these documents will be sent directly to parliaments at the same time as to national governments. The so-called 'early warning system' established for monitoring compliance with the subsidiarity principle should mean that national parliaments pay more attention to

EU matters across the board. But, as Raunio argues, this will depend on a much more substantive investment of time and resources by national parliamentarians.

Part two of the volume consists of country studies drawn from the ‘old’ EU member states. The first of these by Hans Hegeland analyzes the mechanisms employed by the Nordic parliaments – those of Denmark, Finland and Sweden – in exercising oversight of EU affairs in their countries. Outlining the two ideal types of domestic and foreign policy decision-making processes he argues that EU matters are peculiar in terms of traditional political science thinking. Increasingly it is extremely difficult to separate that what is purely ‘domestic’ and ‘foreign’, as EU activity encroaches into more and more areas of public policy. Hegeland’s chapter then compares and contrasts the three different models and argues that each parliament deals with the EU neither as domestic policy or foreign policy. Rather he argues the Nordic systems constitute a new kind of model where parliaments have a weaker role in EU policy than they carry out in domestic policy but a significantly stronger role than traditionally was the case in foreign policy. Hegeland also demonstrates that the Danish and Swedish legislatures have evaluated the effectiveness of their scrutiny systems, and both the Swedish Riksdag and the Danish Folketing are attempting to make specialized committees more involved in the processing of EU issues. Thus the Nordic parliaments seem to stand out from most others within the EU as the most proactive and engaged in EU decision-making.

A clear contrast to the Nordic models is evident in the discussion of Southern European parliaments and their approach to EU issues. In his analysis of the parliaments of the four Mediterranean EU countries, usually categorized as laggards in terms of their engagement in

European affairs, José Magone examines how the Italian and Portuguese legislatures have, since the mid-1990s, invested considerably more resources in EU matters. The Spanish and Greek parliaments remain, however, very weak vis-à-vis their governments in European matters, with MPs in these two countries in general showing relatively little interest in such questions.

In her substantial contribution Carina Sprungk assesses the roles played by the French Assemblée Nationale and the German Bundestag in EU affairs. Despite the different positions occupied by each parliament within their national political system, Sprungk finds striking similarities in how they now discharge their EU-related functions. Both parliaments enjoy the right to comprehensive information on EU policy-making; in both cases information is processed at a relatively early stage in the policy cycle; and both parliaments have the right to state an opinion on legislative proposals in advance of EU Council meetings. The parliamentary committees in each country also perform similar functions such as the examination of documents and enjoy similar resources. One key contrast, however, is that the Bundestag enjoys constitutionally enshrined rights to involvement while the Assemblée Nationale commands an inferior legal position. Paradoxically, however, the domestically powerful Bundestag seems to be more reluctant than the relatively weak Assemblée Nationale when it comes to exercising its powers. Whilst this might be put down to the prevailing ‘permissive consensus’ concerning EU affairs within the Bundestag (and throughout Germany more generally) there are other complex phenomena to be considered such as how information is parlayed to MPs and domestic parliamentary rules of procedure. Sprungk demonstrates that in both parliaments a relatively large number of individual MPs as well as the specialized committees and dedicated European Affairs committees are active participants

in the legislature's engagement with EU policy areas. Interestingly parliamentary involvement tends toward cooperation with the executive rather than conflict. Thus one can identify a definite trend toward convergence of both parliaments in dealing with the EU in legislative and broader political terms.

In chapter 9 Adam Cygan focuses on the United Kingdom and the 'dualist' model of scrutiny employed by the Houses of Parliament. In examining how both the Lords and the Commons have sought to retain control over EU affairs Cygan considers the political, legal, and constitutional context in which the scrutiny process has evolved over the lifetime of UK membership of the EU. The principal vehicle for parliamentary scrutiny –the 'Scrutiny reserve' seeks to maximize the executive's accountability to parliament in EU affairs and is intended primarily to reassure sceptical MPs that the views of the UK Parliament do matter and are relevant to EU decision-making. In chapter 10 Patricia Conlan examines the evolution of parliamentary scrutiny in Ireland, focusing on current arrangements and in particular, on the Irish Parliament's Sub-Committee on Scrutiny. The Irish case represents (at least on paper) an especially striking example of enhancement of the powers of national parliaments in recent years. This empowerment evolved in response to the concerns about the legitimacy of the EU decision-making process which emerged with the defeat of the Nice Treaty in the June 2001 referendum. Conlan outlines how the system of scrutiny has been strengthened, demonstrating that there is greater information available, how the committee system has been enhanced, and overall the greater transparency evident within the system. However, she demonstrates equally that the system still leaves a lot to be desired: the enhanced procedures put in place post Nice and the flexible approach to their operation suggest great *potential* for

effective parliamentary control. But (as in other jurisdictions) parliamentarians are hampered by lack of resources and informational shortcomings.

Part three of the book is devoted to analysis of the parliaments from the ‘new’ member states, that is, those states, primarily from Central and Eastern Europe (CEE), which joined the EU in 2004. In chapter 11 Adam Łazowski outlines the role played by the Polish parliament - the *Sejm* - in EU decision-making. Membership of the EU has meant a substantial re-orientation of executive-legislature relations in Poland as in other states in CEE. Under the rubric of the pre accession process the *Sejm* played a pivotal role in the transposition of the EU’s legal rulebook – the *acquis communautaire* – into the domestic legal order. Łazowski demonstrates that the deparliamentarization thesis applies even more directly to those states that recently acceded to the EU than to the older member states. In Poland most of the legal approximation bills originated in and with the executive; this severely limited the role of the legislature, especially in a context where there was a tight timeframe for negotiation and a rather frenzied period of legislative activity. But with new rules and procedures introduced shortly before accession there are potential instruments available to Polish parliamentarians to exercise a more robust degree of control over executive action. In her contribution on the Hungarian Parliament Enikő Győri traces the development of EU affairs in the country and how the Hungarian Parliament adopted a model based on existing best practice in the older member states. As was the case in the Polish pre-accession framework the Hungarian parliament continually lost ground to the government as the accession negotiations proceeded. Partly this arose for the same reasons as in Poland but crucially also because no specific rules governing the executive-legislative division of labour emerged until after accession. Thus the Hungarian Parliament’s instrument for exercising scrutiny has only been in place since September 2004.

Although nominally in a strong position the Committee on European Affairs is hampered by being allowed only late involvement in the decision-making process, the inaccessibility of documentation, and the low levels of knowledge and activity of MPs. And although as in other CEE states Hungary's specialized committees offer real potential for parliamentary empowerment Györi sums up by arguing that the Hungarian Parliament resembles more a 'mute witness' than a 'true controller' of EU affairs in a domestic political context.

Chapter 13 by Primož Vehar analyzes the Slovenian Parliament and its role in EU affairs prior to and after accession. He demonstrates how the Finnish model was largely adopted in Slovenia as the accession process developed and the parliament became more and more preoccupied with EU issues. The introduction of a European Affairs Committee along with the involvement of horizontal standing or specialized committees means that the Slovenian system is potentially an important player in the legislative process. Some of the existing shortcomings which Vehar attributes mainly to the difficulties new member states can expect naturally to experience are likely to diminish over time leaving Slovenia with an effective system of oversight and control. The final country study in the volume by Pavlina Stoykova examines the Bulgarian adaptation to European integration in advance of accession and demonstrates how deparliamentarization has occurred in practice as Europeanization has proceeded apace. Bulgaria's case is particularly interesting because it demonstrates that in the asymmetrical power context of an accession process the EU acts as a regime maker and the candidate state as a passive regime-taker. However, within that context it is clear that the clear winner in the domestic sense has been the executive which from an early stage took charge of preparations for membership and gained more and more leverage over the parliament as EU demands were ratcheted up and the transposition process became the main priority of political activity. The executive's empowerment thus over time degraded the parliament's formal

competences within domestic decision-making and thus allowed the government to avoid critical and substantive scrutiny of its EU-related activities. And whereas the short term requirement to speed up the process of domestic legal approximation with EU laws may have been deemed acceptable for Bulgaria it seems clear that the longer term legitimacy of the EU policy-making process will require a more balanced relationship between the Bulgarian government and parliament. In the sense that the volume's broad themes of accountability, legitimacy, deparliamentarization and Europeanization can all be demonstrated in the Bulgarian example it seems a good place to conclude this introduction to the book and proceed to part one.

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<sup>2</sup> Simon Hix, *The Political System of the European Union*, Second edition, (Basingstoke: Palgrave, 2005); Helen Wallace, William Wallace, and Mark A. Pollack, *Policy-Making in the European Union*, Fifth Edition, (Oxford: Oxford University Press, 2005).

<sup>3</sup> Tapio Raunio and Simon Hix, 'Backbenchers Learn to Fight Back: European Integration and Parliamentary Government', *West European Politics* 23/4: 144-151.

<sup>4</sup> Torbjörn Bergman and Erik Damgaard (eds), *Delegation and Accountability in European Integration: The Nordic Parliamentary Democracies and the European Union*, (London: Frank Cass, 2000); Hussein Kassim, B.G. Peters, and Vincent Wright (eds), *The National Coordination of EU Policy: The Domestic Level*, (Oxford: Oxford University Press, 2000); Wolfgang Wessels, Andreas Maurer, and Jürgen Mittag (eds), *Fifteen into One: The European Union and its Member States*, (Manchester: Manchester University Press, 2003).

<sup>5</sup> Robert Ladrech, 'Europeanization of Domestic Politics and Institutions: The Case of France', *Journal of Common Market Studies* 32/1, 1994: xxxx.

<sup>6</sup> Maria Green Cowles, James Caparaso and Thomas Risse (eds), *Transforming Europe: Europeanization and Domestic Change*, (Ithaca: Cornell University Press, 2001); Kevin Featherstone and Claudio Radaelli (eds), *The Politics of Europeanization*, (Oxford: Oxford University Press, 2003); Klaus H. Goetz and Simon Hix (eds), *Europeanized Politics: European Integration and National Political Systems*, (London: Frank Cass, 2001); Simon J. Bulmer and Christian Lequesne (eds), *The Member States of the European Union*, (Oxford: Oxford University Press, 2005).

<sup>7</sup> Andrew Moravcsik, 'Why the European Community Strengthens the State: International Cooperation and Domestic Politics', *Centre for European Studies Working Paper Series* 52, (Harvard, 1994); Andrew Moravcsik, *The Choice for Europe: Social Purposes and State Power from Messina to Maastricht*, (Ithaca, NY: Cornell University Press, 1998).

<sup>8</sup> Lisbet Hooghe and Gary Marks, *Multi-Level Governance and European Integration*, (Lanham, MD: Rowman and Littlefield, 2001); Ian Bache and Matthwe Flinders, *Multi-Level Governance*, (Oxford: Oxford University Press, 2004).

<sup>9</sup> Arthur Benz, 'Mehrebenenverflechtung in der Europäischen Union', in M. Jachtenfuchs and B. Kohler Koch (eds), *Europäische Integration*, second edition, (Opladen: Leske and Budrich, 2003: 327-361).

<sup>10</sup> Dietrich Rometsch and Wolfgang Wessels (eds), *The European Union and Member States: Towards Institutional Fusion?* (Manchester: Manchester University Press, xxxx).

<sup>11</sup> Wolfgang Wessels, Andreas Maurer, and Jürgen Mittag, op.cit., p.432.

<sup>12</sup> Ibid., p.433.

- <sup>13</sup> Hussein Kassim, 'Conclusion: The National Co-ordination of EU Policy: Confronting the Challenge', in H. Kassim, B.G. Peters and V. Wright (eds), *The National Coordination of EU Policy: The Domestic Level* (Oxford: Oxford University Press, 2000), p.258. See also Hussein Kassim, 'The Europeanization of Member State Institutions', in S. Bulmer & C. Lequesne (eds) *The Member States of the European Union*, (Oxford: Oxford University Press, 2005), pp. 285-316.
- <sup>14</sup> 'My impression by and large – and apologies to those whose pride in the keen interest taken by their national parliaments in European affairs might be offended – is that there is an unawareness in many national parliaments of the quiet revolution that is taken place, as a result of which 80 % at least of economic, financial and perhaps social legislation will be flowing from the Community by 1993'. (*Debates of the European Parliament* 15.6.1988, 156–157).
- <sup>15</sup> Annette Elisabeth Töller, 'Dimensionen der Europäisierung – Das Beispiel des Deutschen Bundestages', *Zeitschrift für Parlamentsfragen* 35:1, 2004: 33.
- <sup>16</sup> Hans Hegeland, 'EG-rättens genomslag i svenska lagar och förordningar', *Europarättslig tidskrift* 8/2, 2005: 398-399.
- <sup>17</sup> C. Johannesson, 'EU:s inflytande över lagstiftning i Sveriges riksdag', *Statsvetenskapliga Tidskrift* 107/1, 2005: 71-84.
- <sup>18</sup> Matti Wiberg, 'Lainsäädäntömme EU-vaikutteisuus luultua oleellisesti pienempää', *Oikeus* 3/:2, 2004: 200-206.
- <sup>19</sup> Giandomenico Majone (Ed.), *Regulating Europe*, (London: Routledge, 1996); Mark Thatcher, and Alec Stone Sweet, 'The Politics of Delegation: Non-Majoritarian Institutions in Europe', Special Issue of *West European Politics* 25/1, 2002.
- <sup>20</sup> Jean Blondel, 1970
- <sup>21</sup> Michael Mezey, *Comparative Legislatures*, (Durham: Duke University Press, 1979).
- <sup>22</sup> Philip Norton (Ed.), *Parliaments in Western Europe*, second edition, (London: Frank Cass, 1997); Philip Norton, *Parliaments and Governments in Western Europe*. (London: Frank Cass, 1998); M. Shaw, (Ed.) 'Parliamentary Democracy Today', Special Issue of *Parliamentary Affairs* 57/3, 2004.
- <sup>23</sup> Kaare Strøm, Wolfgang C. Müller and Torbjörn Bergman (eds), *Delegation and Accountability in Parliamentary Democracies*. (Oxford: Oxford University Press, 2003).
- <sup>24</sup> Ibid., See also: Wolfgang C. Müller, and Kaare Strøm (eds), *Coalition Governments in Western Europe*, (Oxford: Oxford University Press, 2000).
- <sup>25</sup> Anthony King, 'Modes of Executive-Legislative Relations: Great Britain, France and Germany. *Legislative Studies Quarterly* 1:1, 11-34.
- <sup>26</sup> Knut Heidar and Ruud Koole (eds) *Parliamentary Party Groups in European Democracies: Political Parties Behind Closed Doors*, (London: Routledge, 2000)
- <sup>27</sup> Ingvar Mattson and Kaare Strøm, 'Parliamentary Committees', In H. Döring (ed) *Parliaments and Majority Rule in Western Europe*. Frankfurt: Campus, 1995, 249-307.
- <sup>28</sup> Philip Norton, 'Introduction: The Institution of Parliaments', in P. Norton (ed.) *Parliaments and Governments in Western Europe*, (London: Frank Cass, 1998), p.5.
- <sup>29</sup> Philip Norton (Ed.), *Parliaments and Pressure Groups in Western Europe*, (London: Frank Cass, 1999).
- <sup>30</sup> Philip Norton (Ed.), 1997.
- <sup>31</sup> Andrew Moravcsik, 'In Defence of the Democratic Deficit: Re-assessing Legitimacy in the European Union', *Journal of Common Market Studies* 40/4, 2002.
- <sup>32</sup> Philip Norton, 'Conclusion: Addressing the Democratic Deficit', *Journal of Legislative Studies* 1/3, 1995:177-193. See also Tapio Raunio, 'Always One Step Behind? National Legislatures and the European Union', *Government and Opposition* 34:2, 182-186.
- <sup>33</sup> There is a rich literature on the Danish scrutiny system. See Finn Laursen, 'The Role of Parliamentary Committees in European Scrutiny: Reflections Based on the Danish Case', *Journal of Legislative Studies* 11:3-4, 412-427.
- <sup>34</sup> See the chapter in this volume by Adam Cygan.
- <sup>35</sup> In France the referendum passed by only a slender majority of. In Denmark .....
- <sup>36</sup> Philip Norton (Ed.), *National Parliaments and the European Union*, (London: Frank Cass, 1996); Andreas Maurer and Wolfgang Wessels (eds), *National Parliaments on their Ways to Europe: Losers or Latecomers?* (Baden Baden: Nomos, 2001).
- <sup>37</sup> Declaration on the Role of National Parliaments in the European Union, Treaty on European Union (consolidated text), *Official Journal* C 325, 24 December 2002.
- <sup>38</sup> Ibid.
- <sup>39</sup> Protocol on the Role of the National Parliaments in the European Union, Treaty of Amsterdam, *Official Journal* C 340, 10 November 1997.
- <sup>40</sup> See the chapter in this volume by Christina Bengston.



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<sup>41</sup> Treaty of Nice, *Official Journal* C 80, 10 March 2001.

<sup>42</sup> Laeken Declaration – The Future of the European Union, The Laeken European Council, 14-15 December 2001.

<sup>43</sup> Treaty establishing a Constitution for Europe, *Official Journal of the European Union* 2004/C 310/01.

<sup>44</sup> These protocols are analyzed in more detail in the chapter by Tapio Raunio.

<sup>45</sup> Protocol on the Role of National Parliaments in the European Union, Treaty establishing a Constitution for Europe, *Official Journal of the European Union* 2004/C 310/01.

<sup>46</sup> Protocol on the Application of the Principles of Subsidiarity and Proportionality, Treaty establishing a Constitution for Europe, *Official Journal of the European Union* 2004/C 310/01.

<sup>47</sup> Katrin Auel, 'Introduction: The Europeanization of Parliamentary Democracy', *Journal of Legislative Studies* 11:3-4, 303-318; Katrin Auel and Arthur Benz (eds), *The Europeanization of Parliamentary Democracy*, (Abingdon: Routledge, 2006); Arthur Benz, 'Path-Dependent Institutions and Strategic Veto Players: National Parliaments in the European Union', *West European Politics* 27:5, 2004: 875-900.

<sup>48</sup> On research explaining cross-national variation in the level of control, see Torbjörn Bergman, 'National parliaments and EU Affairs Committees: notes on empirical variation and competing explanations', *Journal of European Public Policy* 4:3, 1997: 373-387; Torbjörn Bergman, 'The European Union as the next step of delegation and accountability', *European Journal of Political Research* 37:3, 2000: 415-429; Lisa Martin, *Democratic Commitments: Legislatures and International Cooperation* (Princeton, NJ: Princeton University Press, 2000), Tapio Raunio, 'Holding Governments Accountable in European Affairs: Explaining Cross-National Variation', *Journal of Legislative Studies* 11:3-4, 2005: 319-342; Olivier Rozenberg, 'The Involvement of National Parliaments in European Union Affairs empirical test of two variables', ECPR Joint Sessions of Workshops, March 2002, Turin; and particularly, Thomas Saalfeld, 'Delegation or Abdication? Government Backbenchers, Ministers and European Union Legislation', *Journal of Legislative Studies* 11:3-4, 2005: 343-371.

<sup>49</sup> Bergman (2000) and Martin (2000: 164-189) showed that effective *ex ante* parliamentary involvement is correlated with higher implementation rates of EU directives.

<sup>50</sup> For detailed information on the scrutiny systems in the national parliaments, see COSAC (2005), and the chapters in the volumes edited by Auel and Benz (2006), Maurer and Wessels (2001), Norton (1996), Smith (1996), and Laursen and Pappas (1995). Szalay (2005) contains an early analysis of the scrutiny systems in those member states that joined the Union in 2004.

<sup>51</sup> Philip Kiiver, *The National Parliaments in the European Union – A Critical View on EU Constitution-Building* (The Hague, Kluwer Law International, 2006.), pp. 117-118. In Greece the idea was to improve the flow of information between the parliament and the EU. However, this has contributed to the committee's weakness by making scrutiny of government behaviour difficult given the presence of MEPs that have no formal link with the government. See Dionyssis Dimitrakopoulos, 'Incrementalism and Path Dependence: European Integration and Institutional Change in National Parliaments', *Journal of Common Market Studies*, 39/ 3, 2001: 405-22.

<sup>52</sup> Torbjörn Bergman et al. concluded that in no member state legislature does the plenary assembly get actively involved in EU matters, with plenary involvement categorized as 'weak' in thirteen countries and as only 'moderate' in Finland and Italy. See Torbjörn Bergman,

<sup>53</sup> Finn Laursen, *op.cit.*

<sup>54</sup> Tomas König and Simon Hug, 'Ratifying Maastricht: Parliamentary Votes on International Treaties and Theoretical Solution Concepts' *European Union Politics* 1:1, 2000: 93-124.

<sup>55</sup> See, for example, A. Benz, *op.cit.*, 2004: 876; Auel and Benz, *op.cit.*, 2005:373, 379. This is exactly the reason why the Austrian parliament does not really use its constitutional right to mandate the ministers. Soon after Austria had joined the Union, the minister for agriculture had been told by the EAC not to agree in the Council to lower standards of animal transportation than those in force in Austria. It appears that a compromise could have been reached, but when the minister phoned the parliament in Vienna in order to request a modification to his mandate from the EAC, he could only get hold of the Nationalrat's night-watch. As a result, the minister had to stick to his mandate and was outvoted in the Council. The outcome was less favourable to Austria than the terms of the proposed compromise. See Philip Kiiver 2006, *op.cit.*, pp. 54-55; W. Urbantschitsch *National Parliaments in the European Union – The Austrian Experience*, (Graz: Forschungsinstitut für Europarecht, Karl-Franzens Universität, 1998: 54).

<sup>56</sup> Of course this is even more likely in the case of national referendums on EU constitutional matters as was demonstrated dramatically in Ireland in June 2001 in the case of the Nice Treaty, and, subsequently, in France and the Netherlands in May and June 2005 in respect of the EU Constitutional Treaty.