

# REPRESENTATIVE DEMOCRACY IN THE EU

Recovering Legitimacy



EDITED BY  
**STEVEN BLOCKMANS**  
AND **SOPHIA RUSSACK**

# **Representative Democracy in the EU**



# Representative Democracy in the EU

## Recovering Legitimacy

Edited by

**Steven Blockmans**

**Sophia Russack**

### Contributors

Pavol Baboš	Bogdan Mureşan
Wojciech Białożyty	Filip Pazderski
Steven Blockmans	Eleonora Poli
Erik Brandes	Antoinette Primatarova
Karlis Bukovskis	Sophia Russack
Filippa Chatzistavrou	Héctor Sánchez Margalef
Rasmuss Filips Geks	Stefan Schaller
Agata Gostyńska-Jakubowska	Felix Schenuit
Dídac Gutiérrez-Peris	Paul Schmidt
Juha Jokela	Mihai Sebe
Iveta Kazoka	Atanas Slavov
Maja Kluger Dionigi	Daniel Smilov
Jan Kovář	Zdeněk Sychra
Petr Kratochvíl	Ilke Toygür
Jacek Kucharczyk	Eliza Vaş
Romain Le Quiniou	Aneta Világi
Susan Milford-Faber	Elizabete Vizgunova
Ignacio Molina	Nicolai von Ondarza

CEPS, Brussels

Rowman & Littlefield International, London

---

CEPS (Centre for European Policy Studies) is an independent and non-partisan think tank based in Brussels. Its mission is to produce sound policy research leading to constructive solutions to the challenges facing Europe.

The European Policy Institutes Network (EPIN) comprises 38 renowned think tanks and policy institutes from 25 European countries. EPIN aims to contribute to the debate on the future of Europe through expert analysis of the different national and EU-level debates. EPIN is coordinated by CEPS.

Steven Blockmans is Senior Research Fellow and Head of the Institutions unit at CEPS and Professor of EU External Relations Law and Governance at the University of Amsterdam

Sophia Russack is Researcher at CEPS Institutions Unit and a PhD candidate at Maastricht University.

The editors of this book convened a meeting for the contributing authors in Copenhagen in November 2018. We are grateful for the funding provided by the Erasmus+ programme of the European Commission (Project No. 587830-EPP-1-2017-1-BE-EPPJMO-NETWORK) and to the colleagues at Think Tank Europa, in particular Catharina Sørensen and Bjarke Møller, for organising the workshop.

The editors wish to thank Constantin Sunnerberg for the cover art.

The views expressed herein are those of the authors alone.

Co-funded by the  
Erasmus+ Programme  
of the European Union



---

Published by Rowman & Littlefield International, Ltd.  
6 Tinworth Street, London, SE11 5AL  
www.rowmaninternational.com

Rowman & Littlefield International Ltd. is an affiliate of Rowman & Littlefield  
4501 Forbes Boulevard, Suite 200, Lanham, Maryland 20706, USA  
With additional offices in Boulder, New York, Toronto (Canada)  
and Plymouth (UK)  
www.rowman.com

Centre for European Policy Studies (CEPS)  
Place du Congrès 1, 1000 Brussels, Belgium  
www.ceps.eu


Copyright © 2019 CEPS

The editors and authors have asserted their rights to be identified as the editor and/or author of this work in accordance with the Copyright, Designs and Patents Act 1988.

**British Library Cataloguing in Publication Data**

A catalogue record for this book is available from the British Library

ISBN: 978-1-78661-337-0 Hardback  
978-1-78661-338-7 Paperback  
978-1-78661-339-4 eBook

™ The paper used in this publication meets the minimum requirements of American National Standard for Information Sciences – Permanence of Paper for Printed Library Materials, ANSI/NISO Z39.48-1992.

Printed in the United States of America

---

# CONTENTS

---

Abbreviations	x
1. Introduction <i>Steven Blockmans</i>	1
<b>Part I. Transversal Aspects and Thematic Issues</b>	<b>8</b>
2. Representative democracy under pressure: shocks, agents and users <i>Dídac Gutiérrez-Peris &amp; Héctor Sánchez Margalef</i>	9
3. Uses and abuses of Voting Aid Applications <i>Daniel Smilov &amp; Antoinette Primatarova</i>	27
<b>Part II. EU-level</b>	<b>44</b>
4. EU parliamentary democracy: how representative? <i>Sophia Russack</i>	45
<b>Part III. Country Reports</b>	<b>64</b>
5. The untapped potential of EU affairs in Austria's Parliament <i>Stefan Schaller, Paul Schmidt &amp; Susan Milford-Faber</i>	65
6. Bulgaria: rising ambition, failing performance <i>Atanas Slavov</i>	89
7. Representative democracy in Czechia: a disconnect between the national and EU level <i>Jan Kovář, Petr Kratochvíl &amp; Zdeněk Sychra</i>	107
8. How functional is the Danish representative model and does it interact with EU dynamics? <i>Maja Kluger Dionigi</i>	129
9. Representative democracy in Finland – functional with limited politicisation of EU affairs <i>Juha Jokela</i>	145
10. The Bundestag in the multilevel system: representing German citizens in the EU <i>Erik Brandes, Nicolai von Ondarza &amp; Felix Schenuit</i>	161

11.	Greek parliamentary democracy as a post-representative regime: continuities and discontinuities during austerity <i>Filippa Chatzistavrou</i>	177
12.	Does Italian bicameralism double the chance of influencing EU decision-making? <i>Eleonora Poli</i>	199
13.	Political ideologies and the EU in Latvia's representative democracy <i>Rasmuss Filips Geks, Elizabete Vizgunova, Karlis Bukovskis &amp; Iveta Kazoka</i>	215
14.	Poland's political discourse on Europe <i>Wojciech Białożył, Jacek Kucharczyk, Romain Le Quiniou &amp; Filip Pazderski</i>	241
15.	The Europeanisation of representative democracy in Romania <i>Mihai Sebe, Bogdan Mureşan &amp; Eliza Vaş</i>	277
16.	Representative democracy in Slovakia: party politics dominates <i>Aneta Világi &amp; Pavol Baboš</i>	299
17.	Spain's weak parliament, growing fragmentation and pro-EU consensus <i>Ignacio Molina &amp; Ilke Toygür</i>	317
18.	Not such a clean break: Westminster's continuous oversight of EU affairs post-Brexit <i>Agata Gostyńska-Jakubowska</i>	333
	<b>Part IV. Conclusions</b>	358
19.	Conclusions <i>Steven Blockmans</i>	359
	About the Contributors	374



## List of Figures and Tables

Figure 5.1 Seats in the National Council	67
Figure 5.2 Seats in the Federal Council	67
Figure 8.1 Party activity in the Danish EAC	134
Figure 8.2 The Danish Parliament's use of political dialogue with the Commission compared with the EU average (frequency)	140
Figure 11.1 Rates of public trust in institutions in Greece, 2007-18 (%)	178
Figure 11.2 Comparative numbers of legislative acts and Acts of Council of Ministers in the period of memorandums, per year, 2010-18	185
Figure 11.3 The evolution of bipartisanship through elections, 1974-2015 (%)	188
Figure 11.4 Number of parliamentary parties, 1974 - 2015	189
Figure 11.5 Number of coalition governments MPs, 2010-19	190
Figure 11.6 Number of MPs leaving their party, 2009-19	191
Figure 11.7. Greek party positions towards the EU on a 7-point scale ranging from 1 (strongly opposed) to 7 (strongly in favour), 2006-18	193
Figure 11.8 Abstention rates in Greek national elections, 2009-15 (%)	194
Figure 14.1 What should the future of Poland look like in relation to the EU?	256
Figure 14.2 How important for you personally are the following benefits of European integration?	260
Figure 14.3 Dynamics of support for receiving refugees	262
Figure 14.4 Changing support for relocation of refugees	263
Figure 14.5 The zloty or the euro?	268
Figure 14.6 Levels of distrust towards public institutions correlated with satisfaction with political life in Poland	270
Figure 15.1 Number of EU documents submitted to scrutiny - Chamber of Deputies, Romanian Parliament	284
Figure 15.2 Reasoned opinions regarding compliance with the subsidiarity principle sent to the European Commission by the Romanian Parliament	292
Figure 15.3 Projects of EU legislation under subsidiarity control at the Romanian Senate	293

Table 3.1 Basic features of VoteMatchEurope, euandi, EU Vox 2014 and Electio 2014	33
Table 3.2 Reference/lack of reference to the EU level of policymaking in euandi, EU Vox 2014 and VoteMatch Europe	36
Table 3.3 Double-barrelled questions and questions with quantifications and qualifications in the common questionnaires of euandi, EU Vox 2014 and VoteMatchEurope	37
Table 5.1 Topics of plenary sessions devoted to EU matters	70
Table 5.2 Motions of censure concerning EU matters	73
Table 5.3 Reasoned opinions by the EU sub committee of the Austrian National Council	77
Table 5.4 Reasoned opinions by the EU committee of the Austrian Federal Council	78
Table 5.5 EU documents on the agenda of EU committees in the Austrian Parliament	81
Table 7.1 Opinions on lead candidate procedure	121
Table 11.1 Legislative output under the framework of memorandums, 2010-18	184
Table 13.1 Party affiliations at the EU and national levels	233
Table 13.2 An evaluation of cooperation between European political parties and the associated Latvian national party	235
Table 13.3 Party responses to a survey prior to the national elections	236
Table 14.1 Public opinion on European integration	257
Table 14.2 Public trust towards national and European institutions (average score on a 0-10 scale)	266
Table 14.3 Levels of trust/distrust in public institutions compared for the V4 area	267
Table 14.4 Would you agree to replace the Polish currency (zloty) with the currency common to many EU countries - the euro? (in %)	271
Table 15.1 Scrutiny applied by the Romanian Senate	285
Table 16.1 Legislative proposals in the NRSR from 2016 to 2018	306
Table 16.2 The loyalty of MEPs to their political group	312
Table 17.1 Majorities in the Spanish Congress, 1982-2019	320
Table 17.2 Assessing the Spanish Cortes Generales according to the five ideal-types for parliamentary activities in EU affairs	323
Table 17.3 Spanish parties and the European Parliament (2019-2024)	330

# ABBREVIATIONS

---

ALDE	Alliance of Liberals and Democrats for Europe
CoR	Committee of the Regions
COSAC	Conference of Parliamentary Committees for Union Affairs
CSO	Civil Society Organisations
CVM	Cooperation and Verification of Progress Mechanism
EAC	European Affairs Committee
EC	European Commission
ECI	European Citizens' Initiative
ECR	European Conservatives and Reformists
EEAS	European External Action Service
EESC	European Economic and Social Committee
EMU	Economic and Monetary Union
EU	European Union
EP	European Parliament
EPP	European People's Party
EPIN	European Policy Institutes Network
ESM	European Stability Mechanism
EWS	Early warning system
GUE/NGL	European United Left/Nordic Green Left
IGC	Intergovernmental conference
OLAF	Anti-Fraud Office
PES	Party of European Socialists
REFIT	Regulatory Fitness and Performance
S&D	Progressive Alliance of Socialist & Democrats

# 1. INTRODUCTION

STEVEN BLOCKMANS

---

Representative democracy is beset by a crisis of confidence. With its increasingly vocal critics and assertive opponents, growing numbers of citizens either take parliamentary democracy for granted or doubt its merits. In some EU member states, it seems to have become toothless yet at the same time it is noisier. Meanwhile, anti-parliamentarianism is on the rise.

## 1.1 Decline in democratic freedoms

Reports by Freedom House and others show that democratic freedoms have been in retreat for 13 straight years in many parts of the world, as more and more elected authoritarians emerge. In Europe too we are witnessing the rise of anti-democratic leaders, including some who have consolidated power beyond constitutional limits and continue to undermine the institutions that protect freedom of expression and association, and the rule of law.

In Hungary, Prime Minister Viktor Orbán has presided over one of the most dramatic declines of democracy ever charted within the European Union. Having worked methodically to deny critical voices a platform in the media or civil society, Orbán and his right-wing nationalist *Fidesz* party comfortably defended their parliamentary supermajority in the 2018 elections. Soon afterwards, the government forced the closure of the Budapest-based Central European University, evicting its academic community from the country. In Poland, the conservative Law and Justice party, led by Jarosław Kaczyński, who plays a dominant political role despite holding no formal executive position, laid waste to the country's legal framework in its drive to assert political control over the entire judiciary. This included attempts to force the retirement of Supreme Court judges and gain partisan influence over the selection of commission members. Both countries are in the crosshairs of the EU. The most emblematic, yet cumbersome, tool for defending the rule

of law is the procedure of Article 7 TEU, which was triggered in December 2017 in the case of Poland (by the Commission) and in September 2018 in the case of Hungary (by the European Parliament).

Meanwhile, attacks on media independence have spread to other European democracies. Austria's new right-wing government put pressure on the public broadcaster, while Czech Prime Minister Andrej Babiš drew on closely allied media outlets to counter injurious scandals. The brutal mafia-style murder of Maltese investigative journalist Daphne Caruana Galizia shocked the continent. She had been probing numerous cases of corruption on the island before a powerful bomb blew up her car near her home. In Slovakia, investigative reporter Ján Kuciak was killed in his home after uncovering corrupt links between government officials and organised crime. Bulgarian reporter Viktoria Marinova became the latest murder victim in October 2018, a year on from the most high-profile killings.

## 1.2 A crisis of efficiency and legitimacy

In democracy's historic heartlands we are also witnessing a shift in the perceptions and practice of democracy. The violent *gilets jaunes* protests in France, the fall of the Belgian government over the UN migration pact, the student-led climate protests inspired by Swedish teen activist Greta Thunberg and the Brexit deadlock in the UK are political crises that each have their own substantive origins. But they share an underlying weakness that is also visible in Germany, the Netherlands, Spain and elsewhere in Europe: the inability of political representatives to make tough choices. There is a gulf between what citizens think and what they see politicians doing; between what they regard as vital and what in their view the state is neglecting: loss of purchasing power, corruption, migration and climate change, to name but a few.

Every political system has to strike a balance between two fundamental realities: efficiency, i.e. the speed with which institutions can find effective solutions to problems, and legitimacy, i.e. the degree to which people support the solution (Manin, 1995). Representative democracy in Europe is undergoing a crisis of both efficiency and legitimacy. Coalition negotiations are taking longer than ever, especially in countries where complex alliances are

needed (at 589 days, Belgium holds the world record for going without a federal government). Parliaments can take months to reach long-term strategic decisions (e.g. investment in emerging technologies, choosing the right energy mix) and many governments appear powerless in the face of acute crises (e.g. eurozone debt, a spike in arrivals of refugees and migrants) and in the implementation of policy (e.g. large infrastructure projects).

*In Europe, representative democracy is undergoing a crisis of efficiency and legitimacy.*

As a result, trust in the institutions of democracy is on the wane across Europe. In the autumn of 2012, Eurobarometer noted that only 33% of Europeans had confidence in the EU institutions – down from 50% in 2004. There was even less faith in national parliaments and governments, at 28% and 27% respectively. Political parties met with the greatest distrust of all: they scored an average of 3.9 out of 10 among EU citizens, followed by governments (4 out of 10), parliaments (4.2 out of 10) and the press (4.3 out of 10). Even if figures have rebounded somewhat since,<sup>1</sup> they are still among the lowest in decades, an indication that today, half to two-thirds of the population distrust the most important institutions of their political systems (Van Reybrouck, 2016).

The declining trust in professional politicians in Europe is further evidenced by lower levels of voter participation (from an average of 85% in the 1960s to less than 40% in certain member states), falling membership of mainstream political parties and increasing electoral volatility (Gallagher, Laver & Mair, 2011; Van Biezen, Mair & Poguntke, 2012). Incidentally, the mistrust is mutual. Politicians assume that, on the whole, citizens are guided by other (i.e. less worthy) values than they are (Kanne, 2011).

---

<sup>1</sup> See, e.g., [https://ec.europa.eu/eurostat/web/products-datasets/-/sdg\\_16\\_60](https://ec.europa.eu/eurostat/web/products-datasets/-/sdg_16_60) and Standard Eurobarometer 90 of autumn 2018: 42% Europeans trusted the EU, while only 35% trust their national government and parliament. Distrust in the national parliament (58%) and in the national government (59%) had decreased by 2% since spring 2018. Though still the majority, less than half of Europeans tended not to trust the EU (48%), and one in ten respondents answered that they didn't know.

People – especially in member states that are struggling with low growth and rising poverty levels – compare representative democracy unfavourably with the apparent successes of authoritarian regimes (Foa and Mounk, 2016). This has set the scene for the resurgence of populism. Charismatic individuals and fake prophets promise simplistic solutions to people’s grievances through radical policies that dismiss existing institutions and laws as either irrelevant or inconvenient. In a growing number of member states, electoral gains have propelled these populists into government. In Hungary, the most prominent case, this has led to majoritarian rule that erodes minority rights, further hollowing out the very fundamentals of representative democracy which enabled the rise of the ‘strongman’ in the first place (Krašev, 2017).

Of course, there is reason to be sceptical about the sustainability of this resurgent authoritarianism. In most cases, both historically and globally, these regimes become fragile when growth slows or ends, because they have no other sources of legitimacy.

Another, less sinister, expression of discontent is reflected in the rise of a number of movements that are not satisfied with symbolic protest at the margins. These ‘neo-parliamentarians’ have sought to enter the system to change it from within. The Pirate Party that emerged in Sweden in 2006 as a platform for digital rights has become a political movement that aims to enrich representative democracy with direct democracy. It is a model that has been replicated elsewhere in Europe, to become the third largest party in Czechia and – briefly – Germany. Since its creation in 2009 by comedian and blogger Beppe Grillo, the anti-establishment, anti-globalist, Eurosceptic and environmentalist Five Star Movement (M5S) became the largest individual party in the Italian Parliament in the 2018 general election and entered government. Despite its leader’s raucous populist rhetoric, the M5S seeks to improve the quality of representative politics by imposing new rules: no representatives with criminal records; no seats for life; no election of the same person for more than two terms. But the M5S is finding it hard to implement its agenda in a coalition government which is de facto led by the authoritarian Minister of the Interior, Matteo Salvini, who is riding the xenophobic wave that his *Lega Nord* helped whip up during the migrant crisis.

Given that the great challenges of today – migration, climate change, banking crises, offshore fraud – can no longer be dealt with adequately by national governments. How representative are national parliaments in their decision-making on EU matters? This question is the main focus of the present volume.

### 1.3 This book

*Representative Democracy in the EU: Recovering Legitimacy* is part of the ‘Towards a Citizens’ Union (2CU)’ project co-funded by the Erasmus+ Programme of the EU and is the product of a sustained collaboration with 20 renowned think tanks from the European Policy Institutes Network (EPIN).

Building on the notion of increasing social, economic and political interdependence in a multi-layered European Union, we devoted the first volume to the question of whether a sense of solidarity and European identity could be rescued from the bottom up by empowering citizens to ‘take back control’ of their Union. Our research revealed, among other things, that people’s interest in exploring direct democracy has increased as a result of the EU’s polycrisis of recent years – although this trend is not widespread and is even absent in some member states. Yet, as Richard Youngs points out in his concluding chapter of our first volume, to move beyond being “a heavily instrumentalised wrecking-ball” the instruments of direct democracy would need to meet certain participatory preconditions to contribute to the quality of democracy overall. “As citizens make what experts consider to be ‘wrong’ populist-fuelled choices, sympathy has resurged for the classical concept of elite-mediated governance” (Youngs, 2018).

*How representative are national parliaments in their decision-making on EU matters?*

In this second book, we investigate how the relationship between the democratic institutions of the member states and those of the EU has changed as a result of a decade of crisis. Rather than assess the state of collective government (Van Middelaar, 2019), we focus on the role of parliaments. The national level lends itself best to a broad investigation of the health of representative democracy in Europe. That is why our project unpacks the theory and practice of voting and decision-shaping mechanisms (Part I) that affect



citizens in an illustrative cross-section of member states. This analysis of the 'Europeanisation' of representative democracy at the national level (Part III) is complemented by an investigation of the state of parliamentary democracy at the EU level (Part II).

On both levels, our focus is on polity rather than on policy or populism. The contributions examine issues of representation and deliberation from a constitutional, institutional and procedural perspective; the machinery and mechanisms that power European affairs and the tracks along which opinions and decisions are moved between the national and EU levels. As such, the changing nature of our political eco-systems and the (dis)connections within and between them will be discussed.

The third and final publication will bring the lessons of volumes I and II together and offer ideas for how democratic institutions and processes can be enhanced to meet tomorrow's challenges. The underlying assumption is that direct and representative democracy can go hand-in-hand to improve the quality of democracy in Europe.

## References

- Foa, R.S. and Y. Mounk (2016), "The Democratic Disconnect", *Journal of Democracy*, Vol. 27, No. 3, pp. 5–17.
- Freedom House (2019), *Democracy in Retreat: Freedom in the World 2019*.
- Gallagher, M., M. Laver and P. Mair (2011), *Representative Government in Modern Europe*, 5<sup>th</sup> revised ed., London: McGraw-Hill.
- Kanne, P. (2011), *Gedooigdemocratie*, Amsterdam: Meulenhoff.
- Krastev, I. (2017), "Majoritarian Futures", in H. Geiselberger (ed.), *The Great Recession*, London: Polity Press, pp. 65–77.
- Manin, B. (1995), *The Principles of Representative Government*, Cambridge: Cambridge University Press.
- Siedentop, L. (2001), *Democracy in Europe*, London: Penguin Books.
- Van Biezen, I., P. Mair and T. Poguntke (2012), "Going, Going, ... Gone? The decline of party membership in contemporary Europe", *European Journal of Political Research*, Vol. 51, No. 1, pp. 24–56.
- Van Middelaar, L. (2019), *Alarums and Excursions: Improvising Politics on the European Stage*, Newcastle upon Tyne: Agenda Publishing.
- Van Reybrouck, D. (2018), *Against Elections*, New York: Seven Stories Press.
- Youngs, R. (2018), "Gettings Europe's Direct Democracy Right", in S. Blockmans and S. Russack (eds), *Direct Democracy in the European Union: The Myth of a Citizens' Union*, London: Rowman & Littlefield International, pp. 443–452.

**PART I.**  
**TRANSVERSAL ASPECTS AND**  
**THEMATIC ISSUES**

## 2. REPRESENTATIVE DEMOCRACY UNDER PRESSURE: SHOCKS, AGENTS AND USERS DÍDAC GUTIÉRREZ-PERIS & HÉCTOR SÁNCHEZ MARGALEF

---

*This chapter assumes that representative democracy is under pressure from the numerous challenges it is facing: external shocks, external actors, internal actors and its own users. How should we understand the new limits of sovereignty, representation and responsibility in an interconnected world and how can the notion of interdependence offer alternative ways to address these challenges?*

### **Introduction**

One of the greatest thinkers on democracy, Robert Dahl (1989), defined democratic processes as “the most *reliable means* for protecting and advancing the good and interests of all the persons subject to collective decisions”. Participation in decision-making by citizens voting on decisions that affect them is a core element of democratic processes (Coglianese, 1990). Thus, representative democracy is how liberal democracies translate popular will into policy options. The representative system guarantees the same political rights to every citizen, preserving their individual initiative and autonomy. This is achieved by safeguarding individual rights, pluralism and minorities above those of majorities, as well as by the capacity of citizens to remove a government that does not fulfil their expectations or needs. However, Dahl also acknowledges that implementing democratic ideals is not as easy as it may seem in theory. The obvious criticism representative democratic systems face is that they can lead to unjust outcomes when a majority deprives a minority of its substantive rights or interests.

For some time at the end of the Cold War, transitions to democratic regimes appeared unstoppable: Fukuyama (2018) notes that the number of electoral democracies from 1970 to the first decade of this century increased from 35 to 110. At the same time, prosperity seemed to prove the advocates of democracy right, as the proportion of people living in extreme poverty decreased dramatically from 42% in 1993 to 18% in 2008 (Fukuyama, 2018). In recent times, however, representative democracy has been called into question, or at least taken less for granted and regarded more critically than it used to be. A poll by the Pew Research Center (2017) shows that, despite the strong commitment to representative democracy in the European Union (EU) (37%), 42% of the population is moderately committed to democracy and 10% support non-democratic forms of government. Numbers at global level show less commitment to democracy: 23% are totally committed to democracy, 47% less committed and 13% not committed at all. In fact, at the beginning of 2017, more countries were heading towards non-democratic forms of government than the other way around (*The Economist*, 2018). At the beginning of 2019, that trend seems to have stopped or paused (*The Economist*, 2019).

With this initial approach in mind, the chapter will set out the challenges facing representative democracy, and question whether it is the form of government every society desires and needs to reach. The chapter will also consider the dilemmas representative democracy has brought on itself, acknowledging the limitations as well as the opportunities for representative democracy today. This will lead to the examination and analysis of the state of representative democracy in European Union member states.

## 2.1 Challenges

Why is an idea that not so long ago seemed incontrovertible now being contested, struggling to maintain its relevance in people's minds? Technological change is making workers feel irrelevant and fear for the future because the social elevator has stopped. Immigration (real or perceived) has created a loss of identity, with an inevitable backlash. Adding to this complex scenario, the increasing integration of social networks in our daily lives simply amplifies the consequences of everything – good and bad. It would

be a mistake to locate the origin of representative democracy's deterioration in the financial crisis of 2008, but it was certainly a serious blow, given the way it affected primarily the United States (US) and the EU – the leading paradigms of liberal democracy – damaging the reputation of the system as a whole (Fukuyama, 2018). The crisis has had lasting effects that have been more socially damaging than those of any previous crisis. Its management and aftermath have taken a heavy toll on social equality, for which the elites are blamed. The inevitable anger, frustration and fear are partially fuelling radical right-wing parties. Such parties tend to spring up during political and economic crises, and established ones become more relevant (Funke, Schularick and Trebesch, 2018).

This paper has identified four challenges that contest the idea of representative democracy. The first is that posed by *external shocks* that cannot be controlled by governments elected through representative democracy. *External actors* who question the association between representative democracy and economic success, and/or offer an alternative model of government, represent the second challenge. *Internal actors*, in the form of political parties or civil society movements who use the rules of representative democracy to undermine it represent the third challenge. The fourth is the increasing number of *users of democracy* who do not see living under a democratic regime as indispensable. A process of deconsolidation of democratic regimes is underway, which goes further than mere citizen dissatisfaction with particular governments (Foa and Mounk, 2016).

### 2.1.1 *External shocks*

At least two external elements are placing stress on representative democratic systems. Both are driven to some extent by fear of the future. The first is the fear of losing economic status aggravated by inequality; the second is the alleged loss of traditional forms of identity due to rising migration flows into a country (either as a real situation or simply as a perceived phenomenon). They do not necessarily need to be real:

*The fear of losing economic status, aggravated by inequality and the alleged loss of identity due to migration flows, real or perceived, are placing stress on representative democracy systems.*

the perception of them alone places the whole representative democratic system at risk.

The economic crisis has exacted a heavy toll in terms of rising inequality. As well as the differences between countries in the global North and global South, Western countries are also affected from within. Reports show that the share of income held by the richest people is almost ten times that of the poorest and that the gap widened during the economic crisis. Wealth is also unequally distributed and the differences are greater than in income inequality (Eurostat, 2016; OCDE, 2017). Unemployment, particularly youth unemployment, have aggravated this situation, while 20% of the world's billionaires have become increasingly rich (*The Guardian*, 2018). Southern Europe, with its persistent high youth unemployment, is where economic inequalities have become most significant and where the gap between poorest and richest has widened the most (Darvas, 2018). One cannot fully exercise one's political rights if there is economic inequality; as Fukuyama (2018) put it, equality under law does not result in economic or social equality. It follows that when the accountability of those representing the popular will is lower than before because power is exercised not only in parliaments but also in what are known as *the markets*, people's confidence in representative democracy wanes (Vallespín, 2018).

The second external shock is the perceived threat that 'uncontrolled' migration flows represent to one's identity. Conspiracy theories and diminishing political correctness have enabled radical right political parties to use migration as a scapegoat, regardless of what data and experts might say about the benefits of migration to society. Without hesitation, radical right parties in opposition and government treat the phenomenon of migration as a threat to supposedly homogeneous societies, blaming immigrants for practically everything and profiting electorally from it (Davis and Deole, 2018). Several examples of governments elected in representative democratic systems using these tactics can be found across Europe: from the Hungarian government accusing George Soros of funding refugees to invade Europe (Donadio, 2018); to the *Alternative für Deutschland* progressing from initial demands to leave the euro to become an anti-migration, anti-refugee party present in all of Germany's

regional parliaments (Horn, 2016). The focus on migration as a threat drives the securitisation of the topic (Özerim, 2013), and ultimately questions the individual rights at the core of representative democracy.

This results in a crisis of representative democracy that, as Cabrera (2018) has explained, uses verbal wars, conspiracy theories, and a systematic violation of institutions and non-written rules such as tolerance towards political rivals instead of violence or *coup d'états*.

*Abusers of representative democracy use verbal wars, conspiracy theories, and a systematic violation of institutions and non-written rules, such as tolerance towards political rivals.*

### 2.1.2 External actors

The number of democracies is in retreat in every region of the world while authoritarian regimes are becoming more assertive (Fukuyama, 2018). China and Russia have always seen the promotion of (representative) democracy by the US and the EU as a way to interfere in third countries' domestic affairs and expand their own influence. They share the belief that "weakening democracy can accelerate the decline of Western influence and advance both Russia's and China's geopolitical goals". Russia promotes an illiberal way of governing while China is undermining democratic norms to enhance its "Leninist-capitalist brand of governance". It questions the idea that economic growth goes hand in hand with liberal democracy (Kendall-Taylor and Shullman, 2018).

Russia has interfered at the very roots of representative democracy by trying to alter free and fair elections and thereby lessen the commitment towards democracy (Brattberg and Maurer, 2018; Bentzen, 2018). It has favoured anti-EU parties and framed them as patriotic forces that protect national sovereignty from the 'usurper' European Union in member states' national election campaigns (Kendall-Taylor and Shullman, 2018). It has acted as a host for political forces that do not believe in the EU, from both the right and the left, as well as interfering militarily in the EU neighbourhood by actively promoting the destabilisation of Ukraine. Russia approached Greece when the conflict with its creditors reached its peak and political leaders from member states



such as Hungary's Viktor Orbán admire Putin's non-democratic way of governing (Bíró-Nagy, 2017).

The assumption that economic growth creates middle classes that ask for more political rights, leading to a liberal representative democracy as the only way to channel these demands has proved wrong in China so far. The alternative model China defends has successfully sustained economic growth for more than 20 years, while avoiding the financial crises that have shaken Western countries. Not only are there no glimpses of democratisation in China, despite a growing middle class, but here is also little questioning of whether that is the path to follow. The model will not be questioned as long as the government-led economy continues to deliver sustained economic growth (Wu, Chang and Pan, 2017) and liberal professionals continue to benefit from this model of state (Goodman, 2013). The uninterrupted economic growth makes people in the West wonder how indispensable it is to live in a representative democracy and whether the Chinese political system would be better at achieving such growth (Horesh, 2015; Bell, 2018). Finally, China is an enormous investment powerhouse – seen by other states as an opportunity to finance their projects. Funding from China inevitably comes at a cost but it but allows third countries to bypass the conditions associated with access to EU funding. Thus, the EU loses some leverage when promoting democracy and rule of law in third countries. All in all, the increasing assumption is that there are no incentives to adopt Western-like models of society, government or economy because other models may better fit rulers' aspirations (Mishra, 2014; *The Economist*, 2014).

### **2.1.3 Internal actors**

In recent years, radical right parties have increasingly gained political power in EU member states. In some, they rule with absolute majorities (Poland, Hungary), in others they are part of a government coalition (Italy, Austria) and in the rest they have shaped the agenda by dragging mainstream political parties towards their views, particularly on the issue of migration (Germany, Finland). When these parties gain enough political power, they do whatever it takes to hold on to it. In Poland and Hungary, radical right parties in government are attempting to

dismantle checks and balances, curtail the freedoms of press and association and control judiciary power, while demolishing the opposition at the same time. In short, all the elements that are fundamental to a healthy representative democracy (Applebaum, 2018; Amnesty International, 2018). To these actors, the EU is a threat to national sovereignty. Regardless of the fact that, in practice, they devalue the idea of democratic representation, a formal strategy of supposedly abiding by European rules has often been used as a way to legitimise their retrenchment of rights.

*Radical right parties in government are attempting to dismantle checks and balances, curtail the freedoms of press and association and control judiciary power, and demolish the opposition.*

This kind of political force has always existed in EU member states. What has changed is that anti-EU forces do not want to openly ‘destroy’ or ‘end’ the EU any more. In fact, the uncertainty created by Brexit is a powerful deterrent and is boosting EU support (Grabbe and Lehne, 2018). Instead, they will keep taking advantage of the system to gain more funds, more visibility and ultimately more political power. Their final goal is to ‘take back control’, renationalising decisions now taken at European level, or regaining sovereignty from the EU in favour of the nation state to make it easier to implement an illiberal agenda. The challenge they represent to representative democracy today is even greater given the renewed capacity to build on a certain organisation of action as they staged in Koblenz in January 2017.<sup>1</sup> As the Spanish foreign minister recently put it – the internal opponents of a free, solidary and united Europe now have powerful allies from outside (Borrell, 2018). Moreover, as Applebaum (2018) has warned, these political forces do not hesitate to use “medium-size lies” that they

*This kind of political force has always existed in EU member states. What has changed is that anti-EU forces do not want to openly ‘destroy’ or ‘end’ the EU any more.*

---

<sup>1</sup> Radical right parties with a strong Euroscepticism leaning met in the German city of Koblenz in January of 2017. The aim of the gathering was to discuss the Europe of the future, according to the organizers but it became more useful for visibility purposes.

and their affiliated media repeat over and over to impose their view. They conceive of society as a monolithic block and see themselves as the only actors capable of interpreting its demands and of defending its national interests and identity. Such a view of the world and of the society they claim to represent leaves less and less room for pluralism and deliberation, which are essential, defining theoretical traits of representative democracy.

#### 2.1.4 *Users of democracy*

The concept of democratic deconsolidation (Mounk and Foa, 2016) arises from the assumption that an ever-increasing number of people living under representative democratic regimes do not consider it indispensable to continue to do so. Fukuyama's updated work provides a few examples, such as the two oldest democracies, the UK and the US, voting for Trump and Brexit, respectively, as if they did not care anymore. Grabbe and Lehne (2018) claimed that "many voters understand that the EU membership brings benefits, but many of them take for granted the legal system that delivers economic prosperity". Former German Finance Minister, Wolfgang Schäuble has said that the biggest danger for (representative) democracy is taking it for granted, while the Spanish foreign minister has claimed that the losers of globalisation, feeling lost, would rather protect themselves in what they know best – the nation state – no matter what they have to give up (Borrell, 2018). What is more, those who did not think they would lose from globalisation – often conceptualised as the 'middle class' – blame both the elites for the loss of their former economic status (or that of their children in the future), and the poor, whom they believe are given special attention.

Another type of fracture is further eroding representative democracy from within: the generational one. Since the *Brexit*

*Another type of fracture is further eroding representative democracy from within: the generational one.*

referendum, more and more voices have blamed the final result on low youth turnout. While many young voters did fail to turn out on referendum day, it is often overlooked that a turnout of 73% of the population between 18 and 24 years old would have been needed to reverse the result of the referendum (the total turnout was slightly

lower), a level of participation that has not occurred in any recent election. From a more academic perspective, Foa and Mounk (2016 and 2017) claimed that people born since the 1980s in the United States or in any member state of the European Union are less likely to answer “essential” when asked how important it is to live in a democracy. Although looking at the numbers of people who don't consider democracy to be essential, the situation is not worrying; it becomes so when looking at it comparatively.

Indeed, people born in the 70s would say that democracy is a good thing as they grew older, while the opposite happens with people born in the 90s. The older they get, the less positive is their opinion regarding democracy. Other data exists on youth commitment to democracy but Foa and Mounk's claim is that given how future decision-makers, citizens and voters think right now, democracy is not assured. According to them,

“millenials have less faith in the democratic system (...), are more likely to express hostile views of democracy, [and] vote for anti-establishment parties and candidates that disregard long-standing democratic norms in ever greater numbers” (Mounk and Foa, 2016).

Although the data is accurate, the conclusions have been contested by other academics (Inglehart, 2016), think tankers (Quero and Sánchez, 2019) and journalists (Koerth-Baker). Some millennials may not care too much about democracy but others cannot agree on how it should work.

While they are difficult to interpret from a far-reaching perspective, the external and internal challenges to democracy should certainly raise concerns among member states and citizens who favour representative democracy as a system of governance. Most importantly, these challenges conceal two dilemmas at the core of what could be called the ‘engineering structure’ of representative democracy. In other words, these two dilemmas might be both part of the problem and part of the solution.

## **2.2 The dilemmas for representative democracy**

As this chapter has shown, it is now commonly assumed that representative democracy can be added to the list of what European Commission President Juncker has termed a “polycrisis”. Public

opinion is showing clear signs of disenchantment and even rejection of democracy and it is also assumed that some of the current failures associated the crises of representative democracy (i.e. greater inequality and increased difficulty retaining economic sovereignty in a globalised world) are somehow connected – and are sometimes even the result of – this particular system of government.

Such assumptions are now intrinsic to the academic debate about the crisis of representative democracy but at the same time they illustrate some of the dilemmas faced by political scientists when tackling this issue. As the earliest comparative theorists established (Krasner, 1983; Lipset, 1959) not all undesirable political circumstances result from the political structure in place and vice versa, and neither do all similar political structures produce the same policy results in all regions, countries and periods. Taking into consideration this initial proviso, this section will look at some of the dilemmas surrounding representative democracy nowadays, in particular: a) the dilemma posed by new forms of sovereignty in a globalised ecosystem; and b) how the notion of interdependency offers alternative ways to address the crisis of representative democracy.

### 2.2.1 *The new delimitation of (power) spaces*

It is widely recognised that the Westphalian order is showing serious vulnerabilities in an increasingly decentralised and hyper-connected global environment (Gill and Cutler, 2014). The process of globalisation is transforming the traditional centres of political,

*Globalisation is transforming the traditional centres of political, economic and cultural power.*

economic and cultural power. It is no coincidence that most of the so-called anti-establishment actors exploiting this centrifugal evolution are marketing their narrative as a means to ‘take back control’ and

‘regain sovereignty’, because the place where sovereignty is exercised is in flux.

The example of the eurozone crisis and the role played by financial powerhouses provides a different illustration of how post-national economic forces can have a lasting effect. Besides the structural reasons that explain the vulnerabilities of Europe’s monetary ecosystem, the public debt crisis was strongly influenced

by a series of market reactions that were independent from national policies at the time. This particular situation has been studied at length since the crisis. Wolff (2018), for example, has recently looked at central banks in Europe and the problem of unelected power, while Müller et al. (2018) have put together a fascinating review showing that in the midst of the crisis several national news outlets were accusing other countries of the problems suffered by each nation during those years<sup>2</sup>. The 'culprits' were difficult to identify and name. A complex system of co-liabilities blurred the capacity to find straightforward answers and solutions. The case of Spain during those years is equally illustrative of the capacity of exogenous factors to influence national economy. In 2007, Spain's national public debt accounted for 35% of GDP (half of Germany's public debt at the time). Yet in subsequent years markets lost confidence in Spain's bond market, which radically transformed the public debt balance of the country (which tripled the 2007 percentage and took public debt beyond 100% of GDP in 2014).

This shows how a globalised environment creates new boundaries for public and political responsibilities. That this new complexity applies to sovereignty and representativeness is a logical consequence. In fact, without a clear understanding of who is responsible for the unexpected political complications our societies face, it seems only natural for constituents to lose confidence in the system of representation meant to legitimise such a regime. In the early 1980s the literature focusing on European studies coined the concept of 'output legitimacy' to explain this particular problem. Because the European Union was always a project perceived to have less legitimacy than the old Westphalian states, it had to legitimise itself through policy results, hence *output legitimacy* (Scharpf, 1999). In that sense, one of the consequences of the crisis of representative democracy is that this same concept seems to apply increasingly to national realities. Less and less perceived as the unique stakeholders of a fixed and sacred sovereignty, the legitimacy of national policymakers is assessed according to their capacity to bring operational and tangible results. This could be why trust in traditional political strongholds such as

---

<sup>2</sup> The outlets analysed were from Germany, France, Italy and Spain.

national parliaments and national governments is plummeting (see, for example: European Commission, 2017).

### **2.2.2 Governing interdependencies**

After acknowledging the ongoing redesign of responsibilities, sovereignty and representativeness in a globalised world, the question is how much progress has been made on innovative structures to govern interdependencies. Such research is only in its early stages, although it constitutes one of the most promising attempts to combine decentralised political realities with sustained democratic support (for a preliminary corpus see, for example: Christiano, 2010; Dworkin, 2013; Buchanan and Keohane, 2006). The challenge of governing interdependencies means, in practice, imagining a set of procedures or benchmarks that can be used in contemporary policymaking to integrate the interdependency factor. This set of benchmarks has not been devised at European level yet, but other policy areas have paved the way. For instance, some policymakers are already using global indicators when regulating climate change and environment protection: nowadays it is common to have some sort of pre-assessment and evaluation, such as the combined use of Footprint indicators as a *Footprint Family* in Galli et al., 2012.

The crisis has also pushed the EU towards some reinforcement measures regarding interdependencies at monetary and economic levels. Despite the fact that the system of governance emerging from the crisis is still dominated by the principle of conditionality (Nicolaidis and Watson 2014) – see for example the rigour embedded in all policies surrounding the European semester – there is also a willingness to look further by using tools such as the Macroeconomic Imbalance Procedure, which has a much more global and long-term vision of the survival of the eurozone. These innovative approaches provide some initial tools for acknowledging and incorporating the transnational liabilities between member states, which may result in an updated conception of representative democracy.

## Conclusion

This chapter has examined the different challenges faced by representative democracy. They have been summarised based on the sources from which they arise: international unpredictable shocks; external actors; internal actors; and users of democracy. The pressure from these agents on the legitimacy and support for representative democracy has never been greater. Yet, it is assumed that one cannot address the growing concerns without first addressing the two systemic changes underpinning the new globalised playing field: first, how to find the appropriate level of decision-making to remain efficient in terms of sovereignty, particularly at European level; and second, how to start thinking about a new roadmap to effectively implement the notion of 'governing interdependencies' should representative democracy continue to be the preferred system of government in EU member states.



## References

- Applebaum, A. (2018), "A Warning From Europe: The Worst Is Yet to Come", *The Atlantic*, October Issue (<https://www.theatlantic.com/magazine/archive/2018/10/poland-polarization/568324/>).
- Amnesty International (2018), "Hungary", Report, Amnesty International, London, 20 June (<https://www.amnesty.org/download/Documents/EUR2786332018ENGLISH.PDF>).
- Bell, D. (2018), "China's political meritocracy versus Western democracy", *The Economist*, 12 June (<https://www.economist.com/open-future/2018/06/12/chinas-political-meritocracy-versus-western-democracy>).
- Bentzen, N. (2018), "Foreign influence operations in the EU", European Parliamentary Research Service, PE 625.123 - July ([http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/625123/EPRS\\_BRI\(2018\)625123\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/625123/EPRS_BRI(2018)625123_EN.pdf)).
- Bíró-Nagy, A. (2017), "Illiberal Democracy in Hungary: The Social Background and Practical Steps of Building an Illiberal State", in P. Morillas (ed.), *Illiberal Democracies in the EU: the Visegrad Group and the Risk of Disintegration*, Barcelona: Color Marfil, S.L.
- Borrell, J. (2018), "Por una Europa más unida y más fuerte", *El País*, 25 October ([https://elpais.com/elpais/2018/10/24/opinion/1540394618\\_080776.html](https://elpais.com/elpais/2018/10/24/opinion/1540394618_080776.html)).
- Brattberg, E. and T. Maurer (2018), "Russian Election Interference: Europe's Counter to Fake News and Cyber Attacks", Paper, Carnegie Endowment for International Peace, 23 May (<https://carnegieendowment.org/2018/05/23/russian-election-interference-europe-s-counter-to-fake-news-and-cyber-attacks-pub-76435>).
- Buchanan, A. and R.O. Keohane (2006), "The Legitimacy of Global Governance Institutions", *Ethics & International Affairs*, Vol. 20, No. 4, pp. 405–437.
- Cabrera, M. (2018), "El reto de la democracia", *El País*, 4 October ([https://elpais.com/elpais/2018/10/03/opinion/1538577232\\_032771.html](https://elpais.com/elpais/2018/10/03/opinion/1538577232_032771.html)).
- Coglianesi, C. (1990), "Democracy and Its Critics", Paper 1241, University of Pennsylvania Law School Penn Law: Legal Scholarship Repository ([http://scholarship.law.upenn.edu/faculty\\_scholarship/1241](http://scholarship.law.upenn.edu/faculty_scholarship/1241)).
- Christiano, T. (2010), "The uneasy relationship between democracy and capital", *Social Philosophy and Policy*, Vol. 27, No. 1, pp. 195–217.

- Dahl, R.A. (1989), *Democracy and Its Critics*, New Heaven: Yale University Press.
- Darvas, Z. (2018), "EU income inequality decline: Views from an income shares perspective", Bruegel Blog Post, 5 July (<http://bruegel.org/2018/07/eu-income-inequality-decline-views-from-an-income-shares-perspective/>).
- Davis, L. and S.S. Deole (2018), "Immigration and the Rise of Far-right Parties in Europe", ifo DICE Report, ifo Institute - Leibniz Institute for Economic Research at the University of Munich, Vol. 15, No. 4, pp. 10-15.
- Donadio, R. (2018), "How Hungary ran George Soros out of town", *The Atlantic*, 15 May (<https://www.theatlantic.com/international/archive/2018/05/orban-european-union-soros/560480/>).
- Dworkin, R. (2013), "A New Philosophy for International Law", *Philosophy & Public Affairs*, Vol. 41, No. 1, pp. 2-30.
- European Commission (2017), "Designing Europe's future: Trust in Institutions and Globalisation", Special Eurobarometer 461, June (<http://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2173>).
- Eurostat (2018), "Income quintile share ratio", European Commission (<https://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=tessi180&plugin=1>).
- Foa, R. and Y. Mounk (2016), "The Danger of Deconsolidation: The Democratic Disconnect", *Journal of Democracy*, Vol. 27, No. 3, pp. 5-17.
- Foa, R. and Y. Mounk (2017), "The Signs of Deconsolidation", *Journal of Democracy*, Vol. 28, No. 1, pp. 5-15.
- Fukuyama, F. (2018), "Against Identity Politics", *Foreign Affairs*, Vol. 97, No. 5, September/October.
- Funke, M., M. Schularick and C. Trebesch (2018), "The Financial Crisis is still empowering far-right populists", *Foreign Affairs*, Snapshot, 13 September.
- Galli, A., T. Wiedmann, E. Arcin, D. Knoblauchd, B. Ewinge and S. Giljumf (2012), "Integrating Ecological, Carbon and Water footprint into a 'Footprint Family' of indicators: Definition and role in tracking human pressure on the planet", *Ecological Indicators*, Vol. 16, pp. 100-112.
- Gill, S. and A.C. Cutler (2014), "New Constitutionalism and World Order: General Introduction", in S. Gill and A.C. Cutler (eds), *New Constitutionalism and World Order*, New York: Cambridge University Press, pp. 1-21.

- Goodman, D. (2013), "Why China's Middle Class Supports the Communist Party", *The Huffington Post*, 22 October ([https://www.huffingtonpost.com/davidgoodman/why-chinas-middle-class-s\\_b\\_4143250.html?guccounter=1](https://www.huffingtonpost.com/davidgoodman/why-chinas-middle-class-s_b_4143250.html?guccounter=1)).
- Grabbe, H. and S. Lehne (2018), "Could an illiberal Europe work?", *Carnegie Europe*, 11 October (<https://carnegieeurope.eu/2018/10/11/could-illiberal-europe-work-pub-77463>).
- Horesh, N. (2015), "The West is blind to the appeal of China's model of authoritarian capitalism", *Business Insider*, 19 July (<https://www.businessinsider.com/the-west-is-blind-to-the-appeal-of-chinas-model-of-authoritarian-capitalism-2015-7?IR=T>).
- Horn, H. (2016), "The Voters Who Want Islam Out of Germany", *The Atlantic*, 27 May (<https://www.theatlantic.com/international/archive/2016/05/afd-germany-anti-immigration/484700/>).
- Krasner, S.D. (1983), *International Regimes*, Ithaca and London: Cornell University Press.
- Kendall-Taylor, A. and D. Shullman (2018), "How Russia and China Undermine Democracy", *Foreign Affairs*, Snapshot, 13 September.
- Koerth-Baker, M. (2016), "Democracy, Meh?", *FiveThirtyEight*, 2 December (<https://fivethirtyeight.com/features/democracy-meh/>).
- Lipset, S.M. (1959), "Some social requisites of democracy: economic development and political legitimacy", *The American Political Science Review*, Vol. 53, No. 1, pp. 69-105.
- Mishra, P. (2014), "The western model is broken", *The Guardian*, 14 October (<https://www.theguardian.com/world/2014/oct/14/-sp-western-model-broken-pankaj-mishra>).
- Mounk, Y. and R.S. Foa (2016), "Yes, people really are turning away from democracy", *The Washington Post*, 8 December ([https://www.washingtonpost.com/news/wonk/wp/2016/12/08/yes-millennials-really-are-surprisingly-approving-of-dictators/?noredirect=on&utm\\_term=.60125eec9dbe](https://www.washingtonpost.com/news/wonk/wp/2016/12/08/yes-millennials-really-are-surprisingly-approving-of-dictators/?noredirect=on&utm_term=.60125eec9dbe)).
- Müller, H., G. Porcaro and G. von Nordheim (2018), "Don't put the blame on me: How different countries blamed different actors for the Eurozone crisis", *London School of Economics, Europ Blog*, 1 March (<https://wp.me/p2MmSR-bDR>).
- Neate, R. (2018), "World's billionaires became 20% richer in 2017, report reveals", *The Guardian*, 26 October (<https://www.theguardian.com/news/2018/oct/26/worlds-billionaires-became-20-richer-in-2017-report-reveals>).
- Nicolaïdis, K. and M. Watson (2016), "Sharing the Eurocrats' dream: A democratic approach to EMU governance in the post-crisis era", in

- D. Chalmers, M. Jachtenfuchs and C. Joerges (eds), *The End of the Eurocrats' Dream: Adjusting to European Diversity*, Cambridge: Cambridge University Press.
- OCDE (2017), "Understanding the socio-economic divide in Europe", Background Report, OCDE, 26 January (<https://www.oecd.org/els/soc/cope-divide-europe-2017-background-report.pdf>).
- Özerim, M.G. (2013), "European Radical Right Parties as Actors in Securitization of Migration", *International Journal of Humanities and Social Sciences*, Vol. 7, No. 8, pp. 2196–2220.
- Quero, J. and H. Sánchez Margalef (2019), "La Brecha Generacional: ¿La Realidad Obviada?", Notes Internacionales, CIDOB, Barcelona Centre for International Affairs, under peer review.
- Scharpf, F.W. (1999), *Governing in Europe: Effective and Democratic?*, Oxford/New York: Oxford University Press.
- The Economist (2014), "What's gone wrong with democracy", *The Economist*, 27 February (<https://www.economist.com/news/essays/21596796-democracy-was-most-successful-political-idea-20th-century-why-has-it-run-trouble-and-what-can-be-do>).
- The Economist (2018), "Democracy continues its disturbing retreat", *The Economist*, 31 January (<https://www.economist.com/graphic-detail/2018/01/31/democracy-continues-its-disturbing-retreat>).
- The Economist (2019), "The retreat of global democracy stopped in 2018", *The Economist*, 8 January (<https://www.economist.com/graphic-detail/2019/01/08/the-retreat-of-global-democracy-stopped-in-2018>).
- Vallespín, F. (2018), "La democracia es frágil", *El País*, 7 October ([https://elpais.com/internacional/2018/10/05/actualidad/1538751614\\_762756.html](https://elpais.com/internacional/2018/10/05/actualidad/1538751614_762756.html)).
- Wike, R., K. Simmons, B. Stokes and J. Fetterolf (2017), "Globally, Broad Support for Representative and Direct Democracy", Pew Research Center, 16 October (<http://www.pewglobal.org/2017/10/16/globally-broad-support-for-representative-and-direct-democracy/>).
- Wolff, G. (2018), "Director's Cut: Central banking and the problem of unelected power", Podcast Bruegel, 5 June (<http://bruegel.org/?p=26095>).
- Wu, W., Y.-T. Chang and H.-H. Pan (2017), "Does China's middle class prefer (liberal) democracy?", *Democratization*, Vol. 24, No. 2, pp. 347–366.



### 3. USES AND ABUSES OF VOTING AID APPLICATIONS

DANIEL SMILOV &  
ANTOINETTE PRIMATAROVA

---

*The focus of this chapter is on transnational Voting Aid Applications (VAAs) as instruments intended to exert impact on European elections. Four VAAs, designed for the European Parliament elections in 2014, are subjected to a critical assessment with regard to their purpose and the informative value of the questionnaires as the core element of their design. VAAs create a perception that the voter is in the driving seat of politics: political parties are turned into transparent menus of policy options among which the rational voter makes an informed choice. This perception might be misleading. VAAs cannot function as a remedy for the 'representative deficit' (a high mismatch between the issue preferences of voters and the offers of parties). Nor can they affect the major trends in contemporary European politics, such as low trust in political parties and politicians, and low turnout in elections. The potential for their success lies primarily in their use as tools to address the 'information deficit' regarding European policies.*

#### **Introduction**

Trust in political parties and parliaments – the major structures of representative democracies – is low across Europe. Eurobarometer surveys suggest that, on average, around 15% of Europeans have confidence in political parties. In general, these bodies operate in a low-trust environment and are under increasing pressure to get closer to citizens and voters. In order to bridge the gap with the electorate, parties and politicians adopt a number of strategies: internal democracy, citizen consultations, transparency, and lowering the cost of information for voters.

This chapter will discuss one such strategy, which tries to simultaneously initiate discussion among potential voters, lower

the cost of the information they receive from political parties, and provide parties with valuable feedback on voter attitudes. VAAs are designed to provide voters with an interactive (online) platform through which they can make informed choices among political candidates. These platforms are based on a number of assumptions, some of which are fairly noble from a normative perspective but still may prove to be unrealistic. One such assumption is that of the 'rational voter': people voting on the basis of rational arguments in favour of specific, well-defined policies. This assumption is very often hard to sustain. Thus, from the very outset the issue of VAAs needs to be approached with a certain degree of scepticism: while useful from a number of perspectives, these instruments are unlikely to affect major trends in contemporary politics, such as the low trust in parties and politicians, and low turnout in elections.

Pressure for greater internal party democracy and citizen consultations through the introduction of online decision-making tools and platforms is on the rise. Social networks and digital technologies make electronic voting and online decision-making increasingly possible. These novel possibilities have the potential to increase the transparency of politics to unprecedented levels. Yet, up to now this has not led to a reversal in the negative trends

***Electronic voting has the potential to increase the transparency of politics to unprecedented levels.***

***Yet so far it has not reversed the negative trends regarding institutional trust in parties and politics in general.***

regarding institutional trust in parties and politics in general. One hypothesis to explain this phenomenon could be that greater transparency and internal democracy might actually lead to the erosion of the *authority* of political bodies as effective and efficient decision-makers. Also, the very idea of *political leadership* is being transformed, since the bias is increasingly in favour of

politicians who are willing to follow every change in the mood of the public, rather than those who risk defending unpopular positions.

These general considerations are an important background for the assessment of the performance of VAAs. They suggest that the lack of institutional trust could have deeper origins and more fundamental driving forces than normally assumed, and these

forces may not be seriously impacted by instruments that increase the possibilities for discussion and decrease the cost of information for the voters.

The link between trust and politics is important at the national level, but it is even more pressing regarding supranational institutions. Elections for the European Parliament (EP), perceived as second-order elections, are characterised by lower turnout than national ones. Since their launch in 1979, they have been marked by a steady fall in turnout (from 61.99% in 1979 to 42.61% in 2014), a problematic development for representative democracy at the European level.

The focus of this chapter is on transnational VAAs as an instrument intended to exert impact on European elections. The discussion of the potential role of VAAs with regard to European elections will be limited to a critical assessment of the purpose of the already existing pan-European VAAs and to the questionnaires as the core element of the design of any VAA.

### **3.1 VAAs – a mushrooming phenomenon triggering a new strand of research**

#### ***3.1.1 VAAs as a mushrooming phenomenon***

The pioneering VAA in Europe was not an online but a paper-and-pencil test. It was designed in the Netherlands in 1989 under the brand name StemWijzer (a play on words which means both ‘vote wiser’ and ‘vote indicator’). Based on the simple principle that all political parties can be placed on a left-right scale, it consisted of a booklet with 60 statements and a floppy disk. Agreement or disagreement with the 60 statements allowed parties to be placed on a one-dimensional scale. The tool had an educational purpose and its target groups were junior high-school students. In 1994, emerging information and communications technology (ICT) facilitated the first digital, and, in 1998, the first internet based StemWijzer, which attracted 6,500 users. In 2002, StemWijzer attracted two million users. In 2012 4.85

*The pioneering VAA in Europe was not an online but a paper-and-pencil test, designed in the Netherlands in 1989 under the brand name StemWijzer.*



million Dutch voters (i.e. 40% of the Dutch electorate) used the application (of which 620,000 via smartphones). De Graaf (2010) provides further interesting insights into the “irresistible rise” of StemWijzer and its role, not so much as authoritative advice on how to vote but as a starting point for discussion in family, with friends, at classes, workplaces, cafes or in the streets, and last but not least, extensive discussions within the political parties.

Nowadays, there are more than 30 VAAs in the Netherlands alone and there are hardly any European countries that do not use some kind of VAA or several competing ones for national and even regional elections.

Attempts to design VAAs for the EP elections began in 2004 and continued in 2009. For the 2014 EP elections, four transnational VAAs<sup>1</sup> were operated in parallel throughout the European Union:

- **VoteMatch Europe** – designed within the framework of a network working under the auspices of NECE, the initiative for Networking European Citizenship Education;
- **euandi** (read EU and I) – successor to the EU Profiler from 2009, both developed under the auspices of the European Union Democracy Observatory (EUDO) based at the European University Institute (EUI) in Florence;
- **EU Vox 2014** – developed by a Swiss-Dutch consortium in cooperation with partners in member states;
- **Electio 2014** – developed by VoteWatch Europe, a think tank specialised in EU affairs, based in Brussels and operating in the online space.

### 3.1.2 VAAs as a research topic

The potential impact of VAAs on voter turnout and voting behaviour provoked a new strand of research within political and social science that is covered in its diversity by Cedroni and Garzia (2010) and Garzia and Marshall (2014).

---

<sup>1</sup> The Open Society Initiative for Europe (OSIFE) supported both VoteMatchEurope and EU Vox 2014. VoteMatchEurope was further supported by the Grundtvig Programme of the European Commission and benefitted from the involvement of the German Federal Agency for Civic Education (Bundeszentrale fuer politische Bildung).

Unfortunately, technical issues of methodology and measurement have captured the minds of both designers and researchers to a very large extent. In many cases this has resulted in a neglect of the element central to all VAAs – the statements, as well as a neglect of their main role – to inform voters rather than to promise a ‘perfect match’ for ‘lazy voters’. On the occasion of the launch of the transnational EU Vox 2014 tool, *The Economist* (2014) has captured this problematic development in a rhetorical question: “But does this form of e-democracy lead to more participation in politics or just to the meaningless minimal-engagement that has become known as ‘slacktivism’ or armchair activism?”

Fossen and Anderson (2014) challenge the prevalence of the matching VAA model because of its basis – the normative conception of democracy offered by social choice theory:

Democratic processes of decision-making, on this view, are a means of aggregating the preferences of individuals, in order to achieve outcomes that take the preferences of each into account in a fair way (...). In short, a well-functioning democracy is a preference-aggregator, which turns individual preferences into collective policies. The good citizen (or, at least, the smart voter) is a *savvy consumer*, who is well informed about the options on the *electoral menu* and therefore competent to choose a political party that matches his or her preferences.” (authors’ emphasis).

VAAs could, however, be based on alternative concepts of democracy – a deliberative or a contestatory one. Further developing the culinary metaphor, Fossen and Anderson suggest that a deliberative approach to VAAs should give users an opportunity to re-examine their own ‘political taste’ before making the final choice from the available ‘*electoral menu*’, whereas a contestatory approach could provide users with an opportunity to discuss ‘*what belongs on the menu*’.

In contrast to the metaphorical approach of Fossen and Anderson (2014), Brighty et al. (2014) have analysed the possible impact of VAAs, and more specifically, that of the transnational **EU Profiler** designed for the 2009 European election on the basis of ‘a market analogy’. They argue that if faced with a high ‘representative deficit’ (i.e. a high mismatch between the user’s

issue preferences and the parties' offer), users of a transnational VAA "might be inclined to cast a vote for a party beyond their respective national confines". If we go back to the culinary metaphor of Fossen and Anderson, we have to conclude that what Brighty et al. suggest is that if voters do not like the '*electoral menu*' in their 'national restaurant', a transnational VAA could make them consider the opportunity to simply become a 'party migrant' and go to a 'different restaurant' in some other EU member state!

One of the pioneering studies on the impact of statement selection on VAAs' ability to match voters and parties (Lefevere and Walgrave, 2014) concludes: "Although the whole process of building a VAA may seem systematic and 'scientific' - especially if the calculation of the score for each party for a given user is done very carefully - the crucial selection of statements is mostly *an unsystemic, not very transparent, and unreplicable process.*" (authors' emphasis).

This brings us to the question about the substance of the *electoral menu* as presented in the questionnaires of the different transnational VAAs.

To date, there is no comparative study on the selection of statements in transnational VAAs, but at least one is available on national VAAs. Van Camp et al. (2010) make an assessment of statements included in 26 different VAAs, on the one hand, on the basis of topicality, diversity of issues and representativeness for cleavages (criteria all VAA designers claim to have in mind). On the other hand, they study conformity of statements with four widely accepted standards for survey question formulation, namely that they should:

- concern concrete policy choices instead of general ideological values;
- should not be double-barrelled (not ask two questions);
- should not include quantifications;
- should avoid qualifications (add additional information).

### **3.2 Transnational VAAs designed for the 2014 European elections**

Some basic information about the four transnational VAAs is presented in Table 3.1.

Table 3.1 Basic features of VoteMatchEurope, euandi, EU Vox 2014 and Electio 2014

VAA	Operational in countries/ languages	Ratio common/ national specific issues	Visualisation	Scale for level of agreement <sup>2</sup>	Party self-placement <sup>3</sup>
<b>VoteMatch Europe</b>	14 countries <sup>4</sup> National partners promote the VAA under 14 national brand names on individual websites in 12 different languages	20 common issues formulated by statements (at least 15 have to be included in the national VAA) Ca. 10 national specific issues	Ranking list of national parties Allows results to be checked in the other participating countries via the common website	Three-point scale: 'Agree' – 'neither-nor' – 'disagree'	Involved when possible
<b>Euandi</b>	28 countries, one common website in 24 languages operated without	28 common issues formulated as statements	<b>"Party Matching"</b> match list that covers 242 European parties <b>"My political Space"</b> (three-	Five point scale, from 'completely agree' to 'completely disagree' plus 'no opinion option'	Parties invited to place themselves via e-mail (response rate 55% <sup>5</sup> )

<sup>2</sup> All four tools also additionally allow for weighting depending upon salience of the issues.

<sup>3</sup> Party-self placement refers to whether parties have been involved in placing themselves with regard to the issues included in the questionnaire (usually elaborated by experts) or the positions of the parties are the result of research conducted by the experts and covering party manifestos, official statements, etc.

<sup>4</sup> Austria (Wahlkabine); Belgium (De Stemtest); Bulgaria (Glasovoditel); Czechia (Volebni kalkulacka); France (Vote&Vous); Germany (Wahl-O-Mat); Greece (VoteMatch Greece); Italy (VoteMatch Italy); Latvia (Pielaiiko partiju); Netherlands (StemWijzer); Poland (Latarnik Wyborczy); UK (VoteMatch UK); Slovakia (Volebna kalkulacka); Spain (Elesiones.es);

<sup>5</sup> Regardless of the virtually fifty/ fifty ratio, euandi claims to be the only VAA tool to be based on party's self-placement.

	partnership with national institutions/ organisations	2 national specific issues	dimensional interactive tool structured around: economic left-right; pro-anti EU integration; traditional-liberal) <b>"My political Europe"</b> - allows matching with fellow users on a local, regional, national and even European level		
<b>EU Vox 2014</b>	28 countries One website in 24 languages; provides access to national websites; promoted by national partners	21 common issues formulated as statements (6 of them obligatory for any national VAA) National specific issues (8 in the case of Bulgaria)	Ranking list of national parties Two-dimensional compass graph (political map going horizontally from 'economic left' to 'economic right' and vertically from 'social liberal' to 'social conservative' Multidimensional spider graph	Five-point scale from 'completely agree' to 'completely disagree' plus 'no opinion option'	No involvement of parties
<b>Electio2014</b>	28 countries One website in 24 languages; operated without any cooperation with national partners	20 common issues formulated as questions;  No national specific issues	Allows to check closeness to the voting behaviour of individual Members of the European Parliament (MEPs), national parties and political groups in the EP	'In favour' - 'Abstain' - 'Against'	Based on roll-call votes in the EP in the 2009-2014 period; Open for new candidates to place themselves

### 3.2.1 *The retrospective Electio 2014*

There is an essential difference between **Electio 2014**, on the one hand, and the other three VAAs on the other.

**Electio 2014** is a purely *retrospective* tool, whereas the other three aim to refer to issues that are related to policies and/ or attitudes relating to future action, i.e. they aspire to be *prospective*. **Electio 2014** is based on roll-call votes in the EP during the 2009-2014 term. MEPs are voting on hundreds of items every week on both legislative and non-legislative issues, sometimes on specific paragraphs or amendments, and prospective VAAs can never be so specific. In terms of informativeness **Electio 2014** and any other VoteWatch based on roll-call votes is bound to have greater added value than the prospective VAAs. Information about what MEPs are voting for not only allows insights into the EP's role as co-legislator (a European institution that facilitates debate of the 'political menu' served by the Commission), but also into its potential to trigger debate about 'what belongs on the political menu'.

*Electio 2014 and any other VoteWatch based on roll-call votes is bound to have greater added value than the VAAs.*

### 3.2.2 *The prospective VoteMatchEurope, euandi and EU Vox 2014*

Many statements included in **euandi** and **EU Vox 2014** are too vague in order to be regarded as policy proposals. Garzia et al. (2015) explicitly define that the 28 statements cover "a wide range of *contemporary policy issues and political values* in European politics" (authors' emphasis).

In the case of **euandi**, a further problem arises from the choice of the designers to keep as many statements as possible from the 2009 EU Profiler, i.e. 60.7%. The longitudinal analysis of parties' positions has been considered as more important than the topicality of the issues but because of this the **euandi** questionnaire cannot be considered as informative about the 'electoral menu', i.e. about what was at stake in the 2014 European election.

A further striking difference is the rather low degree of explicit reference to the EU in **euandi** and **EU Vox 2014**. More than 50% of the statements in these VAAs do not make any explicit

reference to either the national or the EU level of policymaking (see Table 3.2). For example, in the case of the contrast in euandi between issue 11 (Government spending should be reduced in order to lower taxes) and issue 12 (The EU should acquire its own tax raising powers) suggests that issue 11 should be considered as an issue of national policymaking rather than as an issue of EU policymaking. Since more than half of the issues included in euandi and EU Vox 2014 have the same wording, this automatically disqualifies them as informative with regard to debate about the EU level of policymaking. Garzia et al. (2015) admit “the *lack of concreteness* on behalf of some of the statements” (authors’ emphasis). They offer as an explanation that this “represented the only way in which a common questionnaire of 28 statements could be fruitfully applied to as many as 28 different national political contexts” and go as far as seeing this “loss in concreteness” as something positive. The “high generalisability”, they claim, “makes some of the statements (e.g., “Immigrants from outside Europe should be required to accept our culture and values”, “European integration is a good thing”) especially useful for comparative party research. They do not seem to have any concerns about lack of informative value of these statements about the ‘electoral menu’ for the actual 2014 European election.

*Table 3.2 Reference/lack of reference to the EU level of policymaking in euandi, EU Vox 2014 and VoteMatch Europe*

VAA	Explicit reference to EU issues	Explicit reference to a single member state	No reference to either EU or a specific member state
<b>Euandi</b>	45%	14.3%	53.6%
<b>EU Vox 2014</b>	9.5%	33.3%	57.1%
<b>VoteMatch Europe</b>	95%	None	5%

The different level of concreteness of the three questionnaires can be illustrated also by a comparison with regard to the double-barrelled nature of criteria and use of quantifications and qualifications (see Table 3.3).

Table 3.3 Double-barrelled questions and questions with quantifications and qualifications<sup>6</sup> in the common questionnaires of euandi, EU Vox 2014 and VoteMatchEurope

VAA	Double-barrelled questions	Questions with explicit or implicit quantifications	Questions with qualification
<b>Euandi</b>	28.6%	53.6%	7.1%
<b>EU Vox 2014</b>	19%	33.3%	9.5%
<b>VoteMatch Europe</b>	5%	30%	5%

The interest of the euandi and EU Vox 2014 designers has shifted from the original VAA purpose – to assist voters – towards a narrow research interest – how to profile the political parties in the 28 member states on the basis of the presupposition that they can be integrated into one pan-European model. Thanks to ICT, this approach offers attractive two- and multidimensional visualisation possibilities. But do these attractive visualisations provide potential voters with more useful and relevant information than the simple one-dimensional matching list? Researchers have expressed doubts about it. With regard to the 2009 EU Profiler, Louwerse and Otjes (2012) consider placing parties from different countries in one

*The interest of the euandi and EU Vox 2014 designers has shifted from the purpose to assist voters towards a narrow research interest, on the presupposition they can be integrated into one pan-European model.*

---

<sup>6</sup> It is not always easy to draw a line between the three categories. E.g. Question 12 in EU Vox 2014 “Cutting government spending is a good way to solve the economic crisis” can be interpreted as suffering from entailing both a double-barrelled nature, quantification and qualification. It combines in one single sentence both the formulation of a problem (open for both agreement and disagreement) and a proposal (likewise open for both agreement and disagreement) on how to resolve it. Hypothetically, one might agree with the formulation of the problem but disagree with the proposed solution in general or as a matter of degree. One might also disagree with the solution because of disagreement with the formulation of the problem.



model as problematic because they consider this neglects structural differences in the nature and the patterns of party competition in individual countries.

Potential VAA users did not display any enthusiasm for the ICT inspired innovations of euandi and EU VOX 2014 either. The one-dimensional Wahl-O-Mat has been run in Germany for the European elections three times – in 2004, 2009 and 2014 –, the last time within the **VoteMatch Europe** project with the common questions at its core. The number of users that filled in the questionnaire is impressive: 897,000 in 2004, growing to 1,580,000 in 2009 and reaching 3,890,000 in 2014. In contrast, in 2014, 39,744 users with an IP address in Germany chose to play the euandi, i.e. 99% less than the ones that played the Wahl-O-Mat.

Compared to its predecessor, the 2009 EU Profiler, euandi demonstrated a notable decline in terms of users. Visitors to the website declined by 52.5% (from 2.5 million down to 1,186,744). The decline in unique user sessions was even more dramatic – 55.6% (from 900,000 down to 399,882).

The situation with EU Vox 2014 is quite similar but still somehow better in absolute numbers. Out of 6.2 million users, 2.4 million (38.7%) filled in the questionnaire. The objective of increasing user numbers to between 15 and 20 million was far from accomplished (Ramos et al., 2017). The fact that in contrast to euandi, EU Vox 2014 had national partners and promoters on the spot in the individual countries might explain part of its slightly higher success among potential users.

### **3.3 The Bulgarian experience with “Glasovoditel”**

Glasovoditel started first (in cooperation with ProDemos, the designer of StemWijzer) as a platform for the general elections in 2005. It has been run four more times for national elections and twice for the European elections in 2009 and 2014. Since its launch, Glasovoditel has partnered with the Bulgarian National Television (BNT) and other media outlets. Since 2013 at election time, Glasovoditel has been incorporated in the TV Show Referendum, a weekly programme for deliberative discussions on hot political topics between proponents and opponents. In cooperation with the well-established polling agency Alpha Research, Referendum

measures the impact of the live discussion on public opinion by polling a representative sample of people on the discussion topic both before and towards the end of the programme. In the case of Glasovoditel, representatives of the parties running in the elections are requested to vote in the studio on some of the key questions and have an opportunity to present their arguments for agreeing or disagreeing with the respective statements. The cooperation with BNT has proven crucial since the Referendum programme enjoys high popularity and is widely watched across the country. Because of the visibility it provides, parties and single candidates are more than willing to self-position themselves on the issues, something that has been rather problematic otherwise. Furthermore, the discussion in the studio allows for a much broader outreach than the internet tool. Online VAAs have the limitation, as observed by Ruusuvirta (2010), that “those who would benefit the most from the information in online voting advice applications are the least likely to seek it”. The popularity of the Referendum programme gives a chance to reach out to this audience. Last but not least, the format of Referendum goes beyond the intriguing “matching” component.

For the EP elections in 2014, six out of the 31 Glasovoditel questions have been chosen. On three occasions the 18 registered candidates (parties and independent candidates), divided into three groups, had an opportunity to present and defend their positions. For the first round on April 29 Alpha Research polled the level of informedness about the election platforms of the parties and candidates. The shift was remarkable. Ahead of the discussion 36.7% felt well informed compared to 48.5% after the discussion (+11.8%).

*The deliberative element that should play a more key role in any VAA endeavour has been appreciated as an opportunity to Europeanise debates.*

The deliberative element that should play a more central role in any VAA endeavour has been important throughout all phases of Glasovoditel as part of the VoteMatchEurope project. The national coordinators meetings within which the common list of 20 statements was elaborated were highly appreciated by all participants as a deliberative opportunity to Europeanise debates.

## Conclusions

O'Neill (2002) has suggested that increasing transparency and the level of information available to voters does not automatically lead to increased trust in authority and politics in general.

One way in which political actors respond to the lack of trust is by surrendering much of their *claim to authority* (Raz, 1986). The main idea is that neither parties nor politicians but the *people themselves* take the decisions, while the 'authority' only provides an infrastructure for the expression of the popular will. Transparency, together with internal democracy, is a key element of the public ritual of surrendering the claim to authority. Examples of such rituals are the following:

- In political parties: introduction of full transparency of funding and advanced forms of internal democracy, such as primaries and online consultations with members on all major topics;
- In parliaments: a movement towards 'open parliaments';
- In expert bodies: online coverage of the meetings and setting up of consultative 'citizen councils', monitoring their performance.

This chapter has explored one further instrument - the VAA - which could be understood as handing more power to the voter. Political parties are turned into transparent menus of policy options among which the rational voter makes an informed choice. In essence, the VAAs create a perception that the voter is in the driving

*VAAs create a perception that the voter is in the driving seat of politics: that parties and politicians are just transmitters of the voters' will.*

seat of politics: that parties and politicians are not authorities but just mediators and transmitters of the voters' will.

This picture may be actually misleading. First, VAAs are by no means an instrument for all voters but mostly for those who are anyhow ready to invest time and effort in acquiring political information. From the perspective of outreach, it is doubtful / debatable that VAAs mobilise voters who otherwise would not vote. Secondly, VAAs are designed to stress the substantive differences between the programmes of the parties. This means they could either exaggerate

the importance of relatively minor policy differences or jump into the realm of abstract moral/political attitudes and values with tenuous links to concrete political choices. In short, they may produce differences where there are none in place and exacerbate value and identity-based divides. Third, VAAs, in order to be more effective, need to be combined with more traditional media like TV. In this way VAAs achieve broader coverage and reach groups (the elderly and less educated) that are otherwise left beyond their scope. With the development of online media this dependence may decrease, but it still has a significant impact on the effectiveness of VAAs.

In the construction of a theory on the interplay between trust, openness and transparency in democracy, a distinction may be drawn between 'trust in authority' and 'trust in mediators'. The authority is supposed to take a decision, while the mediator is supposed to transmit and express a decision taken by somebody else. Many contemporary political/governance bodies change their claim: they do not publicly claim authority but just to be mediators of decisions taken by the public.

VAAs could be seen as an aspect of the transition from decision-making authorities to mediators. An actor may not be trusted to take a decision himself (to be an authority) but could be trusted as a more accurate mediator of public attitudes and deeply held convictions, whatever they may be.

Certainly, the substitution of 'the claim to authority' with a 'claim to mediation' does not eliminate the need for authority in public life. On the contrary, politicians and expert bodies continue to act as decision-makers. But the logic of public justification of these decisions is changed mainly in two directions. First, decision-makers receive the opportunity to 'hide' beyond the will of the people. Second, pseudo-authorities emerge as social-network groups and pundits. As to the second, the self-organisation of civil society through social networks and the Internet has proven extremely vulnerable to manipulation by powerful commercial and political groups (as the Cambridge Analytica scandal shows).

The critical assessment of the purpose of the four transnational VAAs designed for the 2014 EP elections and of the informative value of the questionnaires as the core element of their design does not support expectations that they might provide a

remedy for problems such as low trust in parties and politicians or low turnout in elections. The potential for any success of VAAs lies primarily in their use as tools addressing the ‘information deficit’ on policies.

## References

- Bright, J., D. Garzia, J. Lacey and A.H. Trechsel (2014), “Trans-nationalising Europe’s Voting Space”, EUI Working Paper RSCAS 2014/02, European Union Democracy Observatory (EUDO), European University Institute ([http://cadmus.eui.eu/bitstream/handle/1814/29657/RSCAS\\_2014\\_02.pdf?sequence=1](http://cadmus.eui.eu/bitstream/handle/1814/29657/RSCAS_2014_02.pdf?sequence=1)).
- Cedroni, L. and D. Garzia (eds) (2010), *Voting Advice Applications in Europe: The State of the Art*, Napoli: Civis, Scriptaweb ([www.researchgate.net/publication/285054035\\_Voting\\_Advice\\_Applications\\_in\\_Europe\\_The\\_State\\_of\\_the\\_Art](http://www.researchgate.net/publication/285054035_Voting_Advice_Applications_in_Europe_The_State_of_the_Art)).
- De Graaf, J. (2010), “The Irresistible Rise of StemWijzer”, in L. Cedroni and D. Garzia (eds), *Voting Advice Applications in Europe: The State of the Art*, Napoli: Civis, Scriptaweb.
- Economist (2014), “Lazy voters look no further”, 24 April (<https://www.economist.com/charlemagne/2014/04/24/lazy-voters-look-no-further>).
- Fossen, Th. and J. Anderson (2014), “What’s the point of voting advice applications? Competing perspectives on democracy and citizenship”, *Electoral Studies*, Vol. 36, pp 244–251 ([www.researchgate.net/publication/261673875\\_What's\\_the\\_Point\\_of\\_Voting\\_Advice\\_Applications\\_Competing\\_Perspectives\\_on\\_Democracy\\_and\\_Citizenship](http://www.researchgate.net/publication/261673875_What's_the_Point_of_Voting_Advice_Applications_Competing_Perspectives_on_Democracy_and_Citizenship)).
- Garzia, D. and St. Marschall (2012), “Voting Advice Applications under Review: The State of Research”, *International Journal of Electronic Governance*, Vol. 5, Nos. 3-4, pp. 203–222 ([www.researchgate.net/publication/263454714\\_Voting\\_Advice\\_Applications\\_Under\\_Review\\_The\\_State\\_of\\_Research](http://www.researchgate.net/publication/263454714_Voting_Advice_Applications_Under_Review_The_State_of_Research)).

- Garzia, D. and St. Marschall (eds) (2014), "Matching Voters with Parties and Candidates. Voting Advice Applications in a Comparative Perspective", ECPR Press, University of Essex.
- Garzia, D., A.H. Trechsel, L. De Sio and A. De Angelis (2015), "euandi Project description and datasets documentation", EUI Working Paper RSCAS 2015/01, European Union Democracy Observatory (EUDO), European University Institute ([www.researchgate.net/publication/285054144\\_euandi\\_Project\\_description\\_and\\_datasets\\_documentation](http://www.researchgate.net/publication/285054144_euandi_Project_description_and_datasets_documentation)).
- Lefevere, J. and St. Walgrave (2014), "A perfect match? The impact of statement selection on voting advice applications' ability to match voters and parties", *Electoral Studies*, Vol. 36, pp. 252-262, Elsevier (<http://dx.doi.org/10.1016/j.electstud.2014.04.002>).
- Louwerse, T. and S. Otjes (2012), "Design challenges in cross-national VAAs: the case of the EU Profiler", *International Journal of Electronic Governance*, Vol. 5, Nos. 3-4, pp. 279-297.
- O'Neill, O. (2002), *A Quest of Trust: The BBC Reith Lectures*, Cambridge: Cambridge University Press
- Ramos, J., J. Padilla and E. Chueca (2017), "ICTs and democratic deficit in the EU: how VAA can help improve the democratization of EU institutions and practices. The case of EU-Vox 2014, European Elections in Spain", Conference paper EGOSE'17, 4-6 September, St. Petersburg ([https://www.researchgate.net/publication/319438387\\_ICTs\\_and\\_democratic\\_deficit\\_in\\_the\\_EU\\_how\\_VAA\\_can\\_help\\_improve\\_the\\_democratization\\_of\\_EU\\_institutions\\_and\\_practices\\_the\\_case\\_of\\_EU-Vox\\_2014\\_European\\_elections\\_in\\_Spain](https://www.researchgate.net/publication/319438387_ICTs_and_democratic_deficit_in_the_EU_how_VAA_can_help_improve_the_democratization_of_EU_institutions_and_practices_the_case_of_EU-Vox_2014_European_elections_in_Spain)).
- Raz, J. (1986), *The Morality of Freedom*, Clarendon: Oxford University Press.
- Ruusuvirta, O. (2010), "Much Ado about Nothing? Online Voting Advice Applications in Finland", in L. Cedroni and D. Garzia (eds), *Voting Advice Applications in Europe: The State of the Art*, Napoli: Civis, Scriptaweb.
- Van Camp, K., J. Lefevere and S. Walgrave (2014), "The Content and Formulation of Statements in Voting Advice Applications. A Comparative Analysis of 26 VAAs", in L. Cedroni and D. Garzia (eds), *Voting Advice Applications in Europe: The State of the Art*, Napoli: Civis, Scriptaweb.

**PART II.**  
**EU-LEVEL**

# 4. EU PARLIAMENTARY DEMOCRACY: HOW REPRESENTATIVE? SOPHIA RUSSACK

---

*To what extent does the European Parliament really represent EU citizens? This chapter first briefly introduces the most crucial characteristics of the EP (with regards to its internal organisation, its rights and tasks, as well as the electoral procedure), and then highlights the most important differences between the EP and its national counterparts: how national parties translate into European groupings; the (dis)connection between the European executive and legislative branches; and electoral (dis)connections. Finally, it investigates the idea for institutional reform introduced to improve the representative character of the EP – the Spitzenkandidaten procedure. It finds that the attempt to transform the EU (as a hybrid sui generis entity) into a fullfledged parliamentary system does not make the EP a better representative of the EU electorate.*

## **Introduction**

EU integration is occurring against a background of established constitutional democracies (Fossum, 2015, p. 802). Therefore, representative democracy in a multi-level governance EU involves the national as well the EU level. To analyse the state of European democracy, both the national parliaments of the respective EU member states as well as the European Parliament (EP) need to be considered.

National parliaments are affected by the development of a system of representation at the EU level (Fossum, 2015, p. 802). Their role in the process of European integration has changed over time and while they have always been responsible for holding their own national governments to account, since Lisbon they have also



been able to become more actively involved in EU decision-making. Next to the importance of national parliaments in the realm of EU democracy, the EU has established a system of democratic governing institutions at the European level, with the EP as the first and only directly elected supranational assembly in the world (Hix & Høyland, 2013, p. 171). While national parliaments and their involvement in EU affairs are investigated in the other contributions in this volume, this chapter focuses on their European counterpart.

The point of departure is the assumption that the EP has a very different institutional ‘DNA’ compared to national parliaments. Observers should therefore not base their assessment of the EP and its democratic character on the same criteria as for national parliaments. The EU treaties prescribe that “the European Parliament shall be composed of representatives of the Union’s citizens” (Article 14 TEU). But how representative are the members of the EP and the institution as a whole?

## **4.1 The EU’s representative democracy: the European Parliament**

### ***4.1.1 Internal organisation***

The current Parliament consists of 751 seats, which is the maximum prescribed by the EU treaties, with a minimum of six and a maximum of 96 parliamentarians representing a single member state (Article 14 TEU, the exact distribution is regulated by a Council decision).<sup>1</sup> Although MEPs are elected on their nationality, once elected and inside the EP, different dynamics are in play: they are organised in ‘political groups’, which are structured according to political orientation, not nationality. These political groups (mostly) correspond to the traditional left-right divide and are home to the parties elected at member state level. In the current 8<sup>th</sup> European Parliament, we find the European People’s party (EPP) as the traditional centre-right block, which comprises most European Christian Democrats and conservative parties; the traditional centre-left block which brings together European labour parties, Socialists and Social Democrats (S&D); the Alliance of Liberals and

---

<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013D0312&from=EN>

Democrats for Europe (ALDE); the European Greens/European Free Alliance, as well as the European United Left/Nordic Green Left (GUE/NGL). Besides these five ‘established’ groups, the EP also includes party groups widely considered as Eurosceptic: the quite radical Europe of Freedom and Direct Democracy (EFDD) and the Europe of Nations and Freedom (ENF); as well as the more mildly Eurosceptic European Conservatives and Reformists (ECR). These political groups tend to be (to varying degrees) critical of the EU’s (supranational) powers or nostalgic for the protective role of the sovereign nation-state, although we also find such positions to the left of the spectrum. Differing attitudes towards EU integration, migration and national identity generate deep divides between these parties (von Ondarza & Schenuit, 2018, p. 6).

The political groups are affiliated to so-called Europarties, i.e. transnational, extra-parliamentary federations of national political parties from several EU member states, united by political affinity. The Europarties and the political groups cooperate closely with one another, though they are not identical.<sup>2</sup> Their relation to each other is similar to that of the parties and parliamentary factions at the national level.

These political groups never display the same degree of party discipline as is customary at national level. We know that some groups show more party discipline (such as the EPP), some groups show less (VoteWatch). When it comes to MEPs’ decision-making, different dynamics are in play: not only the party affiliation, but also personal preference, nationality, as well as institutional interest all have an impact on voting behaviour. The coalitions are thus less rigid at the EU level.

### *The EP’s long road to becoming co-legislators*

In terms of legislative agency and the power of democratic oversight, the European Parliament has undergone a remarkable development since its first elections in 1979. With every treaty change it has extended its competences and thereby developed from the “toothless Assembly” of the European Coal and Steel Community (which was consulted but could easily be ignored) to a genuine co-legislator with the Council in almost all policy areas,

---

<sup>2</sup> [https://eur-lex.europa.eu/summary/glossary/eu\\_parties\\_status.html](https://eur-lex.europa.eu/summary/glossary/eu_parties_status.html)

holding significant budgetary powers (Hix & Høyland, 2013, p. 172). At the very beginning of European integration, only the Council and the Commission had decision-making powers, whereas the 'Common Assembly' (composed of 78 appointed parliamentarians drawn from the nine founding member states), which at its first session in 1958 renamed itself the 'European Parliamentary Assembly', only possessed advisory competences.<sup>3</sup> Therefore, the institutional balance used to rest only on the Commission-Council tandem and for a long time the EP had little relevance in the policymaking process (Wallace, 1985, p. 328).

Subsequent changes from a bipartite to a tripartite system were mainly due to several rounds of treaty revision: with the Single European Act in 1987, the Treaty of Maastricht in 1993 and the Treaty of Amsterdam in 1999, the legislative procedure was adapted, from the initial one of consultation then developing into co-decision. Neither the Nice Treaty, in 2003, nor the Lisbon Treaty, in 2009, introduced any major changes to the powers of the Parliament in the EU legislative process, but the Lisbon Treaty established co-decision as the new "ordinary legislative procedure" of the EU, which is now used for all areas of EU legislation. The Lisbon Treaty also introduced a unified budgetary procedure, under which the Parliament co-decides on the entire annual budget (Hix & Høyland, 2013, p. 173).

Besides the increased awareness of the need for a directly elected body at EU level, two further aspects led to an increase in the EP's power. First, the collapse of the Santer Commission in 1999 significantly damaged the standing of the institution and forced it to become engaged in a "self-conscious period of soul-searching about what its future role in the institutional balance should be" (Cram, 2002, p. 310). This has led to stronger parliamentary control over the Commission, with the aim of providing it with democratic accountability. Second, the increased application of QMV in the Council called for stronger parliamentary control: since the member states could find themselves in a situation in which they had been

---

<sup>3</sup> On 30 March 1962, the Assembly changed its name to 'European Parliament'. See J. Jacqué, "Parlement européen", *Répertoire communautaire Dalloz*, December 2011, Art. 2.

outvoted, the demand for democratic legitimacy through the Parliament increased (Devuyst, 2008, p. 303).

***What instruments does the EP have to control the (quasi) executive?***

Not only has the EP been strengthened as an institution, the ties between the Commission and the EP were tightened to reinforce democratic control over the executive and to provide it with legitimacy: when entering office, the Parliament screens candidate Commissioners and approves the College of Commissioners (Article 17(7) TEU); during its term the EP has the capacity to hold the Commission to account by posing parliamentary questions (oral, written and ‘question time’) (Article 230 TFEU). Furthermore, Commissioners and the High Representative are obliged to report regularly to the EP and appear before committees. Ultimately, the Parliament even has the power to issue a no confidence vote against the Commission and thereby force it to step down collectively (Article 17 TEU and Article 234 TFEU).

***Still missing: the right of initiative***

Despite the significant increase in power in terms of legislative procedure and budgetary questions, as well as in exercising control over the executive, the EP lacks a central conventional parliamentary prerogative: the right of initiative, the right to propose new legislation. According to the treaties, the sole right to initiate legislative proposals lies with the European Commission (Article 17(2) TEU). Special rights of initiative for other institutions and the High Representative only apply in certain specific cases. The Parliament has an ‘indirect right of initiative’, with the right to invite the Commission to propose legislation, which, however, does not create an obligation on the Commission to do so. At the national level, both governments and parliaments are authorised to propose legislation. At the EU level, this right was granted to the Commission alone so that Community law-making would be more likely to arise out of the general interest, rather than that of specific member states, so as to avoid the dominance of larger member states (Devuyst, 2008, p. 252). Despite this solid reason, the non-existent right to propose new laws constitutes the most significant lack of EP power compared to national parliaments.

### 4.1.2 Elections

#### *Electoral system*

An important step in the empowerment of the EP were the first direct elections in 1979, which aimed to establish a 'European' electoral dimension to directly represent voters at European level, rather than only indirectly through their respective national governments (Hobolt, 2014, p. 1530). Nevertheless, there are still great weaknesses, as there is no uniform electoral rule for the Parliament. MEPs are elected from national lists, according to each country's election laws, and national political parties have kept an iron grip on the electoral process. The EU treaties prescribe that the EP elections shall be held "in accordance with a uniform procedure in all Member States" (Art. 223 TFEU). However, the only obligation for member states is to use some form of proportional electoral system. Besides that, it is very much at the discretion of member states how exactly MEPs are elected. Regarding the ballot structure intra-party seat allocation, about half of the member states use an open list proportional representation or single transferable vote (candidate-centred system), the other half uses closed-list proportional representation (party-centred system) (Høyland, Hobolt, & Hix, 2019, p. 6). In

*The diversity in electoral laws and organisation means that the EP elections are 28 national elections rather than a transnational contest.*

candidate-centred systems voters can choose between candidates from the same political party. On the contrary, party-centred systems only allow voters to choose between pre-ordered lists of candidates

presented by parties. As a result of this diversity in electoral laws and organisation, the EP elections can be described as 28 national elections rather than a transnational contest (Grabbe & Lehne, 2019). In order to change this, the idea to introduce so-called transnational lists have been floated. Such a list would contain candidates to be elected in a single constituency formed from the whole territory of the European Union. This would facilitate voting for candidates across member states and effectively give citizens two votes: one for their national or regional constituency, and the other for the EU writ large. First brought before the EP plenary in 2011, this proposal has repeatedly failed to obtain majority support. The latest failure was

in 2018,<sup>4</sup> meaning there is no transnational list for the 2019 EP elections. However, the idea probably will be put back on the table prior to the elections in 2024, as it is keenly supported by French President Emmanuel Macron and even backed by German Chancellor Merkel.<sup>5</sup>

### *Second order national elections*

A dominant paradigm of research into EP elections is that they are of a 'second order' compared to national elections (Boomgaarden, Johann, & Kritzinger, 2016, p. 130). First, the turnout is generally lower; second, fringe and new parties (often Eurosceptic parties at the left and right ends of the spectrum) do better; third, government parties and established parties do worse; fourth, the issues at stake are usually national ones and the political actors dominating the electoral campaign are often national politicians not in fact standing for election. Finally, there is generally lower media attention (Boomgaarden et al., 2016, p. 130). These trends can be explained by three main issues. First, there is less at stake in European elections, which results in less politicised campaigns and less voter engagement. Second, because there is less at stake, voters vote more sincerely and have less incentive to vote strategically, which results in voting with the 'heart' (or 'feet') instead of the 'head'. Third, national parties in government are punished because they tend to disappoint voters more than parties in opposition. The second order character of the elections; the grand coalition of the two biggest political camps; as well as the expansion of the power of the EP over

*The second-order character of the elections; the grand coalition of the two biggest political camps; and the expansion of the power of the EP are the three trends that have influenced the internal politics of the EP and the position of the Parliament in the EU's institutional structure since 1979.*

---

<sup>4</sup> <https://www.euractiv.com/section/elections/news/ep-votes-against-transnational-lists/>

<sup>5</sup> "To put in place transnational lists for European elections as of 2024" is one of the agreed points of the Meseberg declaration of 19 June 2018: <https://archiv.bundesregierung.de/archiv-de/meta/startseite/meseberg-declaration-1140806>

time are the three trends that have influenced the internal politics of the EP and the position of the parliament in the EU's institutional structure since 1979 (Christiansen, 2016).

### ***Trend development: 2014 and 2019 elections***

The 2014 EP elections were expected to be different, because of the introduction of the *Spitzenkandidaten* (lead candidate) procedure (see section 4) and the fact that the sovereign debt crisis had made EU politics and governance issues more salient to the public. Yet, these European topics were still discussed from a national angle, and a 'European perspective' was lacking (Hobolt, 2014, p. 1534). Therefore, the results were not so different from those of previous election rounds: turnout hit an all-time low (42.6%), governing parties did not do well, and Eurosceptic parties made major gains. Neither the introduction of the *Spitzenkandidaten* process, nor the increased politicisation around the EU, did much to change the second order nature of EP elections (Van der Brug, Gattermann, & De Vreese, 2016, p. 6).

With regard to the 2019 EP elections, hopes have again been voiced that the current challenges (e.g. the refugee crisis and Brexit) will make EU affairs more salient for European voters. While this might hold true, it most likely will not have the effect that some wish for, i.e. that European voters become more substantially engaged with EU topics. In line with the second order argument, voters at best use the election to punish their national governments for actions related to those crises, rather than becoming engaged with the substance and the type of decisions that are taken by the EU institutions.

## **4.2 The EP and national parliaments: different institutional 'DNA'**

As the other contributions in this volume show, the institutional design of parliaments varies widely. However, there are certain common standards. So, what marks the EP out, compared to (diverse) national parliaments? What makes the institutional (and political) difference?

### 4.2.1 *National parties and Europarties*

As explained in the previous section, Europarties and the corresponding political groups in the EP are an assembly of many national parties, rather than genuine transnational parties. These party groups have hardly any visibility for voters at the national level. When organising their campaigns, the national parties do not make much effort to change that or to explain how votes translate from the national to the EU level, because they campaign more successfully under their name and logo, which has presence and visibility among their respective electorates. As gaining as many seats and thereby as much influence as possible is the main driving force of parties, they have no incentive to relate to distant and broadly unknown EU politics.

*Europarties and the corresponding political groups in the EP are an assembly of national parties rather than genuine transnational parties.*

Second, the EP elections are not so relevant for national elites. The question of who will sit in the next national government will always be more important. Therefore, much less time and effort (and money) is invested in campaigns for EP elections than national ones (Grabbe & Lehne, 2019). The greatest perceived value of European elections is as a midterm poll for national elections, which is why national politicians campaign on domestic policy platforms. Hence, national political elites, in particular the national parties, have been unwilling to contribute to creating a pan-European democratic space (Grabbe & Lehne, 2019).

Third, there seems to be a growing disconnect between national parties and the Europarties/political families, which makes it even more difficult for voters to understand the translation from national to EU level. According to the second order national elections paradigm, parties on the fringes (particularly Eurosceptic parties) in general perform better in European than in national elections, despite recent successes in some member states. However, for those parties it is often unclear which group they will join (or create) until after the elections. Eurosceptics in particular have reshuffled their groups in every legislative term so far, making it more difficult for voters to understand Europarties and the functioning of the EP in a broader sense. The established party



groups deliver more stability but, as argued above, not even these campaign in the name of the group.

#### **4.2.2 (Dis)connection between the executive and legislative**

Executive power being at stake is a key motivator for voting for a legislature. On the national level, the power balance in the parliament determines the composition of the government. At EU level, the EP is not constituted in an ‘government-opposition’ formation. Up until 2014 (and the debut of the *Spitzenkandidaten* procedure) there was no connection whatsoever between the outcome of the EP elections and the composition of the executive, the European Commission. What is primarily at stake is who will sit in the European Parliament, not who will ‘govern’.

We find coalition building among the political groups. These coalitions, however, do not translate into the constitution of an executive but are instead ad hoc coalitions to pass legislation. The Commission cannot rely on majorities in the EP in the same way that national governments can rely on their parliamentary majorities, as arrangements are always on a case-by-case basis (Christiansen, 2016, p. 1001).

In the past, the so-called grand coalition of the EPP and S&D always succeeded in obtaining a majority of seats, meaning that these two were able to pass legislation on their own. Furthermore, they traditionally shared the EU’s political and administrative top jobs among each other. This is predicted to change in the 2019 elections: according to polls,<sup>6</sup> the two big parties will need a third force (the ‘kingmaker’) to make decisions. In a more fragmented EP, with a Eurosceptic ‘opposition’, coalition building will be more important in the post-grand-coalition period that will follow the 2019 elections.

#### **4.2.3 Electoral (dis)connection**

The EP is a legislature with (potentially) competing principles (Koop): the national and EU arenas. As Hix finds in his comparison to the House of Representatives in the US system of government,

---

<sup>6</sup> See for instance <https://pollofpolls.eu/EU>

unlike in national parliaments, in the EP there is no powerful “electoral connection” (Hix & Høyland, 2013, p. 184).

Usually (that is in national electoral systems) voters are able to hold incumbents accountable for their actions (Van der Brug et al., 2016, p. 1). On the EU level, however, things are different, as the national arena remains the dominant factor in the re-election of MEPs. Election and re-election have little to do with the (legislative) behaviour of individual MEPs inside the European Parliament, or the performance of the EU as a whole, but rather depend on the position of the MEPs’ national party in the domestic arena (such as the party’s governing status, the timing of the European Parliament election in the national electoral cycle, and the performance of the national government) (Hix & Høyland, 2013, p. 184). Voters use the elections to either express support for a national party or use them to punish the national government (Van der Brug et al., 2016, p. 1). On the flip-side, that means that there is a discrepancy between the elections and the (legislative) work of MEPs. They are unlikely to be punished or rewarded for their (legislative) actions inside the EP, which means that they are hardly accountable to the EU electorate.

*Election and re-election have little to do with the (legislative) behaviour of individual MEPs, but depend on the position of the MEPs’ national party in the domestic arena.*

Along the line of this general trend, the electoral laws of individual member states affect how present and visible the MEPs are for their constituencies, deriving from differences in ballot structure and electoral systems (a candidate-centred versus a party-centred approach). If we assume that re-election is the dominant goal of legislators in the EP and career ambition, if not the only factor, is an important one in shaping parliamentary behaviour, we can see that some MEPs are more motivated to reach out to their respective constituencies than others. And that is for the following reason: due to the low salience of EP elections, voters are largely unaware of the day-to-day activities of MEPs and therefore need to be convinced by candidate characteristics and campaign activities (Høyland et al., 2019, p. 6). Therefore, MEPs in candidate-centred systems are more likely to spend time in their constituencies (and less on legislative activities) as there is a greater need to spend time

developing a constituency profile to ensure re-election. Party leaderships, on the contrary, take notice of politicians' legislative activity, less so of their performance in their constituencies. In party-centred systems, politicians have less interest to spend time in their constituencies, because it matters little for re-election; rather they need to remain on good terms with the party so as to be put on the list again (Høyland et al., 2019, p. 2).

Hence, we find a lack of an electoral connection to the European Parliament. This prevents a genuine accountability of the EP to the EU electorate and raises doubts about the representative character of members of European Parliament.

### **4.3 The *Spitzenkandidaten* (lead candidate) procedure**

To make the EP elections more genuinely 'European' by facilitating campaigns around European issues and steered by European politicians is a permanent, seemingly unreachable, goal. Many ideas to go beyond the second order/national election model have been floated, such as the above-mentioned transnational list, attempts to increase the visibility of European political parties, or the harmonisation of electoral practices across member states.<sup>7</sup> One novelty in the recent past was the introduction of the *Spitzenkandidaten* system. For the 2014 elections, most party groups appointed *Spitzenkandidaten* (German for lead candidate) agreeing that the candidate of the party group winning the most seats in the elections would become the president of the European Commission. Up until then, the European Council nominated this candidate behind closed doors. In 2014, according to the *Spitzenkandidaten* procedure, the votes of the citizens translated (indirectly) into choosing who would become the president of the Commission – meaning executive power was at stake for the first time in EP elections.

---

<sup>7</sup> See <http://www.europarl.europa.eu/legislative-train/theme-union-of-democratic-change/file-reform-of-the-electoral-law-of-the-eu>

This procedure is copied from national parliamentary systems (in particular the German example), in which the citizens do not directly elect the head of state, but instead the members of parliament – who in turn elect the head of the executive. To give some electoral certainty, the respective parties announce the candidates to head their respective lists with the promise that this person would be chosen as head of government in the event of electoral victory. The lead candidate procedure is a good example of a national institutional practice that has been applied to the EU level in the expectation of similar positive effects, while ignoring the different setting of the EU. In other words, the lead candidate procedure exemplifies the different institutional DNA of the European Parliament.

*The lead candidate procedure is a good example of a national institutional practice that has been applied to the EU level in the expectation of similar positive effects, while ignoring the different setting of the EU.*

### 4.3.1 Expectation

By aiming to make executive power the prize in the EP elections, the *Spitzenkandidaten* procedure seeks to raise awareness for those elections and European issues in general. The idea is that the different candidates launch a pan-European election campaign in order to introduce themselves to citizens in all member states and present the position of their EU-level political groups (Schulze, 2016, p. 24). The personalisation of candidates can generally (that is at national level) enhance elections by informing and mobilising voters. This was also expected to happen with the EP election: the nomination of *Spitzenkandidaten* was expected to personalise the EP election campaign and then in turn boost voter turnout (Schulze, 2016, p. 24). It has been suggested that open and rival candidacies for the position of Commission president would liven up the electoral competition and “allow a greater connection between voters” preferences and the EU institutions (Follesdal & Hix, 2006, p. 553). In short, the aim was to increase the stakes of the European elections and personalise European politics, thereby increasing voter turnout and ultimately strengthening democratic (input) legitimacy.

### 4.3.2 *Effect*

However, this system did not have any tangible effect. As mentioned above, voter turnout hit an all-time low and research has shown that voters were largely unaware of a) the lead candidate system as such (i.e. that their vote indirectly translated into the choice of Commission president) and b) the individual candidates, particularly outside their own home countries (Hobolt, 2014).<sup>8</sup> The awareness of indirect support for one candidate was highest in Luxembourg, France and Germany and (74.8%, 63.3% and 60% respectively). Awareness was significantly lower in northern and eastern countries (35.2% on average), with the lowest level of knowledge in the UK, at 13.9%. Unsurprisingly, this study shows that knowledge of specific candidates was highest in the home countries of the (key) candidates: about 55% of voters in Luxembourg and 25% in Germany and Belgium could name one or more candidates. However, in the other member states the average was 8.2%. Again, the UK took the rear with only 1.1% of voters being able to recognise a candidate.<sup>9</sup>

### *No true competition*

The debates around key policy issues (such as migration) were not shaped by the lead candidates, but rather by anti-establishment and Eurosceptic parties (Hobolt, 2014, pp. 1536–1537). “Neither pre-election campaigning nor post-election decision-making delivered greater party-political competition or a genuine choice between rival political programmes” (Christiansen, 2016, p. 1007). Instead, the 2014 elections perpetuated the long-term trend of close cooperation between pro-integrationist parties at the centre of the political spectrum.

---

<sup>8</sup> Based on an AECR-commissioned post-election survey in 15 member states, where voters and non-voters were asked directly after the elections about the degree of awareness of the political parties and candidates at the European level. Found in (Hobolt, 2014, p. 1536).

<sup>9</sup> These low numbers for the UK are partly explainable by the opposition of all three main British parties to the lead candidate system and their refusal to let the candidates campaign (Christiansen, 2016).

### *No good campaign*

Candidates were more prone to campaign in countries where they were already known, and where it was hoped their appearance would have a positive effect on the electorate (Schmitt, Hobolt, & Popa, 2015). Furthermore, bigger member states were in higher demand, as the population size matters in terms of campaigning: the bigger the country, the more seats in the EP up for grabs. Germany by far, but also France and Belgium were therefore the most attractive countries to campaign in (Christiansen, 2016). Furthermore, studies on visibility and media coverage for the candidates have shown that the media did not promote the system: the EP elections were in general not very present and the *Spitzenkandidaten* appeared more as a “side issue” (Schulze, 2016).

So, the *Spitzenkandidaten* system had no positive effect on turnout, nor on the second order national election character of the EP elections. It therefore proved unable to improve either the representativeness or accountability of the EP. Hence, the system is no democratic success; the only effect it triggered was institutional in nature, as the EP successfully enhanced its own influence in selecting the Commission president and therefore slightly altered the EU’s interinstitutional dynamic (Hobolt, 2014). In the 2019 election campaign, most political groups have selected a candidate to campaign across Europe. However, the system seems to have lost its momentum. It is significantly weakened institutionally compared to last time because one of most important political groups, ALDE, is not participating while one of the most important EU leaders, Macron, is not supporting it. Ironically, both are intertwined.

### *Assessment*

The *Spitzenkandidaten* system implicitly promotes the ‘parliamentarisation’ of the EU and a federal model of European democracy, in which the EP receives a democratic mandate from the electorate to select the executive – and the ultimately hold the executive accountable. Hence, the *Spitzenkandidaten* system was an attempt to build a quasi-parliamentary system (Hobolt, 2015, 1537). The EU, however, is not a genuine parliamentary system. The institutional setup of the EU as a hybrid polity entails structural

limitations in which key areas of decision-making remain in the hands of national governments as “constituent actors” (Fabbrini, 2015, p. 573). Therefore, the Commission is in no way the ‘parliamentary government’ that advocates of the *Spitzenkandidaten* process had expected. A parliamentary government implies political fusion and institutional interdependence between the legislature and the executive (Fabbrini, 2015, 532).

*The Spitzenkandidaten system does not really help to close the gap between the legislative and the executive branches, also because the system itself is institutionally illogical.*

The *Spitzenkandidaten* system does not really help to close the gap between the legislative and the executive branches, also because the system itself is institutionally illogical: the procedure only extends to the Commission president, not to the whole executive – the appointment of the other members of the college follows a different logic: even if the president attributes their portfolios, they are selected by their respective national governments. Another institutional

‘flaw’, which exemplifies further the gap between the legislative and executive, is the fact that the candidates that run for Commission presidency are not required to stand for EP elections. The Lisbon Treaty even excludes this option by stating that members of the college are not allowed to hold any other offices (Art. 245 TFEU). The parliamentary status of the executive’s members is, however, a “crucial tenet of the parliamentary model” (Fabbrini, 2015, p. 578). A further key element for a genuine parliamentary democracy is that voters should be able to assess the performance of individual MEPs, which is hardly the case at the EU level, as this analysis has shown.

## Conclusion

In an attempt to ascertain the state of representative democracy at the European level, this chapter investigated the European Parliament by looking into the main institutional differences compared to national parliaments, and the *Spitzenkandidaten* procedure as a way to elect the president of the European Commission.

Despite lacking a right of initiative, the European Parliament has expanded its scope of responsibility enormously, obtaining

significant powers regarding the EU budget, law-making, as well as control over the executive. And despite the growing importance of this institution, the elections to the European Parliament continue to suffer from the traditional second-order national election phenomenon, which is characterised by low turnout and notoriously little interest in European issues and European politicians. This is a trend which has held since the very first direct elections in 1979 and, drawing on the experience of 2014, there seems little chance the 2019 elections will be any different, as neither more salient issues (such as the sovereign debt or migration crises) nor the *Spitzenkandidaten* procedure have appeared to have any significant impact.

The EP's DNA is significantly different to that of national parliaments. Above all, the missing links between first, national parties and Europarties and second, the EU's legislative and executive, and third, MEPs and their constituencies create a major gap between the EP and EU citizens. This gap is so wide that it prevents the EP from properly representing the European electorate.

The *Spitzenkandidaten* system was introduced to improve the representative character of the EP, but has remained without effect as it has not increased the visibility of EP elections or created a greater electoral connection. Its lack of success further exemplifies the yawning gap between the EU and its citizens. Mechanisms such as the *Spitzenkandidaten* procedure, and more generally the attempt to 'parliamentarise' the EU (a hybrid *sui generis* entity), do not do justice to the sophisticated institutional structure of the EU and therefore do not make the EP a better representative of the EU electorate.



## References

- Boomgaarden, H.G., D. Johann and S. Kritzinger (2016), "Voting at National versus European Elections: An Individual Level Test of the Second Order Paradigm for the 2014 European Parliament Elections", *Politics and Governance*, 4(1), 130–144 (<https://doi.org/10.17645/pag.v4i1.472>).
- Christiansen, T. (2016), "After the Spitzenkandidaten: fundamental change in the EU's political system?", *West European Politics*, 39(5), 992–1010 (<https://doi.org/10.1080/01402382.2016.1184414>).
- Cram, L. (2002), "Introduction to Special Issue on the Institutional Balance and the Future of EU Governance: The Future of the Union and the Trap of the 'Nirvana Fallacy'", *Governance*, 15(3), 309–324 (<https://doi.org/10.1111/0952-1895.00190>).
- Devuyst, Y. (2008), *The European Union's Institutional Balance After The Treaty Of Lisbon: 'Community Method' And 'Democratic Deficit' Reassessed*, 39, 81.
- Fabbrini, S. (2015), "The European Union and the Puzzle of Parliamentary Government", *Journal of European Integration*, 37(5), 571–586 (<https://doi.org/10.1080/07036337.2015.1019877>).
- Follesdal, A. and S. Hix (2006), "Why There is a Democratic Deficit in the EU: A Response to Majone and Moravcsik", *JCMS: Journal of Common Market Studies*, 44(3), 533–562 (<https://doi.org/10.1111/j.1468-5965.2006.00650.x>).
- Fossum, J.E. (2015), "Democracy and differentiation in Europe", *Journal of European Public Policy*, 22(6), 799–815 (<https://doi.org/10.1080/13501763.2015.1020838>).
- Grabbe, H. and S. Lehne (2019), "2019 European Parliament Elections Will Change the EU's Political Dynamics", Carnegie Europe website (<https://carnegieeurope.eu/2018/12/11/2019-european-parliament-elections-will-change-eu-s-political-dynamics-pub-77922>).
- Hix, S. and B. Høyland (2013), "Empowerment of the European Parliament", *Annual Review of Political Science*, 16(1), 171–189 (<https://doi.org/10.1146/annurev-polisci-032311-110735>).
- Hobolt, S.B. (2014), "A vote for the President? The role of *Spitzenkandidaten* in the 2014 European Parliament elections", *Journal of European Public Policy*, 21(10), 1528–1540 (<https://doi.org/10.1080/13501763.2014.941148>).
- Høyland, B., S.B. Hobolt and S. Hix (2019), "Career Ambitions and Legislative Participation: The Moderating Effect of Electoral

- Institutions", *British Journal of Political Science*, 49(2), 491–512 (<https://doi.org/10.1017/S0007123416000697>).
- Schmitt, H., S. Hobolt and S.A. Popa (2015), "Does personalization increase turnout? *Spitzenkandidaten* in the 2014 European Parliament elections", *European Union Politics*, 16(3), 347–368 (<https://doi.org/10.1177/1465116515584626>).
- Schulze, H. (2016), "The Spitzenkandidaten in the European Parliament Election Campaign Coverage 2014 in Germany, France, and the United Kingdom", *Politics and Governance*, 4(1), 23–36 (<https://doi.org/10.17645/pag.v4i1.457>).
- Van der Brug, W., K. Gattermann and C.H. De Vreese (2016), "Introduction: How Different Were the European Elections of 2014?", *Politics and Governance*, 4(1), 1 (<https://doi.org/10.17645/pag.v4i1.591>).
- von Ondarza, N. and F. Schenuit (2018), *Schatten über den Europawahlen. Drei Szenarien für EU-skeptische Parteien nach den Wahlen 2019*. 8.
- Wallace, H. (1985), *Europe: The Challenge of Diversity*, Boston, Massachusetts: Routledge.

**PART III.**  
**COUNTRY REPORTS**

## 5. THE UNTAPPED POTENTIAL OF EU AFFAIRS IN AUSTRIA'S PARLIAMENT

STEFAN SCHALLER, PAUL SCHMIDT & SUSAN MILFORD-FABER

---

*In Austria, the Europeanisation of the national political debate is a lengthy process. This also holds true for the parliamentary dimension. The two chambers of parliament in principle have a strong say in EU matters, but only partially make use of it. First and foremost, it is the governmental majority that defines the country's European agenda. Nevertheless, in recent years, parliament has positioned itself as a guardian of subsidiarity and bridged the gap between the national and the European level by strengthening interparliamentarian cooperation and granting members of the European Parliament the right to speak in dedicated sessions. Yet more effort, resources and confidence are needed to raise its level of involvement and to demonstrate to citizens the impact an active national parliament can have in shaping the European integration process.*

### 5.1 Parliament after the 2017 national elections

The Austrian Parliament has two chambers, which jointly represent the legislative power, the National Council (*Nationalrat*) and the Federal Council (*Bundesrat*). The National Council consists of 183 members, elected by the people for a term of five years. Its main task is legislation. The Federal Council represents state interests on a federal level and to this end participates in legislation. It is currently composed of 61 members who are elected by the provincial *diets* (*Landtage*) for the duration of the legislative period of the province concerned. Its composition may thus change after every provincial *diet* election. The Federal Assembly consists of the members of the

two chambers and meets every six years for the swearing-in of the federal president.<sup>1</sup>

Parliament exercises political,<sup>2</sup> legal<sup>3</sup> and financial<sup>4</sup> control over the executive power. As the government is usually supported by a majority of members of parliament, the control function is mainly exercised by the opposition. On behalf of the National Council, the Court of Audit monitors the financial management of the government, enterprises under its control and other entities.<sup>5</sup> The Ombudsman Board investigates alleged or suspected grievances and abuses on the part of the administration and submits annual activity reports to the National and Federal Council.<sup>6</sup>

In the latest parliamentary elections in October 2017, the conservative Austrian People's Party (ÖVP) received 31.5% of the votes (+ 7.5pp compared to 2013), second came the Social Democrats (SPÖ) with 26.9% (same as 2013) while the right-wing Freedom Party (FPÖ) could gain support of 26.0% (+ 5.5pp) of voters. The liberal NEOS could reach 5.3% (+ 0.3pp). With the Liste Pilz<sup>7</sup> (4.4%), which split up from the Green Party, a new political force entered parliament, while the Greens failed to pass the threshold needed to be represented in the National Council. Following these elections, the grand coalition of SPÖ und ÖVP, in power for nearly 11 years, was replaced by a coalition of ÖVP and FPÖ.

---

<sup>1</sup> See [www.parlament.gv.at/ENGL/PERK/NRBRBV/](http://www.parlament.gv.at/ENGL/PERK/NRBRBV/).

<sup>2</sup> See [www.parlament.gv.at/ENGL/PERK/KONTR/POL/](http://www.parlament.gv.at/ENGL/PERK/KONTR/POL/).

<sup>3</sup> See [www.parlament.gv.at/ENGL/PERK/KONTR/RECHT/index.shtml](http://www.parlament.gv.at/ENGL/PERK/KONTR/RECHT/index.shtml)

<sup>4</sup> See [www.parlament.gv.at/ENGL/PERK/KONTR/FIN/](http://www.parlament.gv.at/ENGL/PERK/KONTR/FIN/).

<sup>5</sup> See [www.parlament.gv.at/ENGL/PERK/KONTR/RH/](http://www.parlament.gv.at/ENGL/PERK/KONTR/RH/).

<sup>6</sup> See [www.parlament.gv.at/ENGL/PERK/KONTR/VA/](http://www.parlament.gv.at/ENGL/PERK/KONTR/VA/).

<sup>7</sup> In December 2018, the Liste Pilz changed its name into JETZT – Liste Pilz.

Figure 5.1 Seats in the National Council

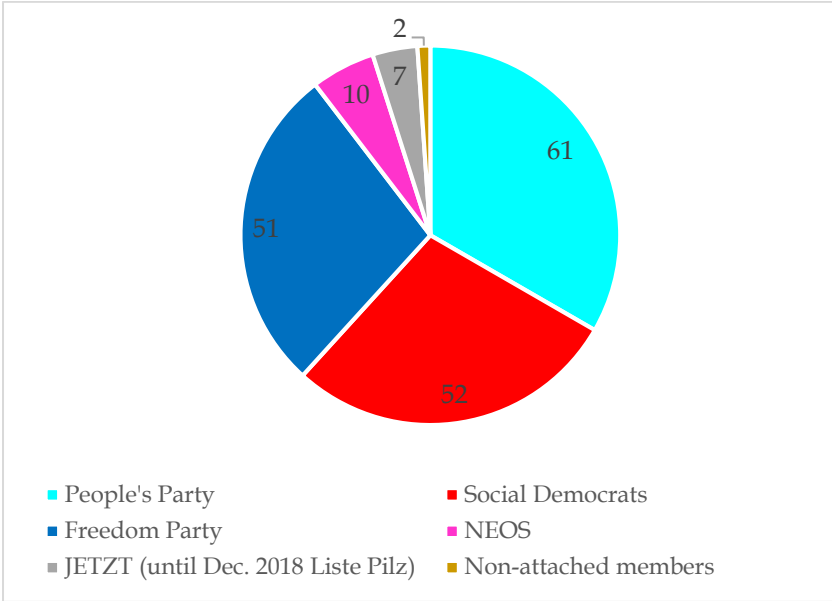
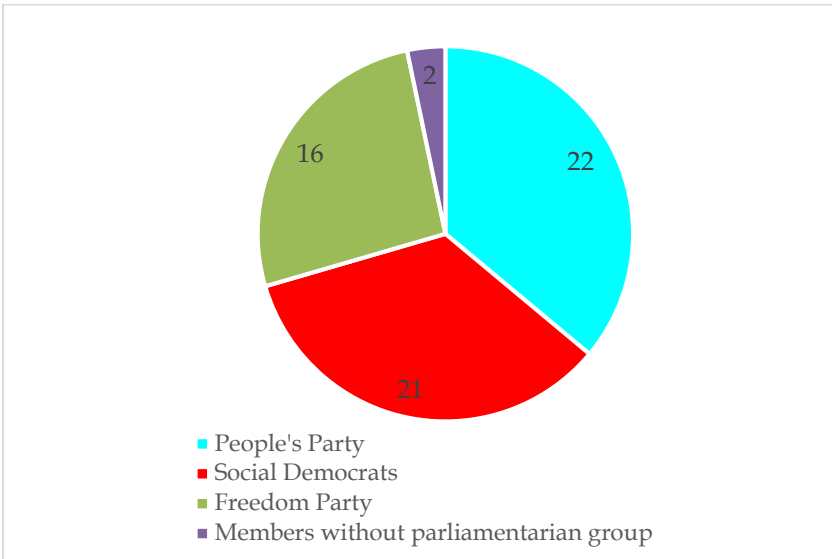


Figure 5.2 Seats in the Federal Council



The 2017 election results<sup>8</sup> reflect a shift in the political spectrum towards right-wing and conservative parties. A post-election analysis of SORA<sup>9</sup> showed significant differences in voting behaviour: both the ÖVP and SPÖ performed better among older voters while the FPÖ and Greens were stronger among the young. Among blue-collar workers, the FPÖ came in first, among white-collar workers and self-employed persons the ÖVP. The same is true for voters with a secondary school diploma or university education. While nearly two-thirds of voters in rural regions voted for ÖVP and FPÖ, the SPÖ was strongest in provincial capitals and Vienna.

## 5.2 European dimension of the national parliament

The legal framework for parliament's participation in EU matters is defined in the Federal Constitution, the EU treaties,<sup>10</sup> the rules of procedure of the National<sup>11</sup> and Federal Council<sup>12</sup> and the Federal Act on Information in EU matters.<sup>13</sup>

Constitutional law gives the National and Federal Council the right to be fully informed in due time by the government on all EU projects. Legislative proposals by the European Commission are directly transmitted to parliament. Legislative and non-legislative proposals, draft decisions, recommendations, agendas, press releases, European Parliament resolutions, Green and White Papers, opinions from national parliaments and minutes of Council

---

<sup>8</sup> See [www.bmi.gv.at/412/Nationalratswahlen/Nationalratswahl\\_2017/start.aspx](http://www.bmi.gv.at/412/Nationalratswahlen/Nationalratswahl_2017/start.aspx).

<sup>9</sup> SORA Institute for Social Research and Consulting (2017), "Austrian Parliamentary Election 2017" ([www.sora.at/en/topics/electoral-behavior/election-analyses/nrw17-en.html](http://www.sora.at/en/topics/electoral-behavior/election-analyses/nrw17-en.html)).

<sup>10</sup> Consolidated version of the Treaty on the Functioning of the European Union, Protocol (No 1) on the role of national parliaments in the European Union, *Official Journal* C 326/47, 26 October 2002 (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>).

<sup>11</sup> See [www.parlament.gv.at/ENGL/PERK/RGES/GOGNR/](http://www.parlament.gv.at/ENGL/PERK/RGES/GOGNR/).

<sup>12</sup> See [www.parlament.gv.at/ENGL/PERK/RGES/GOBR/](http://www.parlament.gv.at/ENGL/PERK/RGES/GOBR/).

<sup>13</sup> See [www.parlament.gv.at/ENGL/PERK/RGES/EU\\_Information\\_Act/EU\\_Information\\_Act.shtml](http://www.parlament.gv.at/ENGL/PERK/RGES/EU_Information_Act/EU_Information_Act.shtml).

meetings are accessible in an EU database<sup>14</sup> (mostly) open to the public. Parliament regularly publishes press releases on its activities and debates on EU matters (2017: 196) – a number increasing to 314 in 2018 reflecting the impact of the Austrian EU presidency – as well as a special newsletter (“News from the European Union”) relating to official EU projects, documents and proposals (2017: 235 / 2018: 237).

Federal ministers present an annual preview of their EU agenda on the basis of the Commission’s work programme and the respective EU Council presidencies in the National<sup>15</sup> as well as Federal Council’s committees.<sup>16</sup> Twice a year, the Federal Ministry for European and International Affairs provides advance information on key EU projects in the making. Special information in writing may be called for in preparation of a sitting of an EU committee or at the request of a parliamentary group or party.

The government has to reach agreement with the Main Committee of the National Council before nominating the respective members of the European Commission, the Court of Justice of the EU, the Court of Auditors and the board of governors of the European Investment Bank. Regarding future members of the (EU) Economic and Social Committee and the Committee of the Regions it has to inform both parliamentary chambers.<sup>17</sup> A formal hearing of candidates though is not provided, usually the governmental majority prevails.

---

<sup>14</sup> See [www.parlament.gv.at/PAKT/EU/](http://www.parlament.gv.at/PAKT/EU/).

<sup>15</sup> See [www.parlament.gv.at/PAKT/VHG/index.shtml?FBEZ=FP\\_001&NRBR=NR&VHG=III&VHG2=BEU&LISTE=Anzeigen&listeId=101](http://www.parlament.gv.at/PAKT/VHG/index.shtml?FBEZ=FP_001&NRBR=NR&VHG=III&VHG2=BEU&LISTE=Anzeigen&listeId=101).

<sup>16</sup> See [www.parlament.gv.at/PAKT/VHG/index.shtml?jsMode=&xdocumentUri=&filter\]q=&view=&NRBR=BR&GP=XXVI&VHG=III-BR&VHG2=BEU-BR&SUCH=&listeId=101&LISTE=Anzeigen&FBEZ=FP\\_001](http://www.parlament.gv.at/PAKT/VHG/index.shtml?jsMode=&xdocumentUri=&filter]q=&view=&NRBR=BR&GP=XXVI&VHG=III-BR&VHG2=BEU-BR&SUCH=&listeId=101&LISTE=Anzeigen&FBEZ=FP_001).

<sup>17</sup> Bundes-Verfassungsgesetz [Federal Constitutional Law], Article 23c ([www.ris.bka.gv.at/Dokumente/ErV/ERV\\_1930\\_1/ERV\\_1930\\_1.pdf](http://www.ris.bka.gv.at/Dokumente/ErV/ERV_1930_1/ERV_1930_1.pdf)).



### 5.2.1 National Council

Prior to European Council meetings, members of the government give statements on subjects dealt within the European Council.

Four times a year the National Council plenary can hold debates on EU matters of topical interest (“Aktuelle Europastunde”)<sup>18</sup> to provide information for the general public. The subject is determined by each political party following a principle of rotation. The following table shows the various aspects debated since 2010. The topics reflect the main European developments e.g. the economic and financial crisis or the challenges of migration. While oppositional parties preferably make use of it to criticise the government, parties in government wish to present their efforts and successes in tackling the challenges.

*Table 5.1 Topics of plenary sessions devoted to EU matters*

Date	Topic	Introduced by	In government or opposition
Government SPÖ/ÖVP (since 11 January 2007)			
April 2010	Euro crisis	SPÖ	Government
September 2010	Asylum and migration	ÖVP	Government
January 2011	Euro liabilities	FPÖ	Opposition
May 2011	Euro crisis	BZÖ	Opposition
September 2011	Corruption in the EU	Greens	Opposition
November 2011	Youth unemployment	SPÖ	Government
January 2012	Debt crisis	ÖVP	Government
May 2012	Sustainable investment in Europe	Greens	Opposition

<sup>18</sup> See [www.parlament.gv.at/PAKT/PLENAR/index.shtml?FBEZ=FP\\_007&NRBRBV=NR&R\\_SISTEI=ST&STAT=ASEU&LISTE=Anzeigen&listeId=1071&SUCH](http://www.parlament.gv.at/PAKT/PLENAR/index.shtml?FBEZ=FP_007&NRBRBV=NR&R_SISTEI=ST&STAT=ASEU&LISTE=Anzeigen&listeId=1071&SUCH).

September 2012	Referendum on debt union	FPÖ	Opposition
November 2012	No to higher EU contributions	BZÖ	Opposition
January 2013	Growth, employment, equity and sustainability	SPÖ	Government
May 2013	Business locations Europe and Austria	ÖVP	Government
January 2014	Dual training system and youth guarantee	SPÖ	Government
May 2014	Rural Development 2020	ÖVP	Government
September 2014	EU sanctions against Russia	FPÖ	Opposition
November 2014	Monetary policy of the ECB	Team Stronach	Opposition
January 2015	TTIP	Greens	Opposition
May 2015	Bankruptcy law for member states	NEOS	Opposition
September 2015	Refugee crisis	ÖVP	Government
November 2015	Refugee crisis	SPÖ	Government
January 2016	Refugee crisis	FPÖ	Opposition
May 2016	TTIP/CETA	Greens	Opposition
September 2016	Border protection	Team Stronach	Opposition
November 2016	Future of Europe	NEOS	Opposition
January 2017	European transport policy	SPÖ	Government

May 2017	EU budgetary policy	ÖVP	Government
September 2017	Glyphosate	Greens	Opposition
Government (ÖVP/FPÖ) (since 18 December 2018)			
January 2018	Austrian EU presidency	ÖVP	Government
May 2018	A people's Europe	SPÖ	Opposition
September 2018	External border protection	FPÖ	Government
November 2018	Austrian EU presidency	Liste Pilz	Opposition

EU related parliamentary questions (all accessible online)<sup>19</sup> reflect the broad range of topics of the Austrian EU debate. In autumn 2018,

*EU-related parliamentary questions reflect the broad range of topics of the Austrian EU debate.*

parliamentary questions were submitted e.g. on the consequences of a 'hard Brexit' for Austria, the government's plans regarding a common European asylum policy and its position on the European Parliament's vote to trigger Article 7 against Hungary and, of course, Austria's EU Council presidency.

EU matters were also a reason to censure motions against the government as a whole and against individual ministers. During the last three legislative periods (since 10/2008) the following EU-related motions were introduced - and all turned down by government majority.<sup>20</sup>

<sup>19</sup> See [www.parlament.gv.at/PAKT/JMAB/](http://www.parlament.gv.at/PAKT/JMAB/).

<sup>20</sup> See [www.parlament.gv.at/PAKT/PLENAR/index.shtml?jsMode=&xdocumentUri=&filter\[q\]=&view=&MODUS=PLENAR&NRBRBV=NR&GP=XXVI&R\\_SISTEI=EI&EING=UEAM&SUCH=&listeId=1071&LISTE=Anzeigen&FBEZ=FP\\_007](http://www.parlament.gv.at/PAKT/PLENAR/index.shtml?jsMode=&xdocumentUri=&filter[q]=&view=&MODUS=PLENAR&NRBRBV=NR&GP=XXVI&R_SISTEI=EI&EING=UEAM&SUCH=&listeId=1071&LISTE=Anzeigen&FBEZ=FP_007).

Table 5.2 Motions of censure concerning EU matters

Date	Topic	Introduced by
July 2011	European Stability Mechanism (ESM)	BZÖ
October 2011	ESM	BZÖ
July 2012	ESM	BZÖ
July 2012	ESM	FPÖ
February 2013	EU Multiannual financial framework	BZÖ
April 2013	Tax evasion in EU	Greens
June 2015	Human rights at EU's external borders	Greens
September 2015	External border security	FPÖ

Austrian members of the European Parliament (MEPs) are also members of their respective parliamentary groups at home. Since 2015, they have the right to deliver five-minute statements in plenary debates and can take part in selected committees. On the initiative of the president of the National Council<sup>21</sup>

*Since 2015, “outstanding personalities of European and international political life” may address the plenary.*

“outstanding personalities of European and international political life” may address the plenary<sup>22</sup> as was the case in April 2016 when UN Secretary General Ban Ki-moon was invited to speak on sustainable development goals. In the National Council's EU main committee, Presidents of the European

<sup>21</sup> Bundesgesetz über die Geschäftsordnung des Nationalrates [Federal Law on the Rules of Procedure of the Austrian National Council], Article 19a ([www.ris.bka.gv.at/Dokumente/Bundesnormen/NOR40170792/NOR40170792.pdf](http://www.ris.bka.gv.at/Dokumente/Bundesnormen/NOR40170792/NOR40170792.pdf)).

<sup>22</sup> Parlamentskorrespondenz (2015), “Morgen in Kraft: Rederecht für EU-Abgeordnete im Nationalrat” [In force tomorrow: Right to speak for Members of the European Parliament in the National Council], 31 July ([www.parlament.gv.at/PAKT/PR/JAHR\\_2015/PK0872/index.shtml](http://www.parlament.gv.at/PAKT/PR/JAHR_2015/PK0872/index.shtml)).

Parliament Jerzy Buzek and Martin Schulz discussed with parliamentarians. EU commissioners regularly visit Parliament to exchange views with selected parliamentarians.

While a two-thirds majority voted in favour of MEPs' active participation in parliamentary debates, FPÖ and the Eurosceptic and free-market oriented Team Stronach refused consent, with the argument that it would be an "unnecessary submission to the EU", "contradictory to the system" and "assumedly against the constitution" if only those MEPs who were part of a parliamentary group were granted the right to speak to the plenary. However, the FPÖ expressed support for MEPs sharing their expertise during committee deliberations.<sup>23</sup>

Also, the Federal Council can organise debates on EU matters of topical interest in its plenary and can invite Austrian MEPs and outstanding personalities of European and international political life to deliver a statement.<sup>24</sup>

### 5.2.2 *The EU committees*

In the National Council the competence to deliberate on EU projects and adopt opinions is, in principle, vested in the Main Committee, namely the Main Committee on Matters of the European Union.<sup>25</sup> It deals with changes in primary law and items on the agenda of the European Council. The committee is composed of 21 members and is chaired by the President of the National Council.

For deliberations on other EU related questions the Main Committee elects a Standing Sub-Committee consisting of 21

---

<sup>23</sup> Parlamentskorrespondenz (2015), "Nationalrat: FPÖ und Team Stronach gegen Rederecht für EU-Abgeordnete" [National Council: FPÖ and Team Stronach against the right to speak for Members of the European Parliament], 20 May ([www.parlament.gv.at/PAKT/PR/JAHR\\_2015/PK0526/index.shtml](http://www.parlament.gv.at/PAKT/PR/JAHR_2015/PK0526/index.shtml)).

<sup>24</sup> Parlamentskorrespondenz (2015), "Europaabgeordnete erhalten Rederecht im Bundesrat" [Members of the European Parliament get the right to speak in the Federal Council], 7 May ([www.parlament.gv.at/PAKT/PR/JAHR\\_2015/PK0493/index.shtml](http://www.parlament.gv.at/PAKT/PR/JAHR_2015/PK0493/index.shtml)).

<sup>25</sup> See [www.parlament.gv.at/PAKT/VHG/XXVI/A-HA/A-HA\\_00001\\_00823/index.shtml](http://www.parlament.gv.at/PAKT/VHG/XXVI/A-HA/A-HA_00001_00823/index.shtml).

members.<sup>26</sup> The sittings of these committees are open to the public unless the EU has ruled to the contrary or a majority of the committee so decides. Prior to debates on EU projects, ministers or ministry representatives may hold an introductory statement on the state of play and on Austria's position.

The EU committees can place debates on EU matters of topical interest on the agenda in which the competent federal minister is invited to answer EU related questions. Austrian MEPs can also take part in a consultative capacity in the committees' deliberations.

Every committee member is free to table motions. They may also adopt opinions in which they give binding instructions to individual members of the government for EU Council meetings. They can only depart from these opinions under rather strict conditions and after consulting with both committees.<sup>27</sup>

*Every committee member may also adopt opinions in which they give binding instructions to individual members of the government for EU Council meetings.*

Such opinions, however, according to Parliament, "are rare because in practice, it may be important for ministers to have some flexibility over their negotiating position in the case of difficult negotiations in the Council. As a result, the Committee tends to make recommendations rather than adopt rigid positions."<sup>28</sup>

The committees are entitled to set up communications ('political dialogue') addressing EU institutions on certain EU projects. The EU subcommittee may review drafts of European legislative acts. If it considers that a proposal is incompatible with the principle of subsidiarity, it may adopt a reasoned opinion.

---

<sup>26</sup> See [www.parlament.gv.at/PAKT/VHG/XXVI/SA-EU/SA-EU\\_00001\\_00828/index.shtml](http://www.parlament.gv.at/PAKT/VHG/XXVI/SA-EU/SA-EU_00001_00828/index.shtml).

<sup>27</sup> Bundes-Verfassungsgesetz [Federal Constitutional Law], Article 23e (3) ([www.ris.bka.gv.at/Dokumente/ErV/ERV\\_1930\\_1/ERV\\_1930\\_1.pdf](http://www.ris.bka.gv.at/Dokumente/ErV/ERV_1930_1/ERV_1930_1.pdf)).

<sup>28</sup> See [www.parlament.gv.at/ENGL/PERK/PE/EUNationalrat/](http://www.parlament.gv.at/ENGL/PERK/PE/EUNationalrat/).

The EU Committee of the Federal Council<sup>29</sup> (composed of 13 members) deliberates on EU projects.<sup>30</sup> All members of the Federal Council as well as Austrian MEPs can attend its sittings in an advisory capacity. Members of government or a representative may deliver introductory statements. The committee can adopt binding opinions to members of government, draft communications and (reasoned) opinions to exert subsidiary control.<sup>31</sup>

Article 23g of the Federal Constitution states that “[t]he National Council and the Federal Council present their view in a founded comment to a drafted legal act in the framework of the European Union, for which reason the draft is incompatible with the subsidiarity principle.”

They “may demand the competent Federal Minister to make a statement on the compatibility of drafts [...] with the subsidiarity principle, which, in general, has to be presented within two weeks after the demand has been made. The Federal Council shall without delay inform the Provincial Parliaments on all drafts [...] and give them the opportunity to make comments. When resolving a founded statement [...], the Federal Council has to consider the comments of the Provincial Parliaments and to inform them on such resolutions.”<sup>32</sup>

The National Council and the Federal Council “may resolve to raise claim against a legislative act in the framework of the European Union at the Court of Justice of the European Union for violating the principle of subsidiarity.” (Article 23h).<sup>33</sup>

---

<sup>29</sup> See [www.parlament.gv.at/PAKT/VHG/BR/A-EU-BR/A-EU-BR\\_00001\\_00037/index.shtml](http://www.parlament.gv.at/PAKT/VHG/BR/A-EU-BR/A-EU-BR_00001_00037/index.shtml).

<sup>30</sup> Parlamentsdirektion (2018), “Die Mitwirkung des Bundesrates in EU-Angelegenheiten” [The involvement of the Federal Council in EU matters] ([www.parlament.gv.at/ZUSD/PDF/Broschuere\\_Die\\_Mitwirkung\\_des\\_Bundesrates\\_in\\_EU-Angelegenheiten\\_2018.pdf](http://www.parlament.gv.at/ZUSD/PDF/Broschuere_Die_Mitwirkung_des_Bundesrates_in_EU-Angelegenheiten_2018.pdf)).

<sup>31</sup> Bundes-Verfassungsgesetz [Federal Constitutional Law], Article 23e (4) ([www.ris.bka.gv.at/Dokumente/Erv/ERV\\_1930\\_1/ERV\\_1930\\_1.pdf](http://www.ris.bka.gv.at/Dokumente/Erv/ERV_1930_1/ERV_1930_1.pdf)).

<sup>32</sup> Bundes-Verfassungsgesetz [Federal Constitutional Law], Article 23g ([www.ris.bka.gv.at/Dokumente/Erv/ERV\\_1930\\_1/ERV\\_1930\\_1.pdf](http://www.ris.bka.gv.at/Dokumente/Erv/ERV_1930_1/ERV_1930_1.pdf)).

<sup>33</sup> Bundes-Verfassungsgesetz [Federal Constitutional Law], Article 23h ([www.ris.bka.gv.at/Dokumente/Erv/ERV\\_1930\\_1/ERV\\_1930\\_1.pdf](http://www.ris.bka.gv.at/Dokumente/Erv/ERV_1930_1/ERV_1930_1.pdf)).

The database of the platform for EU Interparliamentary Exchange (IPEX)<sup>34</sup> lists 3 reasoned opinions, 21 communications (political dialogue) and 34 “important information of exchange” submitted by the Austrian National Council.

*Table 5.3 Reasoned opinions by the EU sub committee of the Austrian National Council*

May 2014	Single-member private limited liability companies
May 2012	Transparency of measures regulating the prices of medicinal products for human use and their inclusion in the scope of public health insurance systems
September 2010	Conditions of entry and residence of third-country nationals for the purposes of seasonal employment

Regarding the Austrian Federal Council the IPEX database depicts 28 reasoned opinions, 62 communications (political dialogue) and 35 “important information of exchange”.

With regard to reasoned opinions, the Federal Council was one of the three most active legislative organs in the EU in 2016, as a report by the Austrian parliamentary directorate states.<sup>35</sup> Also in 2017, the Federal Council was amongst the most active legislative organs according to a report by the European Parliament.<sup>36</sup>

*Regarding reasoned opinions, the Federal Council was one of the three most active legislative organs in the EU in 2016 and 2017.*

The topics of reasoned opinions by the Federal Council were manifold, as the

<sup>34</sup> See [www.ipex.eu](http://www.ipex.eu).

<sup>35</sup> Parlamentsdirektion (2018), “Die Mitwirkung des Bundesrates in EU-Angelegenheiten“ [The involvement of the Federal Council in EU matters], p. 8 ([www.parlament.gv.at/ZUSD/PDF/Broschuere\\_Die\\_Mitwirkung\\_des\\_Bundesrates\\_in\\_EU-Angelegenheiten\\_2018.pdf](http://www.parlament.gv.at/ZUSD/PDF/Broschuere_Die_Mitwirkung_des_Bundesrates_in_EU-Angelegenheiten_2018.pdf)).

<sup>36</sup> European Parliament (2018), “Annual report 2017. Relations between the European Parliament and EU national Parliaments”, p. 26 ([www.epgencms.europarl.europa.eu/cmsdata/upload/06b53435-5804-442c-9ea1-1da23e6c882e/Annual\\_Report\\_2017\\_Relations\\_with\\_national\\_Parliaments-web-EN.pdf](http://www.epgencms.europarl.europa.eu/cmsdata/upload/06b53435-5804-442c-9ea1-1da23e6c882e/Annual_Report_2017_Relations_with_national_Parliaments-web-EN.pdf)).



following table shows. Issues related to environment, traffic and consumer protection were the main subsidiarity concerns raised by parliamentarians.

*Table 5.4 Reasoned opinions by the EU committee of the Austrian Federal Council*

June 2018	Enforcement and modernisation of EU consumer protection rules
June 2018	Representative actions for the protection of the collective interests of consumers
March 2018	Quality of water intended for human consumption
July 2017	Charging of heavy goods vehicles for the use of certain infrastructures
May 2017	Internal market for electricity
May 2017	Common rules for the internal market for electricity
March 2017	Proportionality test before adoption of new regulation of professions
March 2017	Introducing a European services e-card and related administrative facilities
March 2017	European services e-card
July 2016	Geo-blocking and other forms of discrimination
July 2016	Enforcement of consumer protection laws
March 2016	Information exchange mechanism with regard to intergovernmental agreements and non-binding instruments between Member States and third countries in the field of energy
March 2016	Measures to safeguard the security of gas supply
January 2016	Amendment of the directive 2008/98/EC on waste
September 2014	Amendment on the directives on waste, packaging and packaging waste,

	the landfill of waste, end-of-life vehicles, batteries and accumulators and waste batteries and accumulators and waste electrical and electronic equipment
May 2014	Single-member private limited liability companies
May 2014	Organic production and labelling of organic products
November 2013	Measures concerning the European single market for electronic communications and to achieve a Connected Continent
October 2013	Prevention and management of the introduction and spread of invasive alien species
July 2013	Protective measures against pests of plants
June 2013	Production and making available on the market of plant reproductive material
March 2013	Opening of the market for domestic passenger transport services by rail
June 2012	European statistics
May 2012	Powers to be conferred on the Commission
February 2012	Award of concession contracts
December 2011	Common European Sales Law
October 2010	Conditions of entry and residence of third-country nationals for the purposes of seasonal employment
April 2010	Right to interpretation and translation in criminal proceedings

In a communication to the European Commission, the Council and the European Parliament<sup>37</sup> on the White Paper on the Future of Europe, the EU Committee of the Federal Council stresses that the EU has to regain efficiency and states that “the principle of subsidiarity must be strengthened across Europe”.

*The EU Committee of the Federal Council stresses that the EU has to regain efficiency and states that “the principle of subsidiarity must be strengthened across Europe”.*

EU has to regain efficiency and states that “the principle of subsidiarity must be strengthened across Europe” with greater emphasis being placed on this principle before any new legal proposal. It makes criticism that “the deadline of only eight weeks allowed for the parliamentary chambers of the member states to check a proposal for its compatibility with the principle of subsidiarity is too short” and

proposes an extension of the deadline to 12 weeks. It remarks on the increasing number of delegated acts as “there is a risk of the European Commission being granted legislative powers that are due to the Council in conjunction with the Commission and, subsequently, the European Parliament”. Moreover, it calls for an intensified dialogue between the European Commission and the parliamentary chambers of the member states as “very often, it takes several months before the Commission reacts to communications

*COSAC “provides an appropriate framework for an active political discourse with members of the European Commission”.*

and/or comment on issues of subsidiarity.” Although “the [EC’s] reactions are formally correct”, the committee “deplores the absence of a lively political exchange of certain proposals.” Finally, it notes that the Conference of Parliamentary

Committees for Union Affairs (COSAC) “provides an appropriate framework for an active political discourse with members of the European Commission, which should be made use of much more intensively.”

---

<sup>37</sup> European Affairs Committee of the Federal Council (2017), “Communication to the European Commission, the Council and the European Parliament pursuant to Article 23f para. 4 of the Austrian Constitution” ([www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc5600a39cc01600dd08bbe0385.do](http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc5600a39cc01600dd08bbe0385.do)).

The Federal Council also supports the initiative to introduce a ‘green card’ which should encourage national parliaments to provide the EU Commission with constructive and non-binding recommendations on EU policies or legislative proposals.<sup>38</sup>

With these proposals the Committee’s position is pretty much in line with the recommendations set up in the final report of the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” in July 2018.<sup>39</sup>

Both the EU committees of the National as well as the Federal Council are free to choose which EU documents they put on their agenda. The following table shows the remarkable increase of the number of EU documents deliberated upon – especially with regard to the Federal Council’s EU committee – following the establishment of the Treaty of Lisbon.

*Table 5.5 EU documents on the agenda of EU committees in the Austrian Parliament*

	National council	Federal council
XX. legislative period (15.1.1996-28.10.1999)	145	17
XXI. legislative period (29.10.1999-19.12.2002)	112	10
XXII. legislative period (20.12.2002-29.10.2006)	108	8
XXIII. legislative period (30.10.2006-27.10.2008)	30	26
XXIV. legislative period	269	176

<sup>38</sup> Parlamentskorrespondenz (2016), “EU-Ausschuss des Bundesrats sucht proaktiven Dialog mit Europäischer Kommission” [EU committee of the Federal Council strives for a pro-active dialogue with the European Commission], 8 March ([www.parlament.gv.at/PAKT/PR/JAHR\\_2016/PK0212/index.shtml](http://www.parlament.gv.at/PAKT/PR/JAHR_2016/PK0212/index.shtml)).

<sup>39</sup> European Union (2018), “Active Subsidiarity. A new way of working. Report of the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently”, pp. 12-13 ([https://ec.europa.eu/commission/sites/beta-political/files/report-task-force-subsidiarity-proportionality-and-doing-less-more-efficiently\\_en.pdf](https://ec.europa.eu/commission/sites/beta-political/files/report-task-force-subsidiarity-proportionality-and-doing-less-more-efficiently_en.pdf)).

(28.10.2008-28.10.2013)		
XXV. legislative period (29.10.2013-08.11.2017)	142	190
XXVI. legislative period (09.11.2017 - ) (latest update: 31.12.2018)	56	58

Due to the quantity and complexity of various EU matters, parliamentary committees can seek advice from experts within hearings, which are mostly open to the public. Additionally, each political party in the National Council nominates a member with a special focus on European affairs (*Europasprecher*).

A parliamentary service on EU and international affairs is available to support parliamentarians' political work by supplying special expertise. In 2016 the parliamentary administration drafted an assessment on the Comprehensive Economic and Trade Agreement (CETA) between the EU and Canada stating that CETA had to be regarded as a mixed agreement. Compared to other European parliamentary research services (e.g. of the German Bundestag) the Austrian Parliament's resources as well as the number of parliamentary staff are limited – even in relative terms.

Critics argue that the Austrian Parliament could intensify its engagement to shape EU legislation and state that, for example, the National Council's EU committee only met for about an hour a month during the latest legislative period. Hardly sufficient for an in-depth consideration of EU documents.<sup>40</sup> These claims are contradicted by the chairman of the EU subcommittee in the National Council, for example, responding that "Parliament is one of those with the broadest rights of participation in the European Union and uses them as well"<sup>41</sup> or by stating the active role of the

---

<sup>40</sup> Addendum (2017), "Wie Österreich auf Mitgestaltung in der EU verzichtet" [How Austria renounces to shape the EU], 16 November ([www.addendum.org/politischeverantwortung/nationalrat-eu-fragen/](http://www.addendum.org/politischeverantwortung/nationalrat-eu-fragen/)).

<sup>41</sup> Lopatka, R. (2018), "Nationalrat ist eines der europapolitisch aktivsten Parlamente der EU" [National Council is one of the most active parliaments

Federal Council EU committee in drafting reasoned opinions that also influenced the position of the European Commission, e.g. “with regard to the competition and concession directive, the directive on seeds or data protection.”<sup>42</sup>

Another characteristic and point of criticism is that the two chambers of Parliament in principle have a strong say in EU matters, but only partially make use of it, as it is foremost the governmental majority that defines the country’s European agenda. Although parliamentarians have a ‘free mandate’ it is rare that they depart from so-called party discipline.

### 5.3 The interparliamentary dimension

To foster inter-parliamentarian cooperation, the Austrian Parliament is member of 47 bilateral parliamentary groups. As part of the EU trio presidency, the Austrian Parliament signed a declaration of cooperation with its Estonian und Bulgarian counterparts.<sup>43</sup> On the occasion of the Austrian EU presidency, Parliament dedicated a special sub-website to the “parliamentary dimension”.<sup>44</sup> During the presidency Austria hosted the Interparliamentary Conference on Stability, Economic Coordination and Governance in the European Union (SECG), co-pressed over the Meeting of the Joint Parliamentary Scrutiny Group on Europol (JPSG) in Brussels<sup>45</sup> and organised the Inter-Parliamentary

---

in the EU], 13 May ([www.derstandard.at/2000079660289/Nationalrat-ist-eines-der-europapolitisch-aktivsten-Parlamente-der-EU](http://www.derstandard.at/2000079660289/Nationalrat-ist-eines-der-europapolitisch-aktivsten-Parlamente-der-EU)).

<sup>42</sup> Parlamentskorrespondenz (2017), “Zukunft der EU: Forderungen zu Partizipation, Subsidiarität und EU-Weiterentwicklung“ [Future of the EU: Calls for participation, subsidiarity and further development of the EU], 7 November ([www.parlament.gv.at/PAKT/PR/JAHR\\_2017/PK1112/](http://www.parlament.gv.at/PAKT/PR/JAHR_2017/PK1112/)).

<sup>43</sup> See [www.parlament.gv.at/ZUSD/PDF/EU2018\\_Triorklaerung\\_EE\\_BG\\_AT.pdf](http://www.parlament.gv.at/ZUSD/PDF/EU2018_Triorklaerung_EE_BG_AT.pdf).

<sup>44</sup> See [www.parlament.gv.at/ENGL/EU2018/index.shtml](http://www.parlament.gv.at/ENGL/EU2018/index.shtml).

<sup>45</sup> Parlamentskorrespondenz (2018), “Kontrollausschuss zu Europol: Österreichischer Ko-Vorsitz bei interparlamentarischer Tagung in Brüssel“ [Supervisory committee on Europol: Austria co-chairs interparliamentary conference in Brussels], 24 September ([www.parlament.gv.at/PAKT/PR/JAHR\\_2018/PK0994/index.shtml](http://www.parlament.gv.at/PAKT/PR/JAHR_2018/PK0994/index.shtml)).

Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy.<sup>46</sup> In January 2019, the Austrian Parliament organised the meeting of the Secretaries-General of the parliaments of EU member states followed by the Conference of Speakers of the European Union Parliament in April.

The Austrian Parliament is eager to increase cooperation, especially with the Western Balkan countries to consolidate democratic parliamentarism in the region and support their EU accession. As part of the EU presidency programme, the Austrian Parliament organised a conference on the Western Balkans' EU perspective and the role of the parliaments, in Vienna (October 9).<sup>47</sup> In addition, it supported the implementation of 'democracy workshops' in Montenegro<sup>48</sup> and Kosovo following the Austrian model that was established in 2008.<sup>49</sup> In these workshops, young people learn about parliamentary democracy, European values and aspects of the EU in general. A scholarship programme for members of parliament administrations in the region is in the making.<sup>50</sup>

The EU Council presidency was also an opportunity to highlight Austria's role within COSAC. Vienna hosted the Meeting of the Chairpersons of COSAC where Austria inter alia presented

---

<sup>46</sup> Parlamentskorrespondenz (2018), "EU-Ratsvorsitz: Interparlamentarische Konferenz für die Gemeinsame Außen- und Sicherheitspolitik am 11. und 12. Oktober" [EU presidency: Interparliamentarian conference on the Common Foreign and Security Policy on 11 and 12 October], 4 October ([www.parlament.gv.at/PAKT/PR/JAHR\\_2018/PK1047/index.shtml](http://www.parlament.gv.at/PAKT/PR/JAHR_2018/PK1047/index.shtml)).

<sup>47</sup> Parlamentskorrespondenz (2018), "EU-Erweiterungsperspektive für den Westbalkan: Begegnung auf Augenhöhe eingemahnt" [The Western Balkans EU enlargement perspective: Call to meet at eye level], 9 October ([www.parlament.gv.at/PAKT/PR/JAHR\\_2018/PK1075/index.shtml](http://www.parlament.gv.at/PAKT/PR/JAHR_2018/PK1075/index.shtml)).

<sup>48</sup> See [www.skupstina.me/index.php/en/citizens/demokratske-radionice](http://www.skupstina.me/index.php/en/citizens/demokratske-radionice).

<sup>49</sup> See [www.parlament.gv.at/SERV/KJ/DEMWERK/DEMOKRATIEWERKSTATT/](http://www.parlament.gv.at/SERV/KJ/DEMWERK/DEMOKRATIEWERKSTATT/).

<sup>50</sup> Parlamentskorrespondenz (2018), "Sobotka: Das Friedensprojekt EU ist erst vollständig, wenn die Staaten des Westbalkans Mitglied sind" [Sobotka: The EU peace project will not be completed until the Western Balkan countries are members], 5 November ([www.parlament.gv.at/PAKT/PR/JAHR\\_2018/PK1214/index.shtml](http://www.parlament.gv.at/PAKT/PR/JAHR_2018/PK1214/index.shtml)).

its EU presidency priorities<sup>51</sup> The 60<sup>th</sup> COSAC meeting in November 2018 also focused on the Austrian presidency and a more transparent European Union. Parliaments should follow the recommendations outlined in the meeting's conclusions "to make the outcome of COSAC work more visible, by encouraging them to share and support best practices [...] within their Parliament and among the wider public".<sup>52</sup> This would help sharpen public knowledge of Parliament's work and its efforts for more subsidiarity, which also could be key to better counter voices calling for more "direct democracy" at the expense of representative democracy.<sup>53</sup>

## 5.4 European elections 2019

Four out of five political parties represented in the Austrian Parliament are part of a political group in the European Parliament. In general, there is close coordination and alignment between political parties 'at home' and their representatives abroad. One can nevertheless remark that members of the FPÖ in the European Parliament (political group of 'Europe of Nations and Freedom') pursue a stronger and more openly Eurosceptic agenda than their counterparts in government, who committed themselves to a 'pro-European' government policy stance. It is rather specific to the FPÖ that its head of delegation in the European Parliament also acts as secretary general of the party, which leads to a stronger domestic media presence compared to other 'ordinary' 'MEPs', who often

*In general, there is close coordination and alignment between political parties 'at home' and their representatives abroad.*

---

<sup>51</sup> Parlamentskorrespondenz (2018), "Sobotka zu Ratsvorsitz: Es geht um ein respektvolles Miteinander im Interesse gemeinsamer Lösungen" [Sobotka on EU presidency: Mutual respect in the interest of common solutions], 9 July ([www.parlament.gv.at/PAKT/PR/JAHR\\_2018/PK0847/index.shtml](http://www.parlament.gv.at/PAKT/PR/JAHR_2018/PK0847/index.shtml)).

<sup>52</sup> Conclusions of the LX COSAC (2018), [www.parlament.gv.at/ZUSD/PDF/EU2018\\_LXCOSAC\\_Conclusions\\_LX\\_COSAC\\_EN.pdf](http://www.parlament.gv.at/ZUSD/PDF/EU2018_LXCOSAC_Conclusions_LX_COSAC_EN.pdf).

<sup>53</sup> For more information on the debate on direct democracy in Austria, see S. Blockmans and S. Russack (2018), *Direct Democracy in the EU. The Myth of a Citizens' Union*, London: Rowman & Littlefield International, pp. 121-145.



deplore the poor portrayal of their work and political proposals in the Austrian mass media.

Members of the ÖVP in the European Parliament (part of the European People's Party) occasionally speak out against the Eurosceptic claims of the FPÖ and do this in a more open manner than their counterparts at home, who refrain from criticising the coalition partner in public. Recently, one could also detect differences in the stance of ÖVP members in the European Parliament e.g. on the question of cutting family benefits for EU workers whose children live abroad, which was decided by the government coalition. No member of the ÖVP's delegation in the European Parliament is represented in the executive board of the party.

The Austrian Social Democrats are represented by four members in the political group of the Progressive Alliance of Socialists & Democrats. One of its members is also member of the executive board of the party.

For smaller parties, alignment between their representatives at the domestic and European level seems easier to accomplish than within bigger parties, where the number of players in the political game is higher and competition in the internal decision-making process is stronger. In the case of NEOS, its only member in the European Parliament (part of the ALDE political group) is also president of the 'NEOS Lab' - a think tank and also their party academy - which implies a close connection between the domestic and the EU spheres.

With Austria having held the EU Council presidency in 2018, European issues have increasingly become the focus of public attention. A recent ÖGfE survey shows that about a quarter of Austrians feel that their interest in European matters has increased since Austria took over the EU presidency, while their willingness to vote is similar to data collected prior to 2014.<sup>54</sup> The post-presidency period is seen as an opportunity to put the traditional EU debate in Austria on a broader footing and to stress that the EU elections are not of second order. Nevertheless, past European

---

<sup>54</sup> Österreichische Gesellschaft für Europapolitik (2018), "ÖGfE survey: High support for EU membership during the Austrian EU presidency", 7 November ([www.oegfe.at/2018/11/07\\_survey/](http://www.oegfe.at/2018/11/07_survey/)).

elections were dominated by national politics. Voter turnout in 2014 was 45.4% (EU average: 42.6%) - considerably lower than in the 2017 parliamentary elections (80%). The role and achievements of political groups in the European Parliament was scarcely highlighted in prior election campaigns. Yet, in 2014 there had been a clear commitment of Austrian political parties towards their European *Spitzenkandidaten* who also were present in the Austrian European election debate. Ahead of the 2019 EU elections, one can expect that there will be no fundamental change: political parties will promote their European candidates but the visibility of political groups will remain rather low.

The previously sharp division between a pro-European government and the biggest opposition party pursuing an anti-EU or Eurosceptic line is no longer valid. Although the two government parties agreed on a pro-European stance, the closer we get to the election date, the more differentiated the respective EU positions will become. Even as a governing party, the FPÖ will seek to mobilise its target groups with an independent EU-critical discourse. Provocative statements regarding the President of the European Commission, calls for the maintenance of unilateral border closure, differences of opinion on the infringement procedure against the Hungarian government or ideas on a fast-track asylum check on ships are just a few examples of the coalition stress test.

As the upcoming European elections will be the first nationwide vote since the Austrian parliamentary elections in autumn 2017, there is a risk that domestic concerns will dominate the electoral campaign.

## Conclusions

In the course of Austria's EU membership, the legal prerequisites of parliament's involvement in European Union matters have increased steadily. The two chambers of parliament in principle have a strong say in EU matters, but only partially make use of it, as it is foremost the government majority that defines the country's European agenda. In the domestic political debate European issues are largely

*The two chambers of parliament have a strong say in EU matters, but it is the government majority that defines the country's European agenda.*

discussed from a national perspective. Therefore, any Europeanisation of national parliaments is a rather lengthy process. However, granting Members of the European Parliament the right to speak in the national parliament, inviting high-level European and international speakers as well as increasing face-to-face dialogue with representatives of European institutions is an important step.

Regarding the issue of subsidiarity and proportionality and the drafting of reasoned opinions, the Austrian Federal Council is among the most active parliamentary chambers in the EU. Yet, the eight-week deadline to check a proposal's compatibility with the principle of subsidiarity, as well as limited research services and staff, makes it difficult for parliamentarians to make full use of the possibilities granted by EU treaties and national law.

Via an extensive documentation of its EU-related activities and a special EU database, the Austrian Parliament is eager to enhance its visibility and transparency. While these efforts were increased during Austria's EU presidency, more should be done to raise public awareness of the Parliament's role in EU affairs.

Regarding cooperation with parliaments of the Western Balkan countries and exporting the idea of democracy workshops for young citizens, Parliament also works to strengthen the principle of parliamentary democracy and European understanding and values.

In general, upgrading' the role of national parliaments in the EU decision-making process is a meaningful initiative that could strengthen subsidiarity and narrow the often perceived gap between EU institutions and the national level. Nevertheless, the general public seems to have rather limited knowledge of the potential role of national parliaments as an active part in the EU decision-making process. At the same time, the expertise of many national or regional parliaments on EU issues seems rather limited. As long as this deficiency remains, there is the risk that key integration steps will be slowed down or even blocked based on purely domestic reasons rather than on fact.

## 6. BULGARIA: RISING AMBITION, FAILING PERFORMANCE

ATANAS SLAVOV

---

*In recent years, EU issues have increasingly permeated national public discourse, largely due to the Bulgaria's 2018 Presidency of the Council. The presidency was used skilfully by Bulgaria's political leadership to shift public debate towards enlargement perspectives for the Western Balkan countries. Bulgarian authorities gained political credit with this diplomatic manoeuvre; they avoided a more critical review of national policies, such as continuing Cooperation and Verification Mechanism (CVM) monitoring; stalled judicial reform; the ineffective fight against high-level corruption; the stability of the banking sector. This allowed Bulgaria to take a seemingly pro-European stance during challenging times for the Union, as well as appear to be an important regional policy player.*

*Beyond the initial positive impressions of the Europeanisation in Bulgaria, the real situation demands a rather sober and critical overview. Given the continuing obstruction of key structural institutional reforms); the inconsistency of Bulgaria's foreign policy (its ambivalence towards Russia); undermining the emerging consensus on the need to defend the European values (in the cases of Poland, Hungary, Romania), Bulgaria still has an inconsistent pro-European image.*

*This analysis engages with these themes and issues, while taking into account the institutional framework of deficient parliamentarianism where institutional checks and balances are often outstripped by informal political decision-making and bargaining with powerful lobbies.*

### 6.1 State of democracy in Bulgaria

According to its constitutional framework, Bulgaria is a republic with a parliamentary form of government in which all fundamental principles of constitutional democracy are well established and protected, namely the rule of law, separation of powers, basic human rights, national sovereignty, political pluralism, political

and legal responsibility of the government, and the independence of the judiciary. In general, the substance of the Constitution is considered to be in line with existing European standards (Venice Commission, 2007).<sup>1</sup> In the past decade some of the shortcomings in the functioning of key institutions (the judiciary) were highlighted and constitutional reforms have been undertaken to fix the existing problems (Venice Commission, 2015). These reformist policies, however, were often blocked by the entrenched organised interests of certain political and oligarchic elites.

In the meantime, it became evident that the prevailing assumption that existing deficiencies could be fixed through committed reformist endeavours undertaken by the national political elite, aided by their European counterparts, is rather mistaken. This positivist assumption is challenged in at least two ways. First, the basic values, principles and procedures of constitutional democracy are often undermined or openly violated by powerful domestic institutional and political actors. This situation is rather habitual, not accidental. Second, deficiencies and loopholes in the legislation or institutional performance are often intended and purposeful, not a side effect of a rapid top-down Europeanisation process.

More than a decade after the EU accession, Bulgaria's constitutional democracy remains defective (Merkel, 2004) and semi-consolidated (Nations in Transit, 2018). Almost three decades after the fall of the Berlin Wall, Bulgarian democracy is weakened not only by the burden of its post-communist legacy – there are still parallel power networks from former communist secret services and their oligarchic offshoots, but also due to persistent and systematic actions to impede, curb or dismantle the functioning of democratic or independent institutions (Ganev, 2007: 123-150) that keep government and politicians accountable. This state of affairs is most visible in the lack of proper independence of the judiciary, as well as the reported inefficiency at combating high-level corruption.

---

<sup>1</sup> Full reference details are given in bibliography at the end of the paper.

In recent years the conditions for a pluralist democratic government in the country were limited by an overall decrease of media freedom. According to the *Nations in Transit 2018* report:

Bulgaria's media environment has deteriorated significantly in recent years, with an increase in hate speech and violence against journalists. Transparency of media ownership continued to be a serious problem, as was the fusion of media and politics, media monopolies, and lack of transparency of funding sources. Local government has been struggling with debt and dependence on central funding, which limited local independence and initiatives throughout the year.

This critical account is corroborated by a continuous decline of the country's performance in the *World Press Freedom Index*. The 2019 Index ranks Bulgaria 111<sup>th</sup> (out of 180) for the second consecutive year, which is a significant drop in the past six years (down from 87<sup>th</sup> in 2013). The conclusion of the report dampens Bulgaria's ambition to be a regional leader:

Corruption and collusion between media, politicians and oligarchs is widespread in Bulgaria. The most notorious embodiment of this aberrant state of affairs is Delyan Peevski... The government continues to allocate EU funding to media outlets with a complete lack of transparency, with the effect of bribing recipients to go easy on the government in their reporting, or to refrain from covering certain problematic stories altogether. At the same time judicial harassment of independent media, such as the Economedia group, has increased. Threats against reporters have also increased in recent months, to the extent that journalism is now dangerous in Bulgaria (2019 World Press Freedom Index).

Lacking true media pluralism, disregarding truth and objectivity, increasing the use of political propaganda through major media outlets all pose a threat to democracy in this country.

According to the *2019 Rule of Law Index*, with its overall score (of 0.54) Bulgaria is the last among the EU member states and ranks 54<sup>th</sup> globally (among 126 studied countries). It is noteworthy that this result is even worse than some non-European states (Botswana ranks 44<sup>th</sup>, Argentina 46<sup>th</sup>, while Mongolia is 53<sup>st</sup> in the world). In

the CEE region it is closer to Hungary (57<sup>th</sup>), Bosnia and Herzegovina (60<sup>th</sup>) and North Macedonia (56<sup>th</sup>).

The fragility of the democratic order in Bulgaria should be taken seriously, given that the whole region of Central and Southeastern Europe has suffered a continuous decline of democracy and the rule of law in the last decade (Freedom in the World 2018). Even more alarming, a leading EU scholar suggests that party politics at the EU level is only worsening the situation:

In short, democratic leaders at the federal or union level may overlook concerns about the authoritarian nature of rule in member states so long as the local authoritarian delivers needed votes to their coalition in the federal legislature... Thus, enhancing partisan, democratic politics at the federal level may end up perpetuating autocracy at the state level (Kelemen, 2017: 216).

Similar critical conclusions could be reached about the existing mechanisms of redistribution of EU funds to less economically developed member states; such fiscal transfers tend to create a large clientelist base in support of local authoritarian leaders (Kelemen, 2017: 216).

The decline of democratic and rule of law standards is a phenomenon not only in Bulgaria and Southeast Europe but also in member states that were once regional leaders in democratic consolidation (Poland and Hungary). These two countries are at the sharp end of EU procedures to safeguard the rule of law and the democratic values of the Union, which may lead to suspension of their voting rights in the Council of the EU according to Art. 7 TEU (Rule of Law, 2017; European Parliament Resolution, 2018).

With Eurosceptic parties in the governing coalition, inconsistent government policies with respect to the EU agenda, a poor legislative process that undermines the constitutional protection of rights in favour of strong lobbies and oligarchs, Bulgaria's performance is rather weak. The country is not prepared to take part in the hard choices to be made in the new five-year European institutional term.

## 6.2 The Bulgarian presidency of the Council: rising ambition

### 6.2.1 *The Bulgarian government perspective*

Last year was marked by a predominance of the European topics in domestic politics due to the Bulgarian Presidency of the Council of the European Union that started on 1 January 2018. The government and its parliamentary majority embraced a pragmatic approach to Bulgaria's presidency and tried to benefit politically from public support for the EU and from the official visits of EU leaders. The European policy agenda dominated national public discourse while providing common ground to seek political compromise among the major players in Bulgarian politics. There were no major gaps in the logistics or organisation of the events, which is an achievement in itself given the overall low performance of domestic institutions. The public image of the government, however, was affected by ongoing corruption investigations into the management of public procurement for the reconstruction of the main official conference venue for the Bulgarian presidency. Both the independent parliamentary inquiry committee and the Bulgarian Public Prosecution Office found sufficient evidence of corruption and abuse of public funds allocated to the reconstruction of the building and the external space (Parliamentary Report 2017).

*The government and its parliamentary majority embraced a pragmatic approach to Bulgaria's presidency and tried to benefit politically.*

During the Bulgarian Presidency, the initial priorities of achieving consensus, competitiveness, and cohesion were reshaped to fit the changing political agenda of the Bulgarian authorities. Bulgaria's political leadership shifted the policy agenda and public discourse to the enlargement perspectives of the Western Balkan countries. With this diplomatic manoeuvre, the Bulgarian government avoided the critical attention of European leaders to the national institutional shortcomings and deficiencies (continuing CVM monitoring, blockage of the judicial reform, ineffective fight against high-level corruption, stability of the banking sector). Second, it took a seemingly pro-European stance emphasising unity at challenging times for the Union and strengthening the EU



neighbourhood policy; third, it emerged as an important regional policy player, garnering positive attention and even praise from the leaderships of the Western Balkan countries.

Bulgaria's diplomatic endeavours enabled the EU to appear stronger once more and welcoming to neighbouring countries after a long period of dissatisfaction and disenchantment on the part of older member states affected by rising national populist movements. (Guisto et al., 2013; Smilov, 2015). The official adoption on 17 May 2018 of the *Sofia Declaration of the EU-Western Balkans Summit* highlighted the importance of EU enlargement perspectives for the Western Balkan countries. The aim was to strengthen their commitment to maintaining democracy and the rule of law in the region, emphasising respect for human rights and the rights of minorities, pursuing institutional reforms in line with European values and principles, along with combating corruption and organised crime, and countering terrorism and extremism (European Council, May 2018).

As regards the reinvigorated policies towards the Western Balkans, a specific achievement of the Bulgarian authorities are the improved relations with the Republic of North Macedonia. With the major political changes brought about in 2017 after negotiated snap elections, the new pro-European government led by Zoran Zaev changed the foreign policy orientation of the country and favoured good relations with neighbouring Bulgaria and with the EU. This move resulted in the signing of the Bulgarian-Macedonian cooperation agreement, which opened the way to intensified cooperation in all major fields (political, economic, and cultural). In the beginning of 2018, the parliaments of the two countries ratified the mutual cooperation treaty, thus opening the Euro-Atlantic perspective to Macedonia (BNA, 2018).

The Bulgarian presidency was generally beneficial to deepening the country's integration into European structures and initiatives. In December 2017 the country joined other member states in establishing PESCO on security and defence (PESCO, 2017). In the EU area of freedom, security and justice, Bulgaria took part in the creation of a new powerful European Public Prosecutor's Office (EPPO) (Council Regulation, 2017). The Bulgarian government also took a decision to join the EU banking union *en*

*route* to the ERM II and, in the near future, to the eurozone (CoM Decision 2018).

### **6.2.2 *The parliamentary perspective***

If we shift focus from the executive branch to the involvement of the Bulgarian Parliament in ongoing debates on the future of the EU, we discover a rather different dynamic. It is caused by several factors that are simultaneously at play: first, in the Bulgarian practice of governance, the executive is often over-powerful due to the prominent role the prime minister usually plays in the ruling party (being its chairman/chairwoman) – this leads to undermining the autonomy of the parliamentary party group as regards the political decision-making process, and to overshadowing the parliamentary activity in general; second, some parties (the governing GERB party included) have very centralised internal decision-making process which concentrates powers in the figure of the leader and his/her closest aides; third, a lack of expertise among Members of Parliament with respect to the complex EU institutional and decision-making aspects; fourth, key parliamentary committees are dominated by representatives of the ruling party, which limits the opportunity and incentives for effective parliamentary oversight of the executive branch. These preconditions systematically affect Bulgarian parliamentarism in a negative way.

The Bulgarian Parliament as a whole has important competences as regards EU institutional and policy issues (Rules of Procedure, 2017):

- to participate in the process of assessment of the implementation of the EU policies within the area of freedom, security and justice, in the political scrutiny of Europol and in the assessment of the activities of Eurojust;
- to make a motivated request to the Council of Ministers to submit to the Court of Justice of the European Union a claim on non-compliance with the principle of subsidiarity in a legislative act;
- to participate in the procedures for revision of the Treaties of the European Union;
- to consider applications for accession to the EU;

- to participate in the process of inter-parliamentary cooperation within the EU;
- to receive reports from the government on the participation of the country in the decision-making process of the EU during the rotating presidency of the Council;
- to hold a hearing with the prime minister on the position of the country in forthcoming meetings of the European Council.

Formally, some of the Parliament's competences on EU issues are assigned to the standing parliamentary *Committee on European Affairs and Oversight of the European Funds*. The legal basis of the Committee is well established in the Parliament's Rules of Procedure (2017) that have a binding force of law. The Committee consists of only nine members (half as many as the other key committees), and only two of them have adequate experience related to EU politics and affairs. In the composition of the Committee, the *principle of parity* is observed (two MPs from each parliamentary group - Art. 19 Rules of Procedure). Its key functions are:

- to mainstream and coordinate the process of drafting of the Annual Work Programme of the National Assembly on the Matters of the European Union, which contains a list of the draft acts of the institutions of the EU in respect of which the Parliament exercises monitoring and control;
- to hold debates on Framework Positions on draft acts of EU institutions, submitted by the national government, and on draft acts themselves;
- to impose a parliamentary reservation on a draft act of an EU institution, included in the Annual Work Programme;
- to prepare a reasoned opinion where a draft legislative act of an EU institution is found to be non-compliant with the principle of subsidiarity;
- to conduct hearings of candidates who are nominated by the Council of Ministers for positions in EU institutions.

The Committee is currently chaired by Kristian Vigenin – a representative of the major opposition party (the Bulgarian Socialist Party, member of PES), former Minister of Foreign Affairs (2013-

2014), and former MEP. In fact, the specific work of the Committee related to EU issues amounts to only half of its annual activity, the other half being involvement in the ordinary legislative procedure on domestic legislation.<sup>2</sup> It would not be unfair to consider the institutional dynamics and public outreach of the Committee's activity as underperformance (compared to other parliamentary committees). The Committee is not recognised by the wider public as a central forum for political discussions as regards EU issues, nor is it accepted as a key parliamentary committee that can influence the outcomes of parliamentary debates (if compared to other bodies, i.e. the Committee on Legal Affairs, the Foreign Policy Committee or the Committee on Internal Security and Public Order, chaired by the ruling party). Hence, the diplomatic gesture to leave the chairmanship of the Committee to the opposition is of no real parliamentary significance and should not be regarded as a sign of mature parliamentarism.

During the EU Presidency the Committee undertook two important activities. On 13 June 2018 it held a joint session with the Foreign Policy Committee focused on the ongoing debates on the future of the EU, initiated after the Commission's White Paper on the Future of Europe that was launched in March 2017. During the joint session, Deputy Prime Minister and Minister of Foreign Affairs Ekaterina Zaharieva was invited to present a report on the most recent updates in relation to Bulgaria's position on the document and the discussions taking place at Council level (Committee Minutes, 2018). From the statements of the minister it is obvious that during the presidency of the Council, the parliamentary committees were not very active with respect to the EU affairs. During the Committee hearing, the minister emphasised the role of the Bulgarian presidency in streamlining the legislative initiatives with respect to increasing the political legitimacy of the EU through more inclusive and participatory instruments for European citizens, including the process of drafting and public consultations of the new European Citizens' Initiative Regulation. Minister Zaharieva also emphasised the role of public consultations and citizens'

---

<sup>2</sup> An indicative fact of minor importance: the English section of the committee's web page is empty (no information can be found).

dialogues initiated with respect to the proposals for reforming the EU.

During the Committee hearing, issues related to the membership of the country in the Schengen area, joining the ERM II and the eurozone, and participation in PESCO and EPPO, were also discussed. The Minister of Foreign Affairs expressed her opinion that Bulgarian society convincingly chose the scenario of deepening European integration (to become part of the EU's core) over the disintegration and weakening of the EU scenarios.

The interaction of the Committee with government officials (public hearings, access to information) is indicative of the level of parliamentary involvement in EU affairs. According to Committee Chairman Vigenin, who is expected to be well informed on the issue, the situation with the much anticipated membership of the country in the Schengen area is as yet unclear – different interpretations circulate among different institutional stakeholders, while the Bulgarian government has not provided accurate and timely information to parliament or to society.

During the public hearing Vigenin also pointed out that the Bulgarian Parliament lacks the necessary expertise with respect to the ongoing debate about the transformation of the EU, unlike other national parliaments in older member states. The deficits in expertise, claims Vigenin, are on both the political and administrative level and affect the understanding of key EU institutional features, such as the redistribution of competences between the European (supra-national), national and regional levels. During the debates, Vigenin also emphasised the levels of alienation of European citizens from the decision-making process at the EU level (Committee Minutes, 2018).

***Bulgarian MPs have not consistently engaged in discussion about the need to reform the EU's legislative procedure and how to give national parliaments or regional or local authorities a stronger voice in the process.***

The minutes of the Committee on European Affairs of the Bulgarian Parliament show that there is no clear institutional statement or any meaningful input into the discussion on the implementation of subsidiarity and proportionality principles. Bulgarian

MPs have not consistently engaged in a creative political discussion about the need to reform the EU's legislative procedure and how to

give national parliaments or regional or local authorities a stronger voice in the process. Related parliamentary debates and discussions only present a rather selective and formal reflection on the work done by others and there is no significant contribution to the European debates on the issue.

Notwithstanding the lack of public attention to the work of the Committee chaired by Vigenin, he himself was very active at EU level. Vigenin took an active part in the work of the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” headed by Commission Vice-President Frans Timmermans. The Task Force included three members from EU national parliaments, three from the European Parliament and three from the Committee of the Regions. This working group was established in line with the statement of President Juncker in his State of the Union Address on 13 September 2017: *“The European Commission must be big on the big things, and act only where it can achieve better results than Member States acting alone”*. The main tasks of the group were defined as follows: make recommendations on how to better apply the principles of subsidiarity and proportionality; identify policy areas where work could be re-delegated or definitely returned to EU countries; find ways to better involve regional and local authorities in EU policy making and delivery. The final report was presented to the Commission in July 2018. The Task Force concluded that a new way of working on subsidiarity and proportionality is needed to allow local and regional authorities and national parliaments to make a more effective contribution to the EU policymaking and in the design of new legislation, including through extending the period of consultation up to 12 weeks (The Task Force Report, 2018).

Speaking of the level of engagement with EU themes, it is worth noting that the 2018 Annual Work Programme of the National Assembly on EU Issues was adopted in October 2018 – after the EU Presidency (2018 Annual Work Programme). The Parliament states in the Work Programme that it will exercise its constitutional competence and oversight on several EU legal and institutional reform proposals. Among them are the proposals for the Multiannual Financial Framework, the Energy Union, broadening the competence of the EPPO, social rights issues and reforms, the enlargement process in the Western Balkans (especially

Serbia and Montenegro), the initiative of strengthening the rule of law in the EU, the initiative on enhancing the subsidiarity, and proportionality and better regulation in the EU.

### *Participation in COSAC*

During the Bulgarian Presidency, the Committee on European Affairs of the Bulgarian Parliament hosted the Plenary Meeting of COSAC in Sofia from 17 to 19 June 2018. The publicly released synopsis of discussions highlighted several issues. First, focus was put on the need of further development of democratic legitimacy in Europe, especially with respect to rising national populism across the EU. Along these lines, the Presidency successfully completed the negotiations on the Regulation on the statute and funding of European political parties and European political foundations, and also streamlined the work on the European Commission's proposal to reform the European Citizens' Initiative (COSAC Plenary Meeting 2018). Second, emphasis was placed on the work of the *Task Force on Subsidiarity, Proportionality and Doing Less More Efficiently* and the related discussions and consultations as regards the drafting of the report and final proposals for reform. It is highlighted that the existing *Early Warning System* is not sufficient to provide adequate time and space for reasoned opinions on behalf of the national parliaments (regional or local authorities). In the period of its operation this mechanism resulted in only three 'yellow cards'; however, on all three occasions the Commission stated that the principle of subsidiarity had not been breached (COSAC 2018, Session V).

During the Bulgarian presidency a special COSAC Working Group was founded (chaired by Vigenin) with the objective to provide a more inclusive approach and to give feedback on the work done by the Task Force. During the work of the Task Force, the Bulgarian Parliament voiced its opinions on certain matters related to the EU law-making process advocating more participatory approach that will give national parliaments an opportunity to be truly involved in the process. Similarly, as regards the European integration of the Western Balkans, the national parliament emphasised the positive role of the integration process for enhancing stability, economic development and social progress (COSAC 29<sup>th</sup> Biannual Report, 2018).

According to the COSAC report, the Bulgarian Parliament also believed that a more effective, focused and flexible cohesion policy must remain a priority policy in the next Multiannual Financial Framework, as it is important for promoting convergence between member states and for stabilising the immediate neighbourhood (COSAC Report, 2018:14).

### **6.3 Domestic usages of EU membership: failing on performance**

The process of deepening Bulgaria's European integration encounters several persistent problems. First and foremost, Bulgaria lacks a strategic vision of its engagement with the European agenda and reforms. The country has not produced a coherent understanding of its own place and role in the pluralist European public order, and it has not clearly defined its national strategy in reforming the EU (either towards more federal, or more decentralised system). The White Paper on the Future of Europe, produced by the Commission in 2017, has remained largely neglected by the Bulgarian political leadership, and neither have the institutions expressed a clear view or preference with respect to the different scenarios developed in the document. Bulgaria's participation in different initiatives remains rather low-key and inefficient, and the country does not exercise leadership in any specific integration process. The political ambition to contribute to the EU accession of the Western Balkans is far beyond the country's competence and the capacity of its current political leadership.

*Bulgaria lacks a strategic vision of its engagement with the European agenda and reforms.*

The public image of the EU, as portrayed by the majority of the Bulgarian media, is far from positive. Anti-EU propaganda reached its peak in the past three years. It has exposed the vulnerability of Bulgarian institutions and society to Eurosceptic and populist rhetoric (Antidemocratic Propaganda Report, 2018). In some media outlets, the EU is publicly associated with the inefficient institutional response to mass

*Recent anti-EU propaganda has exposed the vulnerability of Bulgarian institutions and society to Eurosceptic and populist rhetoric.*



migration, with imposing a new value system (described by some media outlets as 'genderism') opposed to traditional family or Christian values supported by the majority (as indicated by the fierce public debate about the failed ratification of the Istanbul Convention), as well as with limiting the discretion on policy issues of national political institutions.

On key foreign policy issues Bulgarian institutions, including the ruling party and the parliamentary majority, have endorsed official positions that either openly or factually undermine the common European response to different sensitive policy issues: in the Skripal case, Bulgaria refused to expel Russian diplomats (and spies) in a gesture of solidarity with the UK and other EU states; the Bulgarian authorities continue to endorse strategic engagement with Russia in the field of energy supply, thus undermining the common EU rules and EU supported projects in the region; the ruling party GERB and the Bulgarian government officially support Orbán's Eurosceptic government, contrary to the prevailing position of other member states and EU institutions (Stanev, 2018).

As regards relations between the major Bulgarian parties and their European counterparts, there are certain developments. The ruling GERB party, notwithstanding its domestic policies undermining the EU fundamental principles and values (the rule of law), has publicly supported the leading candidate (*Spitzenkandidat*) of the EPP, Manfred Weber, in the 2019 European Parliament elections. This double play of some EPP member parties is often tolerated by the EPP itself, thus raising strong criticisms of having double standards and advancing a semi-authoritarian political agenda in some countries (e.g. Hungary, Bulgaria). In the autumn of 2018, the major opposition party BSP embraced a more populist platform (including anti-eurozone statements, anti-immigrant policies and an anti-Istanbul Convention stance), openly opposed key PES official declarations and declined participation in the XI<sup>th</sup> PES Congress that took place on 7-8 December in Lisbon, though remaining a PES member (Gotev, 2018).

The internal guiding principles and rules of the European parties are not sufficiently operational as regards their member parties. Whenever EU party rules and discipline face opportunistic domestic policies of their members, what remains is only a European veil covering a deeply corrupt domestic political process.

## Conclusion

In the context of declining rule of law and democracy standards in Central and Eastern Europe, Bulgaria's political leadership has at best an ambivalent role as regards the necessary institutional reforms that would place the country at the core of the EU (the eurozone and the Schengen area). Last year, during the Bulgarian presidency of the Council when the European issues dominated the public media landscape, some steps were taken in the right direction, notably the application to join the European banking union and the emphasis on the enlargement perspective for the Western Balkans. With domestic policy, however, no decisive reforms were undertaken to cope with the most persistent institutional problems connected to upholding the rule of law and combating high-level corruption. For eleven successive years Bulgaria has been monitored under the CVM, but the remaining specific reforms yet to be implemented outweigh the achievements.

In the context of a rapidly changing European political landscape, Bulgaria's growing leadership ambitions in the SEE region are doomed to face the chilling reality of unfulfilled promises and poor institutional performance. Relying on national populist and Eurosceptic parties to maintain the parliamentary majority, making flattering concessions to Orban's regime, and refusing to implement key institutional reforms can hardly help the Bulgarian government stand firmly on pro-European ground. Without a clear and committed reformist agenda, executed by adequate political leadership, Bulgaria will continue to struggle with its institutional deficiencies that erode the rule of law and the democratic process in the country. Along with the political and strategic changes at the EU level, Bulgarian society also faces important political choices. It is a decisive period for the pro-European forces in the country. Either they will mobilise public support for a clear reformist agenda or the country will continue to slip towards the European periphery with its political uncertainty, volatile economies and persistent threats to democracy.

## References

- Bulgarian News Agency (2018), “Parliament Ratifies Friendship, Good Neighbourliness and Cooperation Agreement with Macedonia”, 18 January (<http://www.bta.bg/en/c/DF/id/1728162>).
- COSAC (2018), 29<sup>th</sup> Bi-annual Report presented to LIX Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union in Sofia, 17-19 June, pp. 4-6 (<http://www.cosac.eu/59-bulgaria-2018/lix-cosac-17-19-june-2018-sofia/>).
- COSAC Working Group (2018), <http://www.cosac.eu/59-bulgaria-2018/cosac-working-group-26-march-2018/>.
- COSAC, [Plenary Meeting of the LIX COSAC \(Sofia, 17-19.06.2018\), Background Information - Session I: http://www.cosac.eu/59-bulgaria-2018/lix-cosac-17-19-june-2018-sofia/](http://www.cosac.eu/59-bulgaria-2018/lix-cosac-17-19-june-2018-sofia/)
- Council of Europe (2018), “The Council of Europe Convention on preventing and combating violence against women and domestic violence”, CETS No. 210, Istanbul Convention) (<https://www.coe.int/en/web/istanbul-convention/text-of-the-convention>).
- Council of Ministers Decision No. 611 of 27 August 2018 on adopting Action Plan for joining the ERM II and the Banking Union ([http://pris.government.bg/prin/document\\_view.aspx?DocumentID=XnNle7VyNwzf06Zj3YvkxQ](http://pris.government.bg/prin/document_view.aspx?DocumentID=XnNle7VyNwzf06Zj3YvkxQ)).
- Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor’s Office and entered into force on 20 November 2017 ([https://ec.europa.eu/info/law/cross-border-cases/judicial-cooperation/networks-and-bodies-supporting-judicial-cooperation/european-public-prosecutors-office\\_en](https://ec.europa.eu/info/law/cross-border-cases/judicial-cooperation/networks-and-bodies-supporting-judicial-cooperation/european-public-prosecutors-office_en)).
- Decision of the National Assembly of Republic of Bulgaria on adopting the 2018 Annual Work Programme of the National Assembly on the EU Issues, adopted 24 October 2018 (<https://www.parliament.bg/bg/grp2018>).
- European Commission (2017), “State of the Union Address”, 13 September ([http://europa.eu/rapid/press-release\\_IP-18-341\\_en.htm](http://europa.eu/rapid/press-release_IP-18-341_en.htm)).
- European Commission (2017), “White Paper on the Future of Europe” ([https://ec.europa.eu/commission/publications/white-paper-future-europe\\_en](https://ec.europa.eu/commission/publications/white-paper-future-europe_en)).
- European Council (2018), Sofia Declaration, May ([https://www.consilium.europa.eu/media/34776/sofia-declaration\\_en.pdf](https://www.consilium.europa.eu/media/34776/sofia-declaration_en.pdf)).

- European Parliament (2018), European Parliament resolution of 12 September 2018 on a proposal calling on the Council to determine, pursuant to Article 7(1) of the Treaty on European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded (2017/2131(INL)) (<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2018-0340&language=EN&ring=A8-2018-0250>).
- European Union (2018), "Report of the Task Force on Subsidiarity, Proportionality and 'Doing Less More Efficiently'" ([https://ec.europa.eu/commission/sites/beta-political/files/report-task-force-subsidiarity-proportionality-and-doing-less-more-efficiently\\_en.pdf](https://ec.europa.eu/commission/sites/beta-political/files/report-task-force-subsidiarity-proportionality-and-doing-less-more-efficiently_en.pdf)).
- European Union External Action (EEAS) (2017), "PESCO on security and defence" ([https://eeas.europa.eu/headquarters/headquarters-homepage\\_en/34226/Permanent%20Structured%20Cooperation%20\(PESCO\)%20-%20Factsheet](https://eeas.europa.eu/headquarters/headquarters-homepage_en/34226/Permanent%20Structured%20Cooperation%20(PESCO)%20-%20Factsheet)).
- Freedom House (2018), "Freedom in the World 2018 Report" (<https://freedomhouse.org/report/freedom-world/freedom-world-2018>).
- Freedom House (2018), "Nations in Transit 2018 Report - Bulgaria" (<https://freedomhouse.org/report/nations-transit/2018/bulgaria>).
- Ganev, V.I. (2007), *Preying on the State: The Transformation of Bulgaria after 1989*, Ithaca, NY: Cornell University Press.
- Giusto, H., D. Kitching and S. Rizzo (eds) (2013), *The Changing Faces of Populism: Systemic Challengers in Europe and the U.S.*, London: Lexington Books.
- Gotev, G. (2018), "Bulgarian socialist leader snubs PES forum in Lisbon", 7 December (<https://www.euractiv.com/section/eu-elections-2019/news/bulgarian-socialist-leader-snubs-pes-forum-in-lisbon/>).
- Human and Social Studies Foundation (2017), "Antidemocratic Propaganda in Bulgaria. Part 2", Study Report Sofia ([http://hssfoundation.org/wp-content/uploads/2017/04/REPORT\\_ANTIDEMOCRACY\\_PART2\\_BGN.pdf](http://hssfoundation.org/wp-content/uploads/2017/04/REPORT_ANTIDEMOCRACY_PART2_BGN.pdf)).
- Kelemen, R. Daniel (2017), "Europe's Other Democratic Deficit: National Authoritarianism in Europe's Democratic Union", *Government and Opposition*, Vol. 52, No. 2, pp. 211-238.
- Kelemen, R. Daniel (2018), "The Rot on Europe's Right", 13 November (<https://www.euronews.com/2018/11/12/the-rot-on-europe-s-right-view>).

- Merkel, W. (2004), "Embedded and Defective Democracies", *Democratization*, Vol. 11, No. 5, pp. 33–58.
- Reporters without Borders (2019), "The 2019 World Press Freedom Index, Bulgaria" (<https://rsf.org/en/bulgaria>).
- Rule of Law: European Commission acts to defend judicial independence in Poland, Brussels, 20 December 2017 ([http://europa.eu/rapid/press-release\\_IP-17-5367\\_en.htm](http://europa.eu/rapid/press-release_IP-17-5367_en.htm)).
- Smilov, D. (2015), "The Politics of Protest: Between the Venting of Frustration and Transformation of Democracy, Policy Paper, Centre for Liberal Strategies (CLS), Sofia.
- Stanev, I. (2018), "GERB voted against sanctions for Orban", *Capital Weekly*, 12 September ([https://www.capital.bg/politika\\_i\\_ikonomika/sviat/2018/09/12/3309951\\_gerb\\_glasuvaha\\_sreshtu\\_sankcii\\_za\\_orban/](https://www.capital.bg/politika_i_ikonomika/sviat/2018/09/12/3309951_gerb_glasuvaha_sreshtu_sankcii_za_orban/)).
- The 2019 Rule of Law Index, Bulgaria (<http://data.worldjusticeproject.org/#/groups/BGR>).
- Venice Commission (2007), "Opinion No. 444/2007 on the Constitution of Bulgaria", CDL -AD (2008)009.
- Venice Commission (2015), "Opinion No. 816/2015 on the Draft Act to amend and supplement the Constitution (in the field of the judiciary) of the Republic of Bulgaria", CDL-AD(2015)022.

## 7. REPRESENTATIVE DEMOCRACY IN CZECHIA: A DISCONNECT BETWEEN THE NATIONAL AND EU LEVEL

JAN KOVÁŘ, PETR KRATOCHVÍL &  
ZDENĚK SYCHRA

---

*Until recently, Czechia's party system revolved around the two strongest parties. However, this system collapsed when it was replaced by the government of Andrej Babiš's ANO movement, which represents the most recent embodiment of a series of populist parties in the last decade. Parliamentary control of the executive is theoretically strong, but many instruments are used ineffectively and even parliament's strongest power (the no confidence vote) is rarely used successfully. The Czech Parliament has functional structures to deal with the EU agenda, but EU issues remain second-order ones. Moreover, when the EU agenda is debated, it is predominantly framed in domestic political terms. Political parties do not build systematic structures to ensure intra-party EU expertise and have only a limited number of expert staff at their disposal. There is relatively strong cohesion among Czech MEPs within political groups. However, they are often perceived as autonomous units within their parties. Overall, the Czech representative model is relatively functional at the national level, but it is clearly separate from the European level, and its ability to intervene in the EU's dynamics is limited.*

### 7.1 The national context

#### 7.1.1 The representative model

Czechia is a parliamentary democracy with a bicameral parliament. The parliament holds the legislative power according to the Constitution, even though other political actors (such as the

government or the regional assemblies) may also submit bills. The lower chamber, the Chamber of Deputies (hereafter the Chamber), consists of 200 members, and the upper chamber (the Senate) consists of 81 Senators. Multiple asymmetries between the two chambers exist. Some of them have been already enshrined in the Constitution, such as the stronger powers of the lower chamber when bills are being adopted since an absolute majority of deputies in the Chamber can overrule a negative Senate vote on a bill. Other asymmetries are, however, a consequence of the historical evolution of the two chambers as the first election of the Senate took place only seven years after the Velvet Revolution, and the Senate is repeatedly attacked as a useless but expensive institution.

Since the birth of Czechia in 1993, the country has had a total of 15 governments. Out of these, three were caretaker governments (January-July 1998, May 2009-July 2010, and July 2013-January 2014). Three minority governments were approved in confidence votes (1996-98, 1998-2002, and the current government) and a further government relied on exactly one half of the deputies (2007-09). Interestingly, all three of the minority governments were marked by concerns about backsliding from democracy as the normal functioning of the opposition was weakened. In particular, the period of the so-called Opposition Agreement between the Civic Democrats and the Social Democrats (1998-2002) is widely considered a period of non-transparent decision-making and deterioration in democratic standards.<sup>1</sup>

If one puts aside the caretaker governments and those that failed to pass the motion of confidence, altogether ten regular governments have ruled the country. Out of those, six remained in power for more than two years and only four remained in place until the date of the regular parliamentary election. Having said this, some of the governments formally fell, but the same party (the Social Democrats) continued as the strongest coalition member

---

<sup>1</sup> The time of this Opposition Agreement was marked by a number of irregularities of both a political and an economic nature. Allegations were widespread about burgeoning corruption, with prominent large-scale investments being allocated without transparent tenders and with dubious results. The Opposition Agreement led to a substantial decrease of overall trust in politics on the part of the public (cf. [https://interaktivni.rozhlas.cz/data/volby-historie/1998\\_opozicni\\_smlouva/](https://interaktivni.rozhlas.cz/data/volby-historie/1998_opozicni_smlouva/)).

several times. For instance, although there were four consecutive prime ministers (PMs) from July 1998 to September 2006, all four were members of the Social Democrats. In this sense, the stability of government was somewhat lower than that in Germany and comparable to that in Poland, but still better than that in Italy or France.

Basically, from the very birth of the independent Czech Republic in 1993, the model of coalition-building always revolved around the two strongest parties – the right-wing Civic Democratic Party and the left-wing Social Democratic Party. These two parties commonly needed additional coalition partners, usually from the political centre. Typically, the centrist Christian Democrats supplied the necessary votes. The dominance of the two biggest parties remained unchallenged for a long period of time: until the end of 2017 all PMs (except for the caretaker ones) were members of either one or the other party. However, the situation has changed over the last decade with a series of new, supposedly ‘non-elite’ or even ‘non-political’ parties/movements emerging and gaining substantial electoral support. Their key argument was that they do not conduct politics, do not belong to the old political elite and instead focus on practical things that have to be done. Finally, the most recent product of this development was the billionaire and former finance minister Andrej Babiš forming his government in late 2017, thus definitively ending the alternation of power between the Civic and Social Democrats.

### 7.1.2 *Political cleavages*

Political cleavages play an important role, especially as the notion of a consensual policymaking has never been strong in Czech politics. However, the right-left cleavage or the triangle of liberalism-socialism-conservatism seems to be less useful in the Czech context. Instead, the current wave of populism is so strong as to replace traditional cleavages with new distinctions such as the elites vs. the ordinary people or politicians vs. those who ‘really work’.

*Populism is now so strong as to replace traditional cleavages with new distinctions, such as the elites vs. the ordinary people.*



A recently instrumentalised cleavage is that between Prague and the rest of the country. As artificial as this division is, it has become a powerful motto of the populist movements whose members often launch diatribes against the “Prague café intellectuals” who are supposedly detached from the concerns of real people in the countryside. Behind this split lies the deeper problem of the stark socio-economic disparities that plague some regions. In spite of all its economic success, Czechia has a disproportionately high share of people who are caught in debt traps and almost ten percent of the adult population are burdened by seizure orders.

This also explains the paradox of the dissatisfaction of large swaths of the population at the time of an economic boom. The country has been growing with impressive speed, with average wages rising faster than expected, and unemployment remaining the lowest in the EU. However, those faced with seizure orders remained largely untouched by the positive changes as their income could be legally re-channelled to debt settlement. To make things worse, these forgotten citizens were also those most likely to be affected by the robotisation of industrial production, which constitutes a disproportionately large share of the economy.

In a development similar to that in other parts of Europe, the language of dissatisfaction has taken on a pronouncedly identitarian aspect. As a result, even economic concerns are often expressed in the language of cultural difference (“Muslim refugees taking our jobs”, “gender ideology of the rich liberals in Prague”, etc.). Although the religious divide had been fairly marginal for a long time, it has recently re-emerged as the Czech Catholic Church seems to have become a haven for the most conservative, homophobic, anti-EU, and counter-emancipatory elements in the society. Hence, religious language is often used by religious leaders to justify the refusal to accept refugees, or to attack “perverse gender ideology”. In this respect, it does not make sense to differentiate between socio-economic and cultural/religious factors, as the latter are used to exploit the problems directly related to the former.

### 7.1.3 *Instruments to scrutinise the executive*

The Constitution gives the parliament strong powers to control the government. Among the many instruments for this, three stand out: votes of confidence and no confidence, investigating commissions, and parliamentary interpellations of government members.

The most important of these are the vote of confidence and the vote of no confidence. Every new government has to go before the lower chamber of the parliament, asking for their confidence (article 68). Several governments in recent history have not received the confidence of the Chamber (such as the government of Jiří Rusnok and the first government of Andrej Babiš). However, as the Constitution does not set precise time limits for steps after the failure of a vote of confidence, policymakers, in particular President Miloš Zeman, have experimented with maintaining governments without parliamentary confidence in office. The complementary instrument is the vote of no-confidence (article 72). However, this instrument is used rarely. In fact, only one government fell following a vote of no confidence (the government of Mirek Topolánek in 2009). While the no confidence vote is regularly invoked by the parliamentarians, it is typically called for by opposition deputies who lack the sufficient numbers.

Another tool of parliamentary control available to parliamentarians is the investigating commission, which may be established if at least forty deputies agree on its creation (article 30). Investigating commissions have been established frequently, over 20 of them in the last 25 years. Most focus on economic matters and the involvement of political actors. In the last ten years, however, the commissions have also increasingly started to investigate issues related to the police and the prosecutor's office, which indicates that there is a worrying development towards more attacks on the independence of these vital institutions.

The third important instrument is the possibility of interpellations. Article 38 of the Constitution states that

*The Constitution gives the parliament strong powers to control the government, of which three stand out: votes of confidence and no confidence, investigating commissions, and parliamentary interpellations of government members.*

members of the government are obliged to appear in person at a meeting of the Chamber, if it so resolves. The same applies to meetings of committees, commissions, or investigating commissions, in which case, however, a member of the government may have a deputy or another member of the government to appear in his stead if his personal participation has not been explicitly demanded.

Article 53 adds that

each Deputy has the right to interpellate the government or members of it concerning matters within their competence (...) Interpellated members of the government shall respond to an interpellation within thirty days of its submission.

As a result, members of the government have long tried to avoid oral interpellations, instead opting for the less confrontational written replies to interpellations. Their practical impact in the form of direct interactions between the deputies and the ministers is thus limited.

## **7.2 The EU dimension**

### ***7.2.1 EU affairs-related structures in the parliament***

The Czech Parliament set up its EU affairs structures during the pre-accession period. In the Chamber, the Committee for European Integration was set up in 1998, as was the European Integration Committee in the Senate. Following the EU accession, both committees were given their current respective names: the Committee on European Affairs (the Chamber) and the Committee on European Union Affairs (the Senate). Moreover, in the Senate the Committee on Foreign Affairs, Defence and Security also deals with the EU agenda but only as regards the Common Foreign and Security Policy (before the Lisbon Treaty it also examined third pillar dossiers). Article 10b of the Constitution envisages the possibility to set up a joint committee for the EU agenda of the two chambers. Nonetheless, such a joint body was never set up, although in the past there was a proposal for it by the Senate. Currently, the idea is for both chambers to have their own separate EU affairs committees.

Resolutions of the Chamber's Committee on European Affairs are considered to be resolutions of the whole chamber if the plenary does not decide to discuss and alter them thereafter. This contrasts with resolutions of the other mandatory committees among the seven committees that must be established after each election, which only have recommendatory status and have to be adopted, amended or rejected by the plenary. Creation of the Senate's EU committee is not mandatory. More importantly, its resolutions are not automatically taken as resolutions of the entire chamber but they have to be adopted, amended or rejected by the plenary. In any case, the EU affairs committees in both chambers play a crucial role as regards which documents may (and, in the case of the Senate, will) become the subject of the discussion of the plenary, and are thus the principal bodies of scrutiny of the EU agenda (Kovář and Sychra, 2018).

*Resolutions of the Chamber's Committee on European Affairs are considered to be resolutions of the whole chamber if the plenary does not decide to discuss and alter them thereafter.*

The EU affairs committees of both chambers have relatively low numbers of members compared to other committees. The role of the chairperson in each committee is crucial since she/he is instrumental in selecting documents to be discussed, deciding about the submission of dossiers to the plenary (i.e. in the Chamber), and setting the frequency of meetings. This crucial role is underlined by research showing that in the periods when the given chairperson was missing, the respective committee fell into significant inactivity (Král and Bartovic, 2010; Kuta and Němec, 2015). The committee in the Chamber meets less frequently than either the other committees or the Senate's committee, which has a roughly similar meeting frequency as the other committees. The EU affairs committees are supported in their day-to-day work by expert bodies. For the Chamber's committee, it is the Department of EU Affairs of the Parliamentary Institute. In the Senate, it is the EU Unit of the Foreign Relations Department of the Senate's Chancellery.

### 7.2.2 *The second-order character of EU affairs in the parliament*

The parliamentary debate on the EU agenda at the plenary meetings does not attract significant interest either from deputies or political parties at large. Deputies are not much interested in EU issues and usually do not pay much attention to them. While parties and parliamentarians can use the existing procedures to scrutinise government handling of EU issues and to deliberate upon them, this does not really happen. The use of these instruments depends on their deployment by individual deputies (Kuta, 2015). For Czech parties, the EU agenda is still a second-order issue (Kovář and Hendrych, 2015). In particular, the Chamber's plenary plays an extremely limited role in scrutinising the actions of the executive at the European Council meetings. No discussion is regularly held after the summits, the mandate is not discussed beforehand and the plenary does not possess a legal mandate.

In 2010, the Chamber established a fixed EU affairs section in the plenary programme, which serves to discuss an EU agenda if such an agenda is submitted to the plenary. While the Chamber's EU affairs committee may propose an EU agenda to be discussed at the plenary, the number of EU dossiers submitted remains quite low, slightly less than a half dozen annually. Moreover, if EU issues are submitted to the plenary, often only members of the EU affairs committee participate in the discussion (Kuta, 2015). Usually the resolutions adopted by the plenary are the same as previously adopted by the EU affairs committee, which underlines the limited role played by the plenary. Finally, there is a quantitative difference in terms of the intensity of EU affairs discussion between the two chambers. While the Chamber primarily focuses on domestic political issues and EU issues are very rarely debated in plenary, the Senate tends to focus on the EU agenda more intensively (Král and Bartovic, 2010).

The low level of parliamentary interest in EU affairs is explained by several factors. First, with low interest in EU affairs among the general public and media, focusing on EU issues does

not bring electoral benefits, making them less attractive for parliamentarians and decreasing their willingness to invest in politicising EU issues. Moreover, the current chairman of the Chamber's EU committee argues that EU agendas are often very urgent so there is not enough time for a plenary discussion and the EU affairs committee can speak for the entire chamber (Kuta, 2015; Kuta and Němec, 2015).

*With low interest in EU affairs among the general public and media, focus on EU issues does not bring electoral benefits. This makes them less attractive for parliamentarians and decreases their willingness to invest in politicising EU issues.*

The lower activity of the Chamber's plenary is explained by the fact that its EU affairs committee speaks for the whole chamber. Therefore, there is no necessity for EU issues to be submitted to the plenary. In the Senate in contrast, a plenary vote is required for a resolution to be adopted and thus EU issues are discussed there more often. Moreover, unlike in the case of the Senate, there is a constitutional link between the government and the Chamber, and hence the Chamber leaves more leeway for the government to deal with the EU agenda, according to its division between government and opposition deputies. The government majority in the Chamber has an interest in preventing any discussion of EU issues that stem from the opposition and/or those that can create problems for the government (i.e. exposing division and/or decreasing public support).

### **7.2.3 Mobilisation of EU issues: lacking an EU dimension**

The mobilisation of EU issues in the parliament is best characterised by a dominance of national over EU politics. Generally speaking, politicians debate EU issues predominantly from national points of view and frame the debate in domestic political terms. The parliamentary debate on EU affairs thus underlines the general trend in Czech EU policy: EU affairs are often seen as something detached where the EU is perceived as external to Czechia rather than being perceived as an integral part of Czech representative politics.

At the same time, EU issues are not among the important determinants of parliamentarians' behaviour. Deputies' behaviour in parliament is primarily determined by their government/opposition status and, secondarily, by their party's ideological position. Regarding the EU affairs committees, party affiliation and, in particular, the party's government/opposition status still determine parliamentarians' voting behaviour, and the committees therefore remain firmly within the parties' control. Moreover, EU issues are rarely politicised during committee deliberations beyond party affiliation and government/opposition status. Similarly, party membership and government/opposition status are the main determinants of voting behaviour at the plenary. In other words, it is primarily the party's current position in the system that influences how its deputies will vote upon and deliberate the EU agenda. While the EU agenda is more politicised at the plenary, this is usually not related to the specifics of the given dossier but rather relates to the clash between government and opposition. In general, EU issues are raised based on domestic politics, and political parties prioritise loyalty to the government/opposition over substantive stances towards EU issues (Kuta and Němec, 2015; Strelkov, 2015).

#### ***7.2.4 EU topics discussed in the parliament***

The EU-related topics discussed naturally vary depending on the context of the current EU agenda and Czech priorities. Recently, these have included, in particular, migration, Brexit, security policy, the multi-annual financial framework, economic and monetary union, the road traffic legislative package and institutional issues. The positions of both chambers on the individual substantive issues are, in general, in line with the positions of the Czech government.

The character of the parliamentary debate on EU themes partly changed after the parliamentary elections in October 2017, following the dominant victory of the EU-critical ANO movement and the significant gains of the anti-immigration SPD movement led by Tomio Okamura. Despite its lower electoral gains, the Eurosceptic Communist Party strengthened its influence through its support for the minority government of Andrej Babiš. Against this background, the lower house began to criticise the EU more often. The most discussed topic has been migration/asylum policy, which

has been an obsessive element of the EU debate for several years. Czech MPs also advocate a much greater involvement of national parliaments in the EU agenda such as in the EU reform process, the legislative procedure or decision-making within the economic governance of the economic and monetary union (Kovář and Sychra, 2018).

### ***7.2.5 EU-related motions of censure***

So far there have been no EU-related motions of censure in the parliament, which reflects the fact that the EU agenda has a limited impact on parliamentary business. Moreover, party stances towards the EU do not play an important role in the government formation process. In fact, in the past government coalitions have been formed from ideologically significantly distant parties in terms of their positions on the EU dimension. The EU dimension is thus a fairly unimportant policy topic for parliamentary business, and parties exclude it from the political bargaining of coalition politics.

### ***7.2.6 Expertise on EU affairs***

A crucial condition for quality parliamentary scrutiny of EU affairs and representation in EU politics is the availability and use of expertise. Unfortunately, the low interest in EU politics of Czech parties/parliamentarians means that even in cases in which expertise is available it is rarely used. Internally, Czech political parties are little interested in the EU agenda. They do not build systematic structures to ensure intra-party EU expertise and have only a very limited number of expert staff at their disposal. The parties also lack embedded functional processes that could handle EU issues on a routine basis. This leads to the lack of an expert background and skills to deal with EU issues (Kovář and Hendrych, 2015).

Membership of the EU affairs committees is seen as a last resort by parliamentarians if they cannot become members of other committees and therefore only a few heavyweights join their ranks. This indicates that the EU agenda is considered to be a non-issue in the parliament (Král and Bartovic, 2010; Strelkov, 2015).

***Membership of the EU affairs committees is seen as a last resort by parliamentarians if they cannot become members of other committees.***



The low profile of the EU committees means that their membership is not generated on the basis of EU expertise. Moreover, the far-reaching range of specific sectoral dossiers that the EU committees have to deal with, together with the low number of EU agenda experts in political parties makes it difficult to draw members with relevant and sufficient expertise.

In an ideal case, the EU affairs committees would consist of members with a special expertise in (a) particular EU policy area(s) for which they would serve continuously as rapporteurs. Over time, it would cultivate their expertise in the given policy area(s) and increase the expert basis of the committee's work. In fact, this is the case in the Senate's committee and it may partly explain why its committee is more active in scrutinising the EU agenda. However, the reserve of expertise in the political parties and the profile of the EU affairs committees would have to increase for this to become a usual practice. The lack of expertise within the EU affairs committees is partly alleviated by the possibility to submit any EU dossier for consideration to another sectoral committee. While the Senate's committee – whose members are more specialised in specific EU policy areas – regularly submits dossiers to other sectoral committees, this practice is not prevalent in the Chamber's EU affairs committee (Král and Bartovic, 2010).

Moreover, information is exchanged between parliamentarians in different committees mainly along party lines, not official committee lines, which further undermines the role of EU-related expertise. Also, there is a rather low inter-party dialogue on EU affairs, not only within each chamber but also between the two chambers (Strelkov, 2015). The two EU affairs committees have more or less regular contacts, in particular to deal with issues of mutual interest, but there is no permanent structured cooperation between them (Král and Bartovic, 2010). The members of the EU committees also have a relatively low impact on the remaining parliamentarians. Given the low general interest in EU affairs among backbenchers, one would expect members of the EU affairs committees to have influence on members of their party groups. Members of the EU affairs committees nevertheless have a quite limited impact on how each party votes as a whole on EU affairs (Kuta, 2015).

## 7.3 Influence of EU politics on national political realities

### 7.3.1 *Level of (dis)alignment with political groups in the EP*

Party groups in the EP show a high degree of cohesion (Hix, et al., 2007) and this also applies to Czech MEPs. The 21 Czech MEPs (a relatively low number) are distributed across six political groups (in the 2014-2019 term), which dramatically limits the possibilities for an effective unified national position. Also in terms of political influence and committee chairing, Czech MEPs prefer cooperating within political groups as these are clearly more effective.

Across political parties, Czech MEPs evince a high level of Europeanisation, which again is a common trait among MEPs irrespective of their nationality. In this sense, MEPs constitute autonomous units in their national political parties, being heavily influenced by the EU's context and, on the other hand, having a limited impact on national policymaking. In a sense, Czech MEPs who disagree with their parties' critical attitudes towards the EU are sometimes even seen as dissidents

within their own parties. In fact, the MEPs often present a more complex picture of EU policies and their attitude is more constructive (Klekner, 2017). The MEPs from ANO are a typical example, frequently serving as a counterweight to their party

colleagues and, in particular, their own chairman Andrej Babiš. These two levels – the EU and the national – are often in such an irreconcilable conflict that two ANO MEPs left the movement: the Vice-President of the EP Pavel Telička and MEP Petr Ježek (ČTK, 2017; 2018).

*Czech MEPs who disagree with their parties' critical attitudes towards the EU are sometimes even seen as dissidents within their own parties.*

This phenomenon is related to the interesting question of the values and programmatic compatibility of the ANO movement with its political group in the EP, which differs from those of other Czech political parties and their European families. ANO entered the ALDE group as a new political movement founded on liberal principles and a pro-European attitude, and in favour of deeper

integration. The further development of ANO after 2014, however, shows a shift from the positive view of European integration towards catering to some of its more Eurosceptic voters. Although a considerable programmatic overlap still exists between them (mainly regarding economic liberalism), Andrej Babiš's statements have become increasingly incompatible with ANO's official programme. Babiš has moved to a generally critical tenor towards the EU, and in his case, European integration does not serve as an object of identification, but of 'othering'. Migration is a typical example of a topic where Babiš claims that Czech values are different from European ones. Even in a broader perspective, ANO's value orientation significantly differs from the values of ALDE, where human rights and the rights of minorities are staunchly defended. ANO's ALDE membership is thus today a somewhat declaratory choice that does not match ANO's real ideological position. It is the dissenting position of ANO's MEPs and their compliance with ALDE's views that make the continued membership of ANO in ALDE possible.

### ***7.3.2 The 2019 EP elections: promoting the EU dimension***

There is a weak link between Czech parties and the political groups in the EP. Czech MEPs are more likely to act as a useful liaison with their political parties in Brussels than as representatives of their political groups. In the national media, their activity is rarely presented in the context of belonging to their political faction, and it is almost invisible in terms of promotion of the political group.

*There is a weak link between Czech parties and the political groups in the EP.*

The affiliation of MEPs to the national political party is key, while the political group is seen as secondary. The political parties are not even trying to build systematic relationships with their political groups. The link is most visible in the conservative ODS, which seeks to promote its 'new' ECR group (originally part of the EPP) and thus strengthen its influence in the EP, together with the British Conservatives, who have made up the largest contingent in the ECR. Brexit represents a striking blow to this strategy and the position of ODS in the EP in the future.

The weakness of this interconnection results from the pragmatic nature of their choice. This is further complicated by two

related factors. First, European politics represents an area that polarises the euro-sceptic public. Second, the EP represents a highly pro-integration institution that pushes forward the development of many EU policies. Therefore, much of its output is not perceived very positively by parts of the public. The political parties took this ambivalent character of the Czech relationship to the EU into account in the previous EP elections (Negrine, et al., 2011) and they will undoubtedly do so again in the electoral campaign in 2019. Although the political parties declare the European elections “important”, European politics is now a means for parties – especially the smaller pro-European parties – to define themselves against the ANO movement.

The *Spitzenkandidaten* do not play any part in the campaign. For the media, the issue is fairly marginal, and neither do the political parties emphasise it. Only the MEPs sometimes refer to it. This logically attracts only minimum attention from the public. Surveys show, nevertheless, that the relationship of the Czechs to the *Spitzenkandidaten* system is not directly negative, but that Czechs do not link it to the deepening of democracy in the EU (Table 7.1). On the other hand, the 2019 elections create an interesting situation as the Czech MEP Jan Zahradil (ODS) is the ECR candidate for the post of Commission President. Theoretically, this could lead to greater popularity of the concept. Yet, the position of the ECR leader is paradoxical. He has refused the *Spitzenkandidaten* system, and the ECR is participating in it (for the first time) just for pragmatic reasons: namely its own promotion and broader presentation in the media (Bednářová, 2018).

Table 7.1 Opinions on lead candidate procedure

QA13.1 To what extent do you agree or disagree with each of the following statements regarding this process of electing the President of the European Commission depending on the results of the European Parliament elections?		Total 'Agree'	Total 'Disagree'	Don't know
It only makes sense if it is accompanied by a real debate about European issues and the future of the EU	CZ	66	20	14
	EU 27**	70	15	15

It brings more transparency to the process of electing the President of the European Commission	CZ	49	35	16
	EU 27**	63	22	15
It represents significant progress for democracy within the EU	CZ	45	40	15
	EU 27**	61	24	15
It gives more legitimacy to the European Commission	CZ	50	35	15
	EU 27**	60	23	17
It prevents Member States' governments from choosing the best candidate for the job	CZ	38	40	22
	EU 27**	46	33	21
It has no real impact, it does not change much	CZ	55	33	12
	EU 27**	45	39	16

\*\*Basis EU27 (This 2 question was not asked in the UK).

Source: data from (Eurobarometer 89.2, 2018).

## 7.4 Influence of the national parliament on EU politics

### 7.4.1 Parliamentary input into the decision-making

National parliaments can, within the Political Dialogue (PD), give comments and feedback on Commission proposals by submitting opinions. The Commission also uses the PD to respond to reasoned opinions received under the Early Warning System (EWS) when the thresholds for triggering the 'yellow' or 'orange card' procedures have not been met. The experience with the PD so far shows that the Czech parliament ranks among the most active parliaments (Kovář and Sychra, 2018). Indeed, Czech parliamentarians clearly see the framework as one of the most efficient ways to influence Commission proposals. Table 7.2 shows that there are important differences between the two chambers of the Czech parliament. While the upper chamber is one of the most active chambers, the lower house is ranked at about the EU average in this respect (Kuta and Němec, 2015).

In the period 2007-2015, the Czech Parliament submitted the highest number of opinions within the PD out of all the parliaments (Raffaj and Kovář, 2016). When looking at temporal trends, it is evident that there has been a steep increase in the number of opinions submitted by the Czech Senate between 2007 and 2013. Since 2013 the number slightly decreased and has stagnated ever since (probably owing to the lower number of Commission proposals). In the initial years the lower house did not exhibit much interest in the PD: until 2015, it never submitted more than ten opinions. Since then, however, the Chamber's activity in this regard has been on an upward trend.

*Table 7.2 Opinions submitted within the PD (2006-2017)*

	<b>Lower Chamber</b>	<b>Upper Chamber</b>	<b>Total</b>
<b>2006</b>	<b>1</b>	<b>2</b>	<b>3</b>
<b>2007</b>	<b>0</b>	<b>9</b>	<b>9</b>
<b>2008</b>	<b>1</b>	<b>11</b>	<b>12</b>
<b>2009</b>	<b>1</b>	<b>27</b>	<b>28</b>
<b>2010</b>	<b>3</b>	<b>29</b>	<b>32</b>
<b>2011</b>	<b>5</b>	<b>43</b>	<b>48</b>
<b>2012</b>	<b>10</b>	<b>46</b>	<b>56</b>
<b>2013</b>	<b>8</b>	<b>64</b>	<b>72</b>
<b>2014</b>	<b>5</b>	<b>41</b>	<b>46</b>
<b>2015</b>	<b>10</b>	<b>25</b>	<b>35</b>
<b>2016</b>	<b>19</b>	<b>46</b>	<b>65</b>
<b>2017</b>	<b>17</b>	<b>53</b>	<b>70</b>
<b>Total</b>	<b>80</b>	<b>396</b>	<b>476</b>

*Source:* European Commission, 2018.

The experience of both chambers with the EWS shows that, based on the number of submitted reasoned opinions, the Czech parliament ranks closely below the EU average (Raffaj and Kovář, 2016). While the most active parliament, the Swedish Riksdag, has submitted over sixty reasoned opinions, the Czech lower chamber submitted ten and the upper house eight (see Table 7.3).

Nevertheless, the number of submitted reasoned opinions of the Czech parliament causes both of its chambers to be ranked among the most active parliaments from the Visegrad (after the Polish Sejm). Overall, the parliaments of the states that joined the EU after 2004 submit fewer reasoned opinions than the parliaments of other countries. Also, there is an increasing trend in the number of reasoned opinions submitted by both chambers. Finally, there is a relatively wide dissatisfaction with these platforms in both chambers. The related objections and possible improvements are discussed regularly in both chambers' EU committees (Kovář and Sychra, 2018).

*Table 7.3 Reasoned opinions submitted within the EWS (2009-2017)*

	<b>Lower Chamber</b>	<b>Upper Chamber</b>	<b>Total</b>
<b>2009</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>2010</b>	<b>1</b>	<b>1</b>	<b>2</b>
<b>2011</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>2012</b>	<b>1</b>	<b>0</b>	<b>1</b>
<b>2013</b>	<b>1</b>	<b>2</b>	<b>3</b>
<b>2014</b>	<b>1</b>	<b>1</b>	<b>2</b>
<b>2015</b>	<b>1</b>	<b>1</b>	<b>2</b>
<b>2016</b>	<b>4</b>	<b>3</b>	<b>7</b>
<b>2017</b>	<b>1</b>	<b>0</b>	<b>1</b>
<b>Total</b>	<b>10</b>	<b>8</b>	<b>18</b>

*Source:* (European Commission, 2018).

#### **7.4.2 Teaming up with other national parliaments?**

Formally, the Czech parliamentarians are well represented in international inter-parliamentary bodies. They are members of the Inter-Parliamentary Union and the NATO Parliamentary Assembly; there is also the Permanent Delegation to the Parliamentary Assembly of the OSCE, the Permanent Delegation to the Parliamentary Assembly of the Council of Europe as well as the Central European Initiative. Within the EU, the parliament

participates in joint Parliamentary Meetings, the Conference of Speakers of the EU Parliaments and the Conference of Parliamentary Committees for Union Affairs of Parliaments of the EU. However, none of these bodies is particularly visible in the public sphere, nor are there any recent political activities with Czech involvement on their part that are discussed in the media.

The Czech Parliament's cooperation with other parliaments within the EU varies considerably. A more intense formal parliamentary cooperation exists with neighbouring countries and especially in the format of the Visegrad. Also, delegated deputies regularly attend the meetings of COSAC. However, while COSAC meetings were discussed more intensely during the Czech EU Presidency in 2009, COSAC is currently almost invisible.

## Conclusion

In response to the question about how functional the Czech representative model is and how it contributes to the EU's dynamics, the answer is twofold. Overall, one can argue that the Czech representative model is relatively functional at the national level when it comes to domestic political issues. However, it is clearly separated from the European level and its ability to intervene in EU politics is limited; the interactions between the two levels are inefficient and full of misconceptions. This incompatibility not only causes problems in promoting Czech interests in the EU, it also has a significant impact on the perception of European issues in the Czech Parliament, especially in the Chamber. As a result, the EU-related questions remain second-order issues. If they become relevant, they are discussed exclusively in terms of their impact on the national political agenda and remain cut off from the wider European context. This is also due to the absence of a deeper EU expertise within the political parties, which is often only provided by the parties' MEPs whose positions and influence within the parties are limited. Under these conditions, the extremely low turnout in the EU elections and the Eurosceptic public mood is not surprising at all. The result is a considerable paradox: while Czech politicians continuously call for a greater involvement in EU policy, the established model undermines these efforts from the very beginning.



## References

- Bednářová, L. (2018), "Chci kandidovat na šéfa Evropské komise, způsob volby ale budu kritizovat dál", *Info.cz*, 23 August.
- ČTK (2017), "Telička končí v hnutí ANO, neshodl se s Babišem na zahraniční politice", *Aktualne.cz*, 11 October.
- ČTK (2018), "Europoslanec Ježek končí spolupráci s ANO, kvůli názorovým rozdílům", *Ceskenoviny.cz*, 23 January.
- Eurobarometer 89.2 (2018), "Democracy on the Move - European Elections: One Year to Go" (<http://www.europarl.europa.eu/at-your-service/en/be-heard/eurobarometer/eurobarometer-2018-democracy-on-the-move>).
- European Commission (2018), "Annual Reports on Relations with National Parliaments", 15 October ([http://ec.europa.eu/info/law/law-making-process/adopting-eu-law/relations-national-parliaments/annual-reports-relations-national-parliaments\\_en](http://ec.europa.eu/info/law/law-making-process/adopting-eu-law/relations-national-parliaments/annual-reports-relations-national-parliaments_en)).
- Hix, S., A. Noury and G. Roland (2007), *Democratic Politics in the European Parliament*, Cambridge: Cambridge University Press.
- Klekner, R. (2017), "'Evil' Brussels vs. 'Good' Prague: Czech MEPs Want to Change EU's Image", *Euractiv.com*.
- Kovář, J. and L. Hendrych (2015), *Jak české politické strany pracují s unijními tématy*, Prague: Evropské hodnoty, o.s.
- Kovář, J. and Z. Sychra (2018), "The European Dimension of the Czech Foreign Policy: Ambivalent Position of the Reluctant European", in A. Kizeková (ed), *Czech Foreign Policy in 2017: Analysis*, Prague: Institute of International Relations.
- Král, D. and V. Bartovic (2010), *The Czech and the Slovak Parliaments after the Lisbon Treaty*, Prague: Europeum.
- Kuta, M. (2015), "Party Politics Triumph over Substantive Scrutiny and Principled Policy: Examining Czech MPs' Voting Behaviour in EU Affairs Scrutiny", *New Perspectives*, Vol. 23, No. 1, pp. 97–126.
- Kuta, M. and J. Němec (2015), "The Character of Membership as a Determinant of Different Performance? An Exploratory Analysis of European Affairs Committees of the Czech Parliament", *Contemporary Europe*, Vol. 20, No. 1, pp. 67–84.
- Negrine, R., V. Stetka and M. Fialová (2011), "Campaigning in but Not for Europe: European Campaign Strategies in the UK and the Czech Republic", in M. Maier, J. Strömbäck and L.L. Kaid (eds), *Political Communication in European Parliamentary Elections*, Farnham: Ashgate.

- Raffaj, I. and J. Kovář (2016), *Využívání principu subsidiarity národními parlamenty a jejich zapojení do rozhodovacího procesu EU*, Praha: Evropské hodnoty, o.s.
- Strelkov, A. (2015), "Who Controls National EU Scrutiny? Parliamentary Party Groups, Committees and Administrations", *West European Politics*, Vol. 38, No. 2, pp. 355–374.



## 8. HOW FUNCTIONAL IS THE DANISH REPRESENTATIVE MODEL AND DOES IT INTERACT WITH EU DYNAMICS?

MAJA KLUGER DIONIGI

---

*Denmark is often perceived as the odd one out in the EU due to its opt-outs and ostensibly Eurosceptic population. At the same time, when it comes to the implementation of EU directives and its mandate-based EU scrutiny system, the country's record is unmatched. Denmark's tradition of minority governments has increased the role of parliamentary actors because the government is forced to rely on support from opposition parties to establish parliamentary majorities for its EU positions. In practice, however, Denmark might not be the textbook example of parliamentary control, as the Parliament often gets involved too late in the process and few parliamentarians are active on EU-matters.*

*This chapter examines formal and informal aspects of the role of the Danish Parliament in EU affairs. It does so by shedding light on Danish parliamentarians' formal and de facto role in Denmark and in the EU.*

### 8.1 Danish EU scrutiny - a textbook example?

The Danish Parliament is known for keeping a tight leash on its government when it comes to EU matters. In academic rankings of parliamentary strength in EU affairs, Denmark typically ranks highest and is often used as a textbook example of parliamentary EU scrutiny (e.g. Auel, Rozenberg and Tacea 2015; Winzen 2012).

The Danish Parliament was the first one in the EU to introduce a mandate-based system, where ministers need to gain support for the government's EU positions in the European Affairs Committee (EAC) ahead of Council meetings. This scrutiny model

has been a source of inspiration for countries joining the EU later on, such as Finland and Estonia.

The Danish mandate-based system was established immediately after Denmark's accession to the EU in 1973. It is a rather informal system, which is neither transcribed in law nor mentioned in the Danish Constitution. Instead, it consists of political agreements between the government and the EAC, described in a series of EAC reports. As political agreements can be more easily altered than laws or the Constitution, the system ensures flexibility and allows the work of the EAC to adapt to EU developments. This has been particularly important in recent years, where the Danish scrutiny model has been challenged by new developments, such as the rise of informal EU decision-making (trilogues) and new governance mechanisms (e.g. the European Semester). The EAC members have played a crucial role in developing the committee's ability to hold the government to account, for instance by determining the type of information received from the government (Christensen, 2015).

The Danish government is only obliged to obtain a mandate from the EAC ahead of Council-meetings on decisions of 'major significance'. It is the prerogative of the government to decide which cases are of major significance. The EAC convenes with the relevant ministers on the Friday before a Council meeting and goes through the forthcoming Council agenda on a point-by-point basis. Ministers must present all items on the agenda that the government considers to be either of 'considerable importance' or 'major significance' – the EAC must be informed of the former and give a mandate on the latter. After the ministers' presentation, members may ask questions.

Voting on the mandate rarely takes place. Instead, the committee chair will confirm that there is no majority against the government's mandate. The mandates are given orally. It is rare for the government not to win support for its position. This does not mean that EAC-members have little influence on the government's position, but rather that their views are anticipated by the government ahead of the meetings.

What makes the Danish EAC particularly strong in EU affairs is not the mandate-based system alone, but the frequent minority governments in Denmark. This makes it virtually impossible for governments to ignore Parliament. The government must take the opinions of both the governing and opposition parties into account to ensure that it does not have a majority against its positions.

*What makes the Danish EAC particularly strong in EU affairs is not the mandate-based system alone, but the frequent minority governments in Denmark.*

Despite the Danish Parliament's reputation as a robust scrutiniser of EU affairs, the practical workings of the mandating system have several shortcomings, most notably:

- The centralisation of EU matters within the EAC implies that the expertise of the sectoral committees is not brought into play.
- EU debates are depoliticised as the government often secures the necessary majority ahead of EAC meetings.
- Recent EU developments, such as early agreements and the European Semester, challenge the Danish EU mandate-based system.

Each of these aspects will be elaborated further below.

### **8.1.1 Centralisation of EU matters**

The mandating system concentrates the powers in the EAC and gives a less prominent role to other parliamentary bodies, such as the plenary and sectoral committees.

Plenary involvement on EU matters is rare as the EAC is authorised to speak on behalf of full Parliament.

The plenary is usually only consulted when treaties need to be ratified and directives implemented. All parliamentarians can refer an issue

to the plenary, either through interpellations or so-called Article 20 questions (Article 20 of the Danish Constitution) – both of which concern putting formal questions to a minister to gain information

*The mandating system concentrates the powers in the EAC and gives a less prominent role to other parliamentary bodies.*

or to foster debate in Parliament as a whole. Interpellations on EU matters and Article 20 questions are, however, used infrequently and account for about 10% of all parliamentary questions (Sousa, 2009).

Unlike other mandate-based EU scrutiny systems (such as the Swedish Parliament), the involvement of sectoral committees in the Danish Parliament is rather sporadic. The EAC remains the main and often sole forum for discussing EU matters. It is the prerogative of the EAC to ask sectoral committees for opinions on EU legislative proposals, green or white papers.

Since 1994, EU memoranda from the government to the EAC are concurrently sent to the sectoral committees. This means that these committees are informed and can decide to issue a statement to the EAC. It is, however, the EAC that has the final say on EU matters and the right to issue opinions on behalf of Parliament. The lack of automaticity in involving sectoral committees means that their expertise is not used to the full.

The centralisation of EU scrutiny in the EAC also has implications for the type of politics that occurs in the Danish Parliament on EU affairs. Whereas most other committees are characterised by a clear left-right divide and less stable coalitions, the EAC has stable coalitions and does not follow the traditional left-right cleavage. The main conflict line in the EAC is between the parties for versus against more EU integration. This is not necessarily a shortcoming, but shows that a very different political dynamic is at play in the EAC than in the rest of the Danish Parliament.

### ***8.1.2 EU debates are depoliticised***

The relationship between the government and opposition changes in the EAC because the government usually enjoys support from Parliament's pro-EU groups (often referred to as the yes-parties). The yes-parties comprise the Social Democrats, the Liberal Party, the Conservative People's Party, Socialist People's Party, and the Social Liberal Party.

The consensus among the pro-EU parties is surprising given that EU integration has been and still is contentious for many Danish parties and has been a cause of internal conflict. It is,

therefore, interesting that internal party conflict on EU affairs is not reflected in the behaviour of the EAC members (Damgaard and Jensen, 2005). This suggests that these parties value solidarity to further Danish interests in the EU rather than let internal party politics get in the way of Denmark's ability to exert influence in the Council (Christensen 2015; 2016).

The Danish government usually secures a majority from the pro-European parties ahead of the EAC meetings, which contributes to depoliticising EU debates in the EAC. The mandate is de facto given behind closed doors ahead of committee meetings. This makes the debates in the EAC rather theatrical and puts a cap on the ability to have an open and genuine debate on EU issues during committee meetings.

*The Danish government usually secures a majority from the pro-EU parties ahead of the EAC meetings, which contributes to depoliticising EU debates in the EAC.*

Consequently, the most active members in the EAC meetings are fringe parties. Those who challenge the government's position in the EAC (which could be termed the real opposition) are the two most Eurosceptic parties in the Danish Parliament: the Danish People's Party and the Unity List.

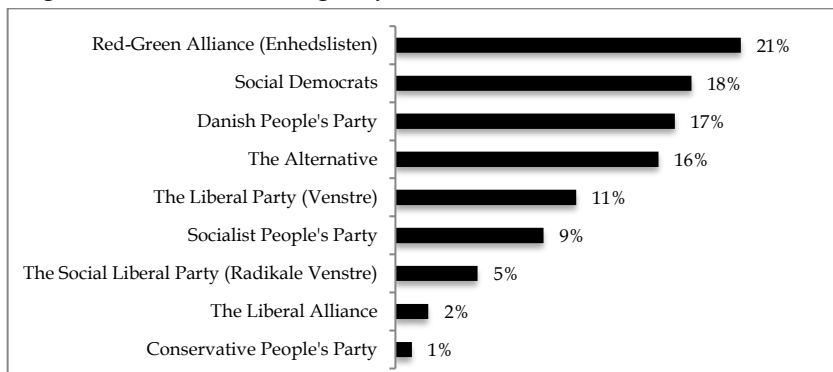
Figure 8.1 shows how often parliamentarians from different parties take the floor (out of everyone taking the floor) during EAC meetings between September 2015 and August 2018. A clear picture emerges: the two most Eurosceptic parties in the Danish Parliament (the left-wing Red-Green Alliance and the right-wing Danish People's Party) are among the most active parties in the EAC. Even though the Red-Green Alliance only has one member of the EAC, it is the most active party in the EAC.

*The two most Eurosceptic parties in the Danish Parliament are among the most active parties in the EAC.*



Figure 8.1 Party activity in the Danish EAC

How often party representatives<sup>1</sup> take the floor, 4 September 2015 and 28 August 2018 (N=726 taking the floor in total)



Note: The head of the EAC and the members from Greenland and the Faroe Islands are excluded.

Source: Think Tank Europa's own compilation.

The Social Democratic Party has the second highest activity score, which is unsurprising given that it is the largest parliamentary party, with seven EAC members and the main opposition party. Even though the government often secures the support of the Social Democratic Party ahead of EAC meetings, its party members still feel the need to assert themselves in the meetings.

The governing parties – the Liberal Party, Liberal Alliance, and the Conservative People's Party – take the floor to varying degrees. The Liberal Party (the biggest governing party) ranks middle, while the two remaining small governing parties are at the very bottom. Perhaps the Liberal Alliance and the Conservative People's Party feel that their voices are already heard and therefore have less of a need to take the floor. However, their inactivity masks the ideological differences between them. The Liberal Party wants to move Denmark as close to the EU core as possible and to abolish the Danish EU opt-outs. The Liberal Alliance, however, wants to

<sup>1</sup> The number of seats of each of the parties in the EAC is as follows: Social Democrats (7), the Liberal Party (6), Danish People's Party (6), Red-Green Alliance (3), Liberal Alliance (2), The Alternative (2), The Social Liberal Party (1), The Liberal Alliance (1), and Conservative People's party (1).

maintain Denmark's euro opt-out and has an unclear position on the other opt-outs. Before entering into government in 2016, it was a soft Eurosceptic party that wanted to reinvent the EU based on free trade. The party also advised Danish voters to vote against changing the Danish opt-out in justice and home affairs to an opt-in model in the referendum in December 2015. After entering into government, the party appears to have moderated its public criticism of the EU.

The most pro-European party in Parliament – the Social Liberal Party – is also one of the least active parties in taking the floor during EAC meetings, probably because its views are reflected in the government's mandates.

A common complaint from EAC chairs is that only few parliamentarians show up to the meetings in the EAC other than the parties' spokespersons. This is seen to be a combination of a busy parliamentary agenda, in which EU matters are not prioritised (Bræmer, 2014).

The broad pro-EU consensus in the Danish EAC does not mean that the Eurosceptic parties' voices are not heard. The Danish People's Party is a supporting party in the Danish minority government and has an indirect influence on the government's EU views. For example, the major governing party, Venstre (the Liberal Party) moderated its public enthusiasm for further EU integration after it became dependent on the Danish People's Party for support. The Danish People's Party has had an indirect but profound effect on the Liberal Party's view on immigration and refugees (such as refugee burden-sharing in the EU). Before the Liberal Party came to power in June 2015, it announced that it wanted to place Denmark as close to the core of the EU as possible. After 2015, the party has not used this rhetoric publicly. At the same time, Prime Minister Lars Løkke Rasmussen has been vocal in reiterating that he does not want to enter into government with a party (i.e. the Danish People's Party) that advocates a referendum on Denmark's EU membership.

### *8.1.3 Challenges to the Danish model*

The increase of early agreements in the EU challenges the Danish EU scrutiny model. Early agreements are concluded at first reading or early second reading during the ordinary legislative procedure and the compromise is reached during trilogue meetings (Dionigi

and Koop, 2017). The work of the EAC has traditionally focused on mandating the government prior to Council meetings, which is

*The increase of early agreements in the EU challenges the Danish EU scrutiny model.*

often too late if the Danish Parliament wants to influence the Council's position and the compromise between the institutions.

The Danish EAC has tried to adapt its scrutiny model to the increase of early agreements by introducing the possibility of giving an early mandate, where ministers must seek a mandate from the EAC before the Danish position is firmly established. In these cases, the government may need to come back to the EAC later in the process to seek a new mandate if the proposal changes fundamentally during EU negotiations. The problem with early mandates is that they give the government a lot of discretion because they are very loosely defined (Jensen and Martinsen, 2012). Despite all the good intentions, the EAC is often involved either too early in the EU's decision-making process to tie the hands of the government (and ministers may forget to come back for a renewed mandate later in the process), or too late to change the compromise in the Council (Christensen, 2015).

In 2015, the EAC asked the Danish Ministry of Foreign Affairs to provide an overview of when the mandates are sought from the EAC. This request came about because the EAC chairman at the time was concerned about the committee's late involvement in EU decision-making. The response from the government showed that 25% of all parliamentary mandates were given less than a week before negotiations in the Council at ministerial level in the period between 2010 and 2014. In some cases, the mandate was sought after negotiations had already started with the EP (Danish Ministry of Foreign Affairs, 2015).

Other EU developments, most notably the European Semester, sits uneasily with the Danish mandate-based model. The nature of the European Semester makes parliamentary oversight more difficult because of the mix of decision-making modes and the disembodiment of political authority. Because the European Semester follows an iterative step-by-step process, it is difficult to assess when significant decisions are taken and by whom (Dawson, 2015).

Initially, the Danish EAC, in collaboration with the Finance Committee, wanted the mandating system to apply to the European Semester, but the government disagreed. Indeed, it is difficult to see when a mandate should be given in the process. The annual growth survey, published by the Commission, does not entail any binding government negotiations. The national reform programmes (NRPs) and stability and convergence programmes (SCPs) are already based on national budgetary negotiations agreed by Parliament. The country-specific negotiations, adopted by the Council later in the process, are not binding on Denmark. It therefore makes little sense to go against them by refusing to give a mandate (Rasmussen, 2018).

The Danish Parliament had to introduce new levels of EU scrutiny in order not to lose out in the European Semester. The Parliament and the government agreed to make a new scrutiny procedure called the national semester, in which the EAC and the Finance Committee hold three joint annual consultations with the government to discuss the annual growth survey, the NRPs and SCPs, and the country-specific recommendations. Unlike the mandate-based model, the national semester looks more like a document-based system, where Parliament is informed but cannot bind the government (Rasmussen, 2018).

The introduction of the national semester as a new scrutiny model shows the flexibility of Denmark's EU scrutiny model. Because it is based on political agreements between the government and the EAC, it can easily be adapted to new EU developments.

## 8.2 Links to Members of the European Parliament

The link between the Danish Parliament and the European Parliament (EP) is not particularly strong. The only institutionalised contact between the Danish Parliament and the EP is a monthly meeting between the EAC and the Danish Members of the EP (MEPs). Contacts between MEPs and national parliamentarians from sectoral committees are uncommon and usually the result of personal relationships. This again underlines the centralisation of EU-matters in the EAC.

*The link between the Danish Parliament and the European Parliament is not particularly strong.*

Coordination between Danish MEPs and national politicians is further complicated by the fact that the Danish Parliament deals with the same cases much later than the EP. MEPs are involved from the very beginning of a proposal's life, whereas the Danish Parliament is often involved when compromises between the institutions have already been found (Christensen, Roederer-Rynning, and Scheelke, 2013).

At the level of political parties, the contact varies between national politicians and MEPs depending on the party in question and whether the party is in government or in opposition. Research on Danish national parties' link to their MEPs shows that the majority of MEPs from opposition parties are more or less left to themselves (see Christensen, 2015). The party at home does not generally seek to proactively influence their MEPs' voting behaviour when they are in opposition domestically. A different picture emerges from governing parties. Here the contact is much more frequent and the government makes sure that their MEPs toe the party line. MEPs from governing parties will often be in daily contact with Danish civil servants, particularly from Denmark's permanent representation to the EU, to be informed about the government's views on pending legislation. Often, MEPs from governing parties will receive voting instructions from the government on cases of special national interest (Christensen 2015; 2016).

The representation of Danish national parties largely mirrors the Danish Parliament, with the Social Democratic Party and the Danish People's Party also being the largest Danish parties in the EP. However, the Danish Liberal Party (Venstre) as the main governing party fared badly in the 2014-EP elections.

### **8.3 Teaming up with other national parliaments**

The introduction of the yellow- and orange card procedures with the Lisbon Treaty has not markedly changed the Danish EU-scrutiny system. The task of monitoring subsidiarity is a joint responsibility of the EAC and the sectoral committees. Every year the EAC selects a handful of proposals from the European Commission's annual work programme subject to subsidiarity checks. The sectoral committees do the initial consideration, while

the EAC is in charge of submitting a reasoned opinion, when deemed necessary, to the Commission.

Interviews with Danish EAC members show that they are sceptical about the usefulness of the early warning system (EWS) (see Christensen, 2015). This is partly because they view the procedure as cumbersome in terms of coordinating a common position between national parliaments within the eight-week deadline. Despite this, the first yellow card procedure (against the Monti-II legislative proposal) was instigated by the Danish EAC during Denmark's EU presidency in the first half of 2012. National parliaments wanted the issue of the right to strike to remain a national competence. The then Danish EAC chair used a COSAC meeting in Copenhagen to coordinate the initiation of the yellow card procedure. The pressure was paramount for the Commission's decision to withdraw its proposal. This suggests that the timing of COSAC-meetings and the entrepreneurship of an EAC-chairman to take the lead are crucial ingredients for the ability of parliaments to activate the yellow-card procedure.

In 2014, the Danish EAC published a report with 23 recommendations on how to strengthen the role of national parliaments in EU decision-making (Danish Parliament, 2014). The aim was to suggest ways in which national parliaments could play a stronger and more direct role in EU decision-making to encourage national politicians to engage themselves more in EU affairs and take responsibility for EU policy output. The Danish EAC advocated that national parliaments' role should go beyond acting as guardians of the subsidiarity principle to give them the possibility to invite the Commission to table legislative proposals (i.e. by introducing a green card).

The Danish EAC has suggested that if one-third of all national parliaments invites the Commission to put forward a piece of legislation, the Commission should consider it. If the Commission

*The introduction of the yellow- and orange card procedures with the Lisbon Treaty has not markedly changed the Danish EU-scrutiny system.*

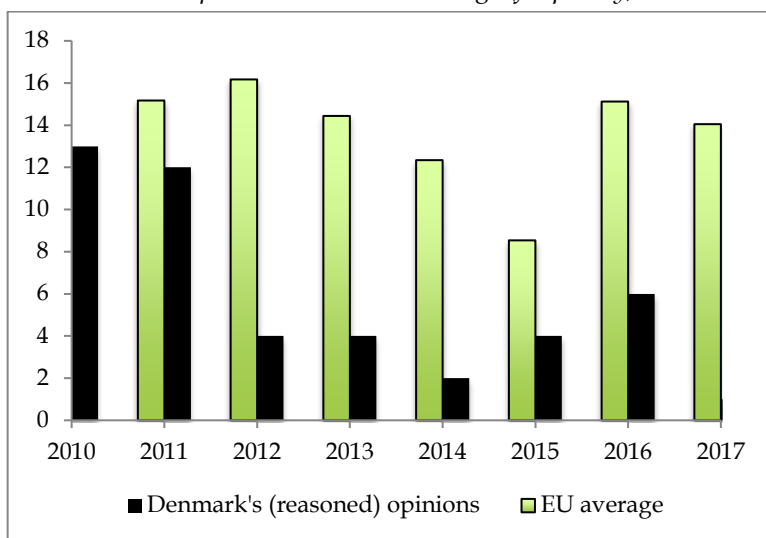
*The Danish EAC advocated that national parliaments' role should go beyond that of guardians of the subsidiarity principle to allow them to invite the Commission to table legislative proposals.*

does not choose to do so, it must be duly justified. This proposal is inspired by the Council and the EP's current treaty right to invite the Commission to table proposals.

According to the Danish EAC, the green card is not about giving national parliaments a right of initiative. Rather, it is about giving parliaments the possibility to play a more proactive role in the EU by providing the Commission with ideas for legislation and an indication of their views.

The current political dialogue, introduced by the Barroso-I Commission in 2006, between national parliaments and the Commission does go some way towards channelling the views of national parliaments to the Commission. Under the political dialogue all Commission proposals are transmitted directly to national parliaments, which are invited to respond to them through written correspondence. However, not all national parliaments, including the Danish, are entirely satisfied with the way in which the dialogue works. This is because they find that the Commission replies to them too late and in a very generic manner, which does not amount to a proper dialogue on the content of legislation (Jancic, 2015; Rasmussen and Dionigi, 2018).

*Figure 8.2 The Danish Parliament's use of political dialogue with the Commission compared with the EU average (frequency)*



Source: European Commission (2019).

The Danish EAC wants to take this further by using the untapped potential of the existing dialogue and requiring the Commission to give national parliaments' opinions more consideration. Paradoxically, there does not seem to be a great willingness on the part of the Danish EAC to comment actively on the content of current Commission proposals as the Danish Parliament uses the political dialogue prerogative sparingly. As illustrated in Figure 2, there are fewer opinions and reasoned opinions between 2010 and 2017 in Denmark than the EU average.

## Conclusion

The Danish model of parliamentary control on EU matters is commended for being among one of the strongest in the EU in terms of government control. Indeed, the mandate-based model, combined with minority government, gives the Danish Parliament a particularly strong say in the government's EU position.

If we scratch below the surface, however, the Danish textbook example also comes with several limitations. First, the mandating system has led to a centralisation of EU debates in the Danish Parliament to the EAC and does not take advantage of the substantial expertise found in the sectoral committees. Consequently, EU politics is not mainstreamed in Parliament, but confined to the EAC.

Second, although the EAC meetings are open to the public, the government almost always makes sure that it does not have a majority against its position before the meetings. This makes the system inclusive and exclusive at the same time. The government ensures broad involvement of the main pro-EU parties, while the Eurosceptic parties are largely sidelined and confined to asking questions during committee meetings.

Third, the Danish representative EU model has come under pressure in recent years from both the increase in early agreements and the introduction of the European Semester. Most of the Danish EAC's activity is concentrated on the later decision-making stages before ministerial meetings. This is problematic as the compromises inside the Council and between the co-legislators are reached much earlier in the process. Therefore, the government is increasingly trying to obtain an early mandate from the EAC. However, at this



stage, the mandate is often very loosely defined and gives the government considerable discretion. What is more, the government sometimes forgets to come back for a new mandate later in the process. Early agreements and the lack of transparency surrounding discussions in the Council's preparatory bodies and trilogue meetings put the Danish model under strain.

In other cases, it has been easier for the Danish EAC to adapt its scrutiny of the government to new EU developments. The European Semester is a good case in point. Here, the government and the EAC agreed to adopt a new scrutiny system (the national semester) to ensure the input from the EAC.

The Danish EAC has long advocated a greater role for national parliaments in the EU by promoting the introduction of a green card for national parliaments, where they can suggest ideas for new legislation to the Commission. Despite these efforts, the Danish EAC's activity in the political dialogue with the Commission has been below the EU average in recent years and there does not seem to be much appetite in practice to influence the content of the Commission's proposals.

## References

- Auel, K., O. Rozenberg and A. Tacea (2015), "To Scrutinize or Not to Scrutinize? Explaining Variation in EU-related Activities in National Parliaments", *West European Politics*, Vol. 38, No. 2, pp. 282–304.
- Bræmer, M. (2014), "Folketingsmedlemmer ved for lidt om EU", *Ugebrevet A4*, 19 May ([https://www.ugebreveta4.dk/folketingsmedlemmer-ved-for-lidt-om-eu\\_19640.aspx](https://www.ugebreveta4.dk/folketingsmedlemmer-ved-for-lidt-om-eu_19640.aspx)).
- Christensen, M.B., C. Roederer-Rynning and R. Scheelke (2013), "Danmark og parlamentarismen af EU-samarbejdet", *Politica – Tidsskrift for politisk videnskab*, Vol. 45, No. 4, pp. 419–436.
- Christensen, M.B. (2015), "The Danish Folketing and EU Affairs: Is the Danish model of parliamentary scrutiny still best practice?", in C. Neuhold, O. Rozenberg and J. Smith (eds), *Palgrave Handbook of National Parliaments and the European Union*, London: Palgrave Macmillan.
- Christensen, M.B. (2016), "National Parliaments in the EU post-Lisbon: Parliamentary responses to institutional change", PhD Dissertation, unpublished manuscript, Department of Political Science and Public Management, University of Southern Denmark.
- Damgaard, E. and H. Jensen (2005), "Europeanisation of Executive-Legislative Relations: Nordic Perspectives", *Journal of Legislative Studies*, Vol. 11, No. 3, pp. 394–411.
- Danish Ministry of Foreign Affairs (2015), "Besvarelse af EU alm. del spørgsmål 29", 23 February.
- Danish Parliament (2014), "Twenty-three recommendations to strengthen the role of national parliaments in a changing European governance", Report, January.
- Dawson, M. (2015), "The legal and political accountability structure of the 'post-crisis' EU economic governance", *Journal of Common Market Studies*, Vol. 53, No. 5, pp. 976–993.
- Dionigi, M.K. and C. Koop (2016), "Investigation of informal trilogue negotiations since the Lisbon Treaty: Added value, lack of transparency, and possible democratic deficit", Report for the European Economic and Social Committee, CES/CSS/13/2016 23284.
- European Commission (2019), "Annual reports on relations with national parliaments" ([https://ec.europa.eu/info/law/law-making-process/adopting-eu-law/relations-national-parliaments/annual-reports-relations-national-parliaments\\_en](https://ec.europa.eu/info/law/law-making-process/adopting-eu-law/relations-national-parliaments/annual-reports-relations-national-parliaments_en)).

- Jancic, D. (2015), "The Game of the Cards: National Parliaments in the EU and the Future of the Early Warning Mechanism and the Political Dialogue", *Common Market Law Review*, Vol. 52, No. 4, pp. 939-976.
- Martinsen, D.S. and M.D. Jensen (2014), "Out of Time? National Parliaments and early decision-making in the European Union", *Government and Opposition*, Vol. 50, No. 2, pp. 240-270.
- Rasmussen, M.B. and M.K. Dionigi (2018), "National parliaments' use of the political dialogue: Institutional lobbyists, traditionalists, or communicators?", *Journal of Common Market Studies*, Vol. 56, No. 5, pp. 1108-1126.
- Rasmussen, M.B. (2018), "Accountability challenges in EU economic governance? Parliamentary scrutiny of the European Semester", *Journal of European Integration*, Vol. 40, No. 3, pp. 341-357.
- Sousa, M. (2009), "Learning in Denmark? The Case of Danish Parliamentary Control over European Union Policy", *Scandinavian Political Studies*, Vol. 31, No. 4, pp. 428-447.
- Winzen, T. (2013), "National Parliamentary Control of European Union Affairs; A Cross-national and Longitudinal Comparison", *West European Politics*, Vol. 35, No. 3, pp. 657-672.

## 9. REPRESENTATIVE DEMOCRACY IN FINLAND - FUNCTIONAL WITH LIMITED POLITICISATION OF EU AFFAIRS

JUHA JOKELA

---

*The Finnish Parliament is deeply involved in decision-making on EU matters. This is due to its constitutional right to determine Finland's position on EU issues falling within the parliament's competence. While parliament's significant role provides a context favouring the 'normalisation' and 'domestication' of EU affairs, this trend remains rather weak in Finland. The main reason for this has been a relatively strong national consensus on EU matters. While the consensus broke down at the height of the eurozone crisis, a new consensus seems to be developing despite the emergence of a major, openly populist and Eurosceptic party in the country. Finland thus provides an interesting example among EU member states of a relatively well-functioning representational system, with a strong parliament regarding EU affairs. The legitimacy challenges of this system seem to be largely related to the consensual political tradition.*

### **Introduction**

Finland joined the European Union at the same time (1995) as the country was strengthening its parliamentary system. Consequently, parliament was given an extensive role in EU affairs, culminating in its role in providing the government and its ministers with a political mandate in EU decision-making. Yet given its strong constitutional position, and streamlined policy processes, the functioning of the representational system in EU affairs also faces some important challenges. These relate to the consensual political tradition embedded in the multi-party system and a rather pervasive elite-driven national consensus on EU affairs. While this

consensus broke down most recently during the eurozone crisis and led to an intense yet rather narrow EU debate in parliament, a new consensus seems to be emerging on EU matters. This means that EU policies rarely appear as first-order issues in parliament, and they are often debated and decided behind closed doors in parliamentary committees overseeing EU affairs, rather than in open plenary sessions. Yet the recent re-politicisation of the EU has served to increase the legitimacy of the representational system in EU affairs.

In order to expand upon this conclusion, this chapter will first discuss the main characteristics of, and some key developments in, the Finnish representational system. It will then elucidate how the representational system has dealt with EU affairs and decision-making, and discuss related challenges. Finally, the chapter will analyse the influence of the EU on the Finnish political system and politics, and vice versa. It will argue that notwithstanding the challenges of representation, the EU is nonetheless deeply embedded in the Finnish political system and politics, and the country has aimed to highlight its potential contribution to EU decision-making also in terms of its representational system.

## 9.1 Parliamentarism with semi-presidential features

Finland's representational political system is normally categorised as a semi-presidential system with a dual executive: the government and the president (Raunio and Tiilikainen, 2003; Raunio, 2012).

*Finland has undergone a notable shift towards parliamentarism since the 1980s, and the role of the government has increased at the expense of that of the president.*

Traditionally, the president's constitutional powers have been strongest in foreign policy, and the government's in domestic matters. Finland has, however, undergone a notable shift towards parliamentarism since the 1980s, and the role of the government has increased at the expense of that of the president. The

latter has lost some significant powers, such as the exclusive right to appoint the *formateur* of a new government after parliamentary elections, and the right to dissolve parliament without a request from the prime minister. The political drivers of this process are embedded in the era of the distinctively long-serving and powerful

President Urho Kekkonen. His strong position is often seen to have resulted from the national imperative to maintain good relations with the Soviet Union in the Cold War context. This highlighted personal contacts with Moscow and the role of the president. Yet the constitution also left room for interpretation, which presidents could use to their advantage. Without a strong system of checks and balances, Kekkonen was able to influence and even dictate domestic politics far beyond his constitutional powers (Raunio and Tiilikainen, 2003: 97). His successor, President Mauno Koivisto (in office from 1982–1994), and the political elite in general, favoured a move towards parliamentarism and limiting the powers of the president. This process started even before the end of the Cold War, and materialised in the constitutional reforms of the 1990s, also significantly affecting the new constitution in 2000. This drastically changed the nature of Finnish politics, with the government and the prime minister emerging as the key executive authority. The president, however, retained significant executive powers in the field of foreign policy, and the legitimacy of the office grew due to the change in the electoral system. Since 1994, the president has been elected by a direct popular vote.

Membership of the European Union in 1995 also had some far-reaching implications for the Finnish political system. Importantly, it altered the exclusive executive powers of the president in the field of foreign policy. The 2000 constitution confirms that EU policy, including the Common Foreign and Security Policy, falls under the competence of the government. Consequently, it enforces cooperation between the two executives by stating that foreign policy is led by the president in collaboration with the government. While this joint leadership has worked well in practice, disputes over some of the modalities related to the representation of Finland at the highest level in the EU have occurred. Referred to as “plate disputes”,<sup>1</sup> these culminated with the implementation of the Lisbon Treaty and the institutionalisation of the European Council, which required some further clarification of this relationship.

---

<sup>1</sup> The term “plate dispute” derived from the question of how many dinner plates could be placed on EU dinner tables at the leaders’ level.

Since the new Treaty came into force in 2009, European Council meetings have principally allowed only one representative per member state. The then president, Tarja Halonen, affirmed her right to participate in European Council meetings if the agenda included major foreign policy matters connected to her competences. Earlier, when dual representation was possible, a disagreement over who should make the decision on the Finnish representatives in European Council meetings had emerged between the president and the government. The potential constitutional dispute between the two executives in the late 2000s led to a constitutional amendment in 2012, which clarifies that the prime minister represents Finland in the European Council and other instances requiring the highest level of state representation in the EU. If the invitations allow more than one representative, the president can be asked to join the meetings. Moreover, the changed constitution also stipulates that in the event of a disagreement between the government and the president in matters of shared competence, the parliament's position will be decisive in settling the issue.

Recently, the dramatic shifts in the area of European security – heightened tensions between Russia and the West, including growing military tension in the Baltic Sea region, as well as the importance of bilateral ties in a more multipolar world – have again highlighted the role of the president in the Finnish system. Given the changed constitutional position of the president, this has not spilled over to domestic politics, but has rather underlined the role of the president in foreign policy, as well as the collaboration between the two executives in terms of the EU's foreign, security and defence policy. Importantly, elected presidents continue to enjoy distinctly high approval and support ratings among the Finnish population.

### ***9.1.1 Parliament and the multi-party system***

The legislative power in Finland is exercised by a unicameral parliament comprising 200 deputies, and elected by the d'Hondt system of proportional representation at least every four years (the Constitution of Finland 1999/2011). This system is seen to slightly favour larger and established political parties, yet it does produce a multiparty system and coalition governments. Since the late 1980s,

a tradition of relatively stable majority governments has emerged concurrently with the shift towards parliamentarism. Until recently, governments have been formed around two larger parties, and have also included two or more smaller parties as junior partners. Ideologically, the traditional main parties can be characterised as centre-left (Social Democratic Party, SDP) or centre-right (Centre Party, KESK, and National Coalition Party, KOK), and coalition governments have often overcome the left-right cleavage. Hence, the Finnish system has been seen to reflect a relatively strong consensus tradition and gravitation towards the political centre. In comparison with a close reference country, Sweden, it has not been characterised by a left-right block system. Interestingly, a periphery-centre (or rural areas versus southern cities) cleavage is still relatively strongly reflected in the party system, especially via the Centre Party. It has its roots and strongholds in rural areas, and the party's continued salience which is often seen as an exception in the Nordic and EU contexts.

*The Finnish system reflects a strong consensus tradition and a gravitation towards the political centre.*

At times, the Finnish consensus system has been criticised for obscuring political cleavages and fudging voters' preferences as their preferred party might enter the government with a party from the opposite end of the political spectrum and, in so doing, compromise some of their key electoral pledges. In a related development, a move towards minority governments has been encouraged as a potential way of enhancing the system (Hyssälä and Backman, 2018). On the other hand, and with varying success, parties are being pushed to spell out their preferences and red lines in election debates. Moreover, the constitutional reform of 2000 also led to a political practice whereby the largest political group in parliament will make the first attempt to form a government and assume the premiership. Ultimately, and in light of the political trends in Europe highlighting political polarisation and fragmentation, the consensus tradition appears to bring some notable benefits.

### **9.1.2 *Populist challenger(s) in Finnish politics***

The Finnish political landscape has undergone significant changes since the late 2000s. The emergence of an openly populist and



Eurosceptic party shook the foundations of the system based on three main parties, and a number of smaller, yet well-established parties. The rise of the Finns Party to the league of the largest political parties in the country is unprecedented in terms of speed and scale (Jokela and Korhonen, 2012).<sup>2</sup> In its first parliamentary elections in 1999, the party gained 0.99% of the vote, which translated into one member of parliament. In 2011, it became the third largest party in Finland with 39 out of 200 seats in the Finnish parliament. In 2015, the party secured 38 MPs and entered the coalition government with the two centre-right main parties, the Centre Party and the National Coalition Party. During its first months in government, it had to accept the third Greek bail-out package, and then address the issue of more than 30,000 asylum seekers entering Finland during the winter of 2015–16. Due to the worrisome economic outlook, the government also pushed through politically difficult labour market reforms and austerity policies, and after seven months in government, support for the Finns Party dropped from 17.7% to 8.9% (Yle News, 2018).

Eroding support led to some significant tensions within the party, which erupted in the party conference in 2016. The election of Jussi Halla-Aho as the party chair was seen to move the party towards far-right positions, particularly on immigration issues. Consequently, the coalition partners in the government refused to collaborate with the party under its new leadership, and the party split. The splitters formed a new group in parliament, and later a political party called Blue Reform, and continued in government. While support for the new party in government remained low and it did not secure any seats in the 2019 parliamentary elections, the Finns Party in opposition made some significant gains. This is mainly due to the immigration debate, yet the party has also

---

<sup>2</sup> Founded in 1995, the Finns Party is also known as the “True Finns Party” due to earlier unofficial translations used by the party. Yet the official translation since 2011 has been the Finns Party. The direct translation of the party’s Finnish name, *Perussuomalaiset*, would be “Ordinary Finns”. The Finns Party stemmed from the Finnish Rural Party, which has sought to defend the ‘small and ordinary’ citizen and has criticized ruling elites since 1959. While the Finns Party has been associated with European populist trends related to Euroscepticism and immigration critique, the party’s roots are deeply embedded in the national context.

managed to offer an alternative in the climate change debate by questioning the calls for more ambitious national policies. Importantly, the Finns Party managed to retain its position as the second largest party in the country in 2019 parliamentary elections with 39 seats and 17.5% of the vote.

Against this backdrop, the Finnish representational system has provided an example of a tradition in which political protest movements and new challengers are expected to enter the government should they continue to enjoy notable support. While in government, challengers have often lost support as governmental responsibilities call for difficult political compromises. This holds true also with regard to the emergence of the Finns Party. Yet its ability to reposition itself in the opposition after the party split in 2017, and then regain support in 2019 parliamentary elections, is a novel development in Finland. Interestingly, the Green Party and Left Alliance made major gains in the 2019 elections. This speaks for increasing polarisation and fragmentation with regard to the Finnish party system.

### ***9.1.3 The EU dimension: parliament deeply embedded in EU affairs, yet limited political debate***

At the heart of the Finnish parliament's strong position on EU matters lies its constitutional rights to determine the position that Finland should take in EU decision-making on matters that fall within parliament's competence (Parliament of Finland). In practice, this means *ex ante* political mandating of the government and its ministers representing Finland in EU decision-making. In legal terms, the ministers can diverge from the parliament's mandate in the European and EU Councils, yet they should then seek support for this from parliament. This has not posed a major challenge as mandates often leave ministers with at least some room for manoeuvre. Moreover, and due to the majority government tradition, ministers can, in principle, rely on support in parliament, at least as long as they remain within the commonly agreed government position. Consultation with the government and parliament's Grand Committee overseeing EU affairs has also taken place during European Council and EU Council meetings when there has been significant time pressure to reach a decision. Yet the early engagement of parliament in the policy-planning and

preparation stage also leads to a policy process in which parliament is usually aware of the policy options and politics surrounding them in the EU. In sum, Finland only has one position in the EU Council and that is the government's position, which is accountable to parliament. To enhance this link, parliament is deeply involved in the process through the political mandating practice.

*Given its robust position in EU decision-making, it is odd that EU affairs continue to be largely second-order issues, at least in open parliamentary debates.*

Given its robust position in EU decision-making, it is nevertheless odd that EU affairs continue to be largely second-order issues, at least in open parliamentary debates. Issues such as taxation and the national budget, as well as key policies and reform processes related to healthcare, social security and education, continue to dominate the political debates in parliament. At times, the EU dimension plays a role in these, yet EU policies rarely feature as first-order issues in their own right in parliament.

The reasons for this are manifold, and include both political and institutional aspects. In terms of the latter, EU policy-making takes place in parliamentary committees that convene behind closed doors. The Grand Committee has the overall responsibility for EU affairs, yet in the CFSP the Foreign Affairs Committee assumes a leading role. The Grand Committee is the largest of the parliamentary committees, including 25 out of 200 members of parliament. Other committees contribute to the work of these main committees on EU affairs and, in principle, parliament is therefore broadly involved in the EU decision-making process. The other sectoral committees also hear government ministers, civil servants as well as external experts such as representatives of interests groups, civil society organisations and the research community. Yet some MPs have suggested that EU policy matters require in-depth knowledge of the EU, which sets some limits on the committee work. Moreover, outside the government, the number of EU experts in the country is also somewhat limited. In response to the critique on the transparency of committee work in terms of openness (they meet behind closed doors), the committees have been encouraged to organise open hearings on major topical matters. These can be attended by citizens or followed on the internet. As confidential

proceedings have been seen as important for parliament's committee work, it has recently been proposed that the expert hearing phases of the committee proceedings should be opened up (Hyssälä and Backman, 2018).

Politically, EU matters very rarely spill over from the committee's chambers to open plenaries in the form of real political debate. While institutional arrangements play a role, this is also because of a relatively broad national consensus on the country's EU policy, and often on the EU's sectoral policies. However, the eurozone crisis changed this (Raunio and Saari, 2017). The national consensus among the main parties broke down in the Grand Committee during talks on the first Greek loan package, and this led to a heated debate in the plenary. At the same time, the Finns Party was becoming a serious challenger to the main parties, and their tough EU critique contributed to these developments. Subsequent rescue packages and eurozone reforms also led to intense and open debate in parliament. The inclusion of the Finns Party in the government in 2015 has again led to more consensual proceedings. Moreover, the dramatic developments in the European security environment, and a more assertive Russia have yet again highlighted the role of the EU as a security policy arrangement for the Finns. In addition, as the future of the EU has also been questioned in terms of the increasingly visible disarray among the member states and their citizens, of which Brexit is the most dramatic example, the political parties seem to increasingly emphasise the need to consolidate the EU amid different types of anti-EU populist trends in Europe. Public support for the EU, and for the euro in particular, has remained stable in Finland. Indeed, support for EU membership increased after the victory of the Finns Party in 2011, and also after the UK's EU referendum.

## 9.2 Influence of EU politics on political realities at the national level, and vice versa

The EU became a key topic in Finnish politics in the early 1990s as a result of the membership debate and when the accession process subsequently got underway. The membership question was quickly and largely de-politicised among the leadership of the main parties, however, and a relatively broad national consensus on an active and constructive role in the EU and its decision-making emerged (Raunio and Saari, 2017). In this context, Finland has often been described as the most integrationist of its closest reference countries, namely the Nordic states. It has supported the transfer of competences to the EU level in consecutive EU treaty reforms and, unlike Denmark and Sweden, it has adopted the euro (Larsen et al., 2013; see also Jokela, 2013). The rapid emergence of the Eurosceptic Finns Party nonetheless suggested that the consensus among the parties was at least to some extent broader than it was among citizens, and the marginal position of Euroscepticism in the country could also be seen as resulting at least partly from the marginalisation of Eurosceptic voices in the parties. The EU has also continued to be a divisive issue within some of the main parties (Raunio and Saari, 2017).

*A relatively broad national consensus on an active and constructive role in the EU and its decision-making emerged.*

Finland would, however, appear to be a rather favourable environment for the normalisation and domestication of EU affairs. This is seen to entail EU affairs being debated largely along the traditional political and societal cleavages reflected in parliament. Yet this development can hardly be regarded as a key characteristic of Finnish EU politics. Indeed, the low level of politicisation and debate regarding EU affairs seems to be typical of Finland despite the strong position of the parliament in EU decision-making. Moreover, notably when an EU matter has become a key political question, the main cleavage appears to have been formed along a political dividing line of “for” and “against” the EU. Yet transformations in European politics, including some notable transnational trends in the context of several severe EU crises, have also had implications in Finland and have resulted in the EU and its policies being re-politicised more broadly.

The level of alignment (or misalignment) with the European political families and political groups in the European Parliament has become slightly more visible in Finland. While this development has largely taken place within policy and expert communities, related media coverage might have had some modest broader effects. The reasons for the discussion on alignment relate mainly to the emergence of the Finns Party as well as to the recent media attention to the European People's Party. To a lesser extent, a certain mismatch between the Finnish Social Democrats' distinctly tough stance towards the eurozone rescue packages, such as the demand for bilateral collateral for the second Greek loan package, and S&D's emphasis on solidarity have gained some attention. In a similar way, the Centre Party's membership of the decidedly pro-European ALDE under a federalist leader has raised some questions in Finland, as EU membership was a highly divisive question for the party in the 1990s, and it opposed Finland's eurozone membership.

The Finns Party made their first significant electoral gains in the 2009 European Parliament elections, when the then chair of the party, Timo Soini, secured a seat in the EP with a Eurosceptic agenda and a notable personal share of the vote. Importantly, Soini's Euroscepticism has also drawn on his experience in EU decision-making and 'Brussels', as well as close links with other European Eurosceptic parties. The departure of the UK Conservative Party from the EPP provided an opportunity for Soini to align the Finns Party with an old and major European political party, although he also forged links with UKIP. However, his personal contacts have been seen as paving the way for the Finns Party to become a member of the European Conservatives and Reformist Group with two MEPs in the aftermath of the 2014 EP elections. In light of the Finns Party split in 2017, and with the UK Conservative Party now potentially leaving the European Parliament because of Brexit, questions have been raised in relation to the future European home of the party.

The election of the lead candidate (*Spitzenkandidat*) for the EPP was also covered extensively in Finland as the party congress was arranged in Helsinki and former Finnish prime minister Alexander Stubb was in the race. The congress and election of the lead candidate also shed some light on the internal dynamics of the EPP as Stubb campaigned with a distinctly value-based liberal agenda.

He also demanded the expulsion of Victor Orbán's Hungarian Fidesz Party from the EPP if the party did not commit itself to the EU's fundamental values. This exposed some notable internal divisions within the EPP to the Finnish media and the public, who have been rather concerned about developments related to the rule of law principle in some member states. Yet the lead candidate procedure, and the related election manifestos and campaigns, have received modest attention in Finland. Moreover, the EU elections have been largely framed in line with the potential implications of different types of populist challengers and the cleavage between 'for' and 'against' the EU. By and large, the broader politicisation or domestication of EU politics and elections along national political divides is yet to be seen in Finland. On this note, arguments suggesting that in the European Parliament, Finland's MEPs should first and foremost promote Finland's (national) interests set by the government are present in EU debates.

Importantly, and after the re-politicisation of EU affairs during the euro crisis, the national EU debate seems to be moving once again towards a traditional and more consensual pathway. First, the re-politicisation appeared to be rather narrow in substantive terms; in other words, it tended to focus on the euro crisis and did not spill over to other policy fields, yet some governance matters have been discussed in terms of the federalisation debate. Second, and in order to enter the government, the Finns Party had to accept the realities of the reformed eurozone, including the potential use of the European Stability Mechanism. However, the party argued that its blueprint could be found in Finland's approach to the EU in general, and the eurozone reforms in particular. The government's programme stipulated that Finland would not support further eurozone reforms that might lead to increased joint financial responsibility among the member states. This position, however, reflects a broader political consensus in Finland, and northern Europe. Against this backdrop, Finland has emphasised a gradual approach in completing the banking union. Moreover, Helsinki has become an active player in the so-called Hanseatic Group, consisting of eight northern EU member states. The group has underlined the national responsibilities of eurozone governments vis-à-vis their economies. Third, and while the government's so-called middle-way approach to the future of

Europe debate has been criticised by the opposition for lacking a strong enough vision of the desired direction for the EU, no notable alternative approaches have been presented. In this context, the political debate on the EU has been more about Finland's influence and the government's active engagement in the Union, rather than the real substance of the reforms.

The middle-way approach suggests that Finland does not support far-reaching and federalising proposals related to the future of the EU. Nor does it support rolling back integration. While more differentiated integration has been seen as a possibility by the government, Finland has suggested that this should take place within the current provisions of the EU Treaties, allowing a degree of differentiation. The Social Democrats, however, have recently signalled a somewhat more relaxed approach towards solidarity within the eurozone, which sparked some debate in parliament. The future of Europe theme as well as concrete reform proposals were nonetheless largely absent from the 2019 parliamentary election debates, which were dominated by healthcare, social security system reforms and education. Furthermore, the immigration debate was predominantly framed as a national question, although it has clear links to the EU. Even though EU election campaigning will take place at the same time as Finland is getting ready to assume the EU Council presidency, the close proximity of the parliamentary elections to the EU elections is seen as a hindrance to the latter for the most part.

### **9.3 The Finnish Parliament, parliamentarism and the EU**

In the recent Treaty reforms, Finland and its parliament highlighted the two-level parliamentary system of the EU: (i) national parliaments providing legitimacy for and ensuring the accountability of national governments in EU affairs; and (ii) the European Parliament playing a similar role at the EU level in general, and for the EU institutions in particular. In this respect, the Finnish Parliament has also emphasised the need to work towards clarity in terms of these two levels of parliamentary legitimacy and scrutiny. Accordingly, UK demands for increasing the position of national parliaments and providing them with a role at the EU level



received a lukewarm reception in Finland. Similarly, a properly functioning and deep engagement of parliaments in national EU decision-making has been seen as a way to address the challenges

*The Finnish Parliament has also emphasised the need for clarity in terms of the two levels of parliamentary legitimacy and scrutiny.*

of representational democracy in the EU. This argumentation has also been connected to the relatively low turnout in EP elections, and the fact that the EP has remained a rather distant representational institution for citizens. In this vein, Finnish

parliamentarians and experts have urged other member states to examine the Finnish system and address potential challenges through national reforms. In this context, the Finnish parliament has also suggested that while the early warning system introduced in the Lisbon Treaty might have real value for national parliaments, in practice the utilisation of yellow and orange cards seems to be challenging, and its impact rather limited. Hence, the early and in-depth engagement of parliament in the government's EU policymaking has been seen to provide more adequate 'early warnings', efficacy and a real impact (see also De Wilde and Raunio, 2018). The inter-parliamentary work of COSAC has also generally been seen as important in enhancing interlinkages and sharing best practices, rather than providing any true parliamentary scrutiny or legitimacy akin to parliament's role in providing legitimacy for and guaranteeing the accountability of national governments. Against this backdrop, EU-related debates in the Finnish parliament are expected to be channelled to the EU level by the government, and parliament is deeply involved in national policy preparations. The increasingly powerful role of the European Council has also been noted by parliament, and it has highlighted its right to obtain information on the leader's agenda and be involved in the policy planning of formal and informal European Council meetings.

## Conclusions

Given the recognised challenges of representational democracy, the Finnish system seems to be largely functional in terms of EU matters. The shift towards a parliamentary system that coincided with the country joining the European Union fortified a strong role for parliament in EU decision-making, and parliament has been able to defend and develop its engagement in EU affairs with regard to the developments in the EU's political system. The relatively strong national consensus on EU affairs has nonetheless led to a rather limited political debate on these affairs in parliament, and highlighted consensus-building between the government and the opposition behind the closed doors of the parliamentary committees overseeing the affairs. The euro crisis served to break the consensus, however, and EU affairs spilled over from the committees to the public plenaries. While in substantive terms the debate was somewhat narrow, and focused on the rescue loan programmes and EMU reforms, this had broader implications as well, with the result that EU affairs clearly became a more political and debated question in Finland. The re-politicisation of EU affairs was closely linked to the emergence of an openly populist and Eurosceptic political party in the country, and hence the debate over EU issues was framed as 'for' and 'against' the EU in general, and some EU reforms in particular. Yet the dramatic shifts in the European security environment, and concerns related to the EU's future amid Brexit and increased disarray among the member states and citizens, have contributed to the re-emergence of a more consensual approach. In this vein, this chapter suggests that even if the deep engagement of the Finnish parliament in EU affairs enables the normalisation and domestication of EU policymaking, EU debates along established political and societal dividing lines, which would connect with the electorate, are still somewhat lacking in Finland. Nevertheless, the deep engagement of parliament in EU affairs provides an interesting example and potential benchmark for other member states to study. Moreover, the re-politicisation of EU affairs, although primarily cast in terms of 'for' and 'against', can be seen as potentially increasing the legitimacy of the representational system of Finland.

## References

- The Constitution of Finland 1999/2011, Ministry of Justice, Helsinki, Finland (unofficial translation) (<https://www.finlex.fi/fi/laki/kaannokset/1999/en19990731.pdf>).
- De Wilde, P. and T. Raunio (2018), "Redirecting national parliaments: Setting priorities for involvement in EU affairs", *Comparative European Politics*, Vol. 16, No. 2, pp. 310–329.
- Hyssälä, L. and J. Backman (2018), "Kansanvallan peruskorjaus: Kaikki voimavarat käyttöön" [Renewal of democracy: Utilization of all resources], Sitra Working Paper, Sitra, Helsinki.
- Jokela, J. (2013), "Finland: Towards a More Cautious Europeanization?", in C. Bretherton and M. Mannin (eds), *The Europeanization of European Politics*, New York: Palgrave Macmillan, pp. 39–52.
- Jokela, J. and K. Korhonen (2012), *A Eurosceptic big bang: Finland's EU policy in hindsight of the 2011 elections*, FIIA Briefing Paper No. 106, Finnish Institute of International Affairs, Helsinki (<https://www.fiaa.fi/en/publication/a-eurosceptic-big-bang>).
- Larsen, H., J. Jokela and G. von Sydow (2018), "Nordic member states: Denmark, Finland and Sweden", in T. Olivier (ed.), *Europe's Brexit: EU Perspectives on Britain's Vote to Leave*, Newcastle upon Tyne: Agenda, pp. 125–146.
- Raunio, T. (2012), "Semi-presidentialism and European integration: lessons from Finland for constitutional design", *Journal of European Public Policy*, Vol. 19, No. 4, pp. 567–584.
- Raunio, T. (2016), "The politicization of EU affairs in the Finnish Eduskunta: conflicting logics of appropriateness, party strategy, or sheer frustration?", *Comparative European Politics*, Vol. 14, No. 2, pp. 232–252.
- Raunio, T. and J. Saari (2018), "When Consensus crumbles: National EU policy preparation and decision-making", in T. Raunio and J. Saari (eds), *Reunalla vai ytimessä? Suomen EU-politiikan muutos ja jatkuvuus* [In the margin or the core? Change and continuity in Finnish EU policy and politics], Helsinki: Gaudeamus, pp. 52–70.
- Raunio, T. and T. Tiilikainen (2003), *Finland in the European Union*, London: Frank Cass.
- Yle News (2018), "Puoluekannatusmittari" [Party support ratings], The Finnish Broadcasting Company, Yle, Helsinki (<https://yle.fi/uutiset/3-9540630#start=252>).

# 10. THE BUNDESTAG IN THE MULTILEVEL SYSTEM: REPRESENTING GERMAN CITIZENS IN THE EU

ERIK BRANDES, NICOLAI VON ONDARZA &  
FELIX SCHENUIT

---

*Germany's political system is based on the representative model of democracy. Legally, the Bundestag is one of the most powerful legislatures in the EU and indeed worldwide. Its instruments to control the government are very strong, particularly in EU affairs. Since the Treaty of Lisbon, rights have been strengthened even further, notably through a series of legal challenges against the German government and the decisions it took during the eurozone debt crisis. Paradoxically, however, these strong national control mechanisms have led to a very sparse use by the Bundestag of European instruments at the disposal of national parliaments, such as the early warning mechanism. This strong national role of the Bundestag has been accompanied by an increasing integration between German national parties and their European counterparts. Due to the European Council's powerful role and the government's EU expertise vis-à-vis parliament, the Federal government remains centre-stage for German EU policy-making.*

## 10.1 Introduction

The representative model of democracy is a key characteristic of the German political system. Following a long tradition of parliamentarianism and federalism, and inspired by the aim of avoiding a powerful presidency after the experience of the failed Weimar democracy, the fathers and mothers of the German *Grundgesetz* [Basic Law] established a strong role for the German bicameral legislature. For instance, neither the German Chancellor

nor the Federal President is elected directly by the citizens, but rather indirectly by the Bundestag and the Federal Convention, respectively.

With regard to European integration, the role of representative elements and the role of the German Parliament in particular have often been debated, with parliamentarians repeatedly demanding more of a say. The eurozone sovereign debt crisis and decisions by the Constitutional Court provoked a substantial reform of the law that regulates how the Bundestag is dealing with political processes at European level (EUZBBG).<sup>1</sup> Even though the Parliament has acquired new competencies in recent years, EU affairs in general are still of relatively low importance in Parliament and – with the exception of crisis situations – are not dealt with by leading members of the Bundestag.

However, individual MPs and German parties, as pivotal channels of political representation, do interact with the EU-level in alternative forums. On the one hand, German national parties are strongly aligned with their European counterparts. One indicator for this are the increasingly intertwined career paths of politicians in Berlin and Brussels. On the other hand, German MPs were key figures in complaints before the Federal Constitutional Court, which has lasting effects on EU integration debates and eventually influenced the competencies of the parliament significantly.

---

<sup>1</sup> See [https://www.gesetze-im-internet.de/euzbbg\\_2013/BJNR217000013.html](https://www.gesetze-im-internet.de/euzbbg_2013/BJNR217000013.html).

## 10.2 Representative democracy in Germany – the legal perspective

### 10.2.1 *Legal institutional power of the German Parliament*

According to its formal competencies, the German Bundestag is one of the strongest parliaments in the EU and worldwide.<sup>2</sup> In addition to its legislative power, the Members of Parliament elect the Chancellor and control the government. One of the most important competences is its ‘budget sovereignty’ (in German: *Budgethoheit*). The German Bundestag is often defined as a ‘working parliament’ in which most of the legislative work is carried out in its 24 specialist committees. All political groups are represented in these committees in proportion to their respective seats in the plenary. Currently, six parties are represented by 709 MPs in the Bundestag. According to the German mixed-member proportional representation system, 299 MPs are representing specific constituencies and 410 have been elected through party electoral lists.

*According to its formal competencies, the German Bundestag is one of the strongest parliaments in the EU and worldwide.*

The German legislature is a bicameral system, with the *Bundesrat* as the complementary legislative body. The *Bundesrat* consists of delegates from the 16 German state (*Bundesländer*) governments, thus enabling the *Länder* representation in Germany’s federal system. Whenever a law agreed by the *Bundestag* touches upon the Constitution, the states’ finances, or their administrative competence, the *Bundesrat* has to agree with a majority before it can come into force. As the *Länder* are represented in federal law-making through their governments and not through a senate-like institution, the German federal system has been labelled ‘executive federalism’. Thus, the *Bundesrat* bears some resemblance to the Council of the European Union.

---

<sup>2</sup> In studies on legislature power, both Fish and Kroenig (2009), and Chernykh et al. (2016) ranked the German Parliament first in their global comparison.

### 10.2.2 *The EU dimension: the Parliament's power to shape EU affairs*

*The way in which the Bundestag deals with European policy issues has changed considerably over the last ten years.*

The way in which the Bundestag deals with European policy issues has changed considerably over the last ten years. The Lisbon Treaty – with its acknowledgement of national parliaments' contribution for a “good function of the Union” (TEU, Art. 12) and new subsidiarity mechanisms, i.e. the yellow card, legal complaints against infringements (TFEU, Protocol 2) – contributed to a more intense debate about how the Bundestag deals with EU affairs. Moreover, subsequent judgments by the German Constitutional Court also increased the power of the Bundestag vis-à-vis the government in EU affairs, not least judgments connected to the eurozone sovereign debt crisis. The crisis also changed the public debate of the role of German Members of Parliament considerably. First, the perception that budgetary sovereignty might be undermined with agreed crisis responses provoked German politicians to reflect on and question how MPs deal with political decisions made in Brussels. Second, the judgments of the German Constitutional Court shed light on the German representative model of democracy and its functioning in a multilevel system.

The German Basic Law, Art. 23 (2,3) states:

(2) The Bundestag and, through the Bundesrat, the *Länder* shall participate in matters concerning the European Union. The Federal Government shall keep the Bundestag and the Bundesrat informed, comprehensively and at the earliest possible time.

(3) Before participating in legislative acts of the European Union, the Federal Government shall provide the Bundestag with an opportunity to state its position. The Federal Government shall take the position of the Bundestag into account during the negotiations. Details shall be regulated by a law.

The role of national parliaments in the EU already started to change with the Maastricht Treaty, which defined new participation rights (Callies and Beichelt 2013). The strengthening of these rights in the

Lisbon Treaty, together with important judgments of the German Constitutional Court, have led to a situation in which the Bundestag can no longer be regarded as 'laggard' in EU affairs, as it had often been described in academic literature (Höing 2013). Callies and Beichelt (2013) come to the conclusion that the Bundestag is now pursuing a proactive European policy role and was thus transformed from a 'controller' to an 'active policy shaper'. In particular, the Bundestag now has more rights, capacities and awareness of information, control and participation in EU affairs.

*The Bundestag now has more rights, capacities and awareness of information, control and participation in EU affairs.*

There are a number of laws that govern the relationship between the EU and the German representative system, most notably the EUZBGL, the EUZBBG and the IntVG.<sup>3</sup> While the first regulates how the 16 states participate in EU governance (particularly through the *Bundesrat*), the latter guarantees the *Bundestag's* authority for further EU integration (including, for instance, the use of 'passerelle' clauses). The EUZBBG, finally, is the piece of legislation that regulates relations between the *Bundestag* and EU law-making. It contains specific provisions on the interactions between the Federal government and the German Parliament. As indicated, the eurozone crisis has led to substantial reforms in the role of the Bundestag in EU Affairs, coming into effect with the revised EUZBBG in 2013.<sup>4</sup> The major ones are: first, from 2013 on, activities outside the legal EU framework (such as responses to euro-crisis EFSF and ESM) are also considered part of EU affairs. Second, German MPs get access to unofficial EU documents. In addition, 25% of the MPs can oblige the government

---

<sup>3</sup> Gesetz über die Zusammenarbeit von Bund und Ländern in Angelegenheiten der Europäischen Union (Law on the Cooperation of Federal and State Level in European Union Affairs); Gesetz über die Zusammenarbeit von Bundesregierung und Deutschem Bundestag in Angelegenheiten der Europäischen Union (Law on the Cooperation of the Federal Government and the German Bundestag in European Union Affairs); Integrationsverantwortungsgesetz (Act on Responsibility for Integration).

<sup>4</sup> For an overview of the changes, see Höing 2015, p. 194.



to report on why they deviated from a position of the German *Bundestag* (Höing, 2015, p. 194).

A short overview of representative democracy in Germany and its embeddedness in the EU shows that in the decade of multiple crises, the German Constitutional Court and German parliamentarians started to rethink the role of the Bundestag as a source of democratic legitimacy in the EU's multilevel system. Although some formal improvements have been achieved, it is interesting to see how the Bundestag and its members will deal with EU affairs in less troubled times. New developments in the European Parliament (e.g. loss of informal grand coalition between S&D and EPP; or restructuring process in the Eurosceptic camp) might give new importance to national parliaments in EU affairs, in particular their capacity to scrutinise EU policies.

### **10.3 Linking levels of democratic representation: German and European democracy intertwined**

#### ***10.3.1 Influence of national parliamentary work on EU political realities***

While the legal tools for the Bundestag to participate in EU affairs have increased substantially since the Treaty of Lisbon and due to the accompanying changes in German law, a look at political practices and dynamics in the *Bundestag* shows that this development should not be overestimated. Even though the EU committee in the Bundestag is one of four (out of 24 committees overall) that is explicitly mentioned in the German Basic Law (Art. 45), it does not often take a leading role in legislative procedures. Accordingly, there are hardly any political heavyweights in this committee (Höing 2015, p. 196). If specific EU-related topics gain political traction, specialist politicians of the relevant committee are much more important than members of the EU committee, not least the Budget Committee (Abels 2017, p.124). Therefore, tools for scrutiny of EU policies provided in the EUZBBG and the Lisbon Treaty are not used systematically, e.g. as political leverage to shape EU policies.

In addition, neither the Bundestag nor the Bundesrat participates actively in the early warning mechanism ('yellow/orange cards') foreseen in the EU treaties. The early warning mechanism allows national parliaments to give reasoned opinions to the EU Commission if they consider draft legislation to be in breach of the principle of subsidiarity. If at least a third of national parliaments writes a reasoned opinion on time, the Commission has to review the draft legislation (yellow card). If it is supported by at least half of all national parliaments, the Commission would need to review its proposal and justify whether it keeps it in place. Like in all bicameral parliamentary systems, both the Bundestag and the Bundesrat have an individual vote in this early mechanism.

*Neither the Bundestag nor the Bundesrat participates actively in the early warning mechanism foreseen in the EU treaties.*

In practice, however, neither has been an active participant in the scheme. Since its introduction with the Lisbon Treaty, the necessary threshold for a yellow card was reached three times – and in none of these cases did either the Bundestag or the Bundesrat send in their reasoned opinion. Their participation in the programme has varied. The Bundestag – like many lower chambers that prefer to control their own national executive in the Council instead of the direct relationship with the EU Commission – has been reluctant to divert energy to writing reasoned opinions. Between 2010 (when the procedure started to apply) and 2016 only four reasoned opinions were issued by the Bundestag, but six in 2017. Most of these were related to issue areas that the German government is also cautious about, such as the further liberalisation of the EU services market. The Bundesrat, on the other hand, has fluctuated in its use of the early warning mechanism. Shortly after its inception, the Bundesrat, together with the House of Lords and the upper Swedish chamber, was among the most active national parliaments, with those three together accounting for 50 per cent of reasoned opinions. Later on, the enthusiasm for the mechanism receded, and in 2017 for instance the Bundesrat issued only three reasoned opinions.

The same is true for COSAC, the Conference of Parliamentary Committees for Union Affairs of Parliaments, which is not well regarded in the Bundestag. In particular, there is a critical view of the overall procedure and value added. COSAC, along with other

*The main influence of the Bundestag on EU politics comes via its control rights vis-à-vis the German government.*

interparliamentary assemblies, provides additional forums for parliamentarians to gather and exchange information. While these provide added value, in particular for smaller parliaments with fewer resources, the well-staffed Bundestag

and its parliamentarians have been less enthusiastic.

All in all, the main influence of the Bundestag on EU politics comes via its control rights vis-à-vis the German government and less via the yellow card procedure.

### **10.3.2 Going to court: parliamentarians' legal challenges of EU affairs**

Many of the recent changes in the linkages between Germany's representative democracy and political processes at EU level have their origins in judgments of the Federal Constitutional Court. The judgments on the Lisbon Treaty and the European Stability Mechanism (ESM) received particular attention. Members of the German Bundestag were among the main initiators of these constitutional complaints, which subsequently led to more competencies for the Parliament.

After the Lisbon Treaty had been ratified by the *Bundesrat*, Peter Gauweiler (MP for the conservative CSU party) prominently argued that the Lisbon Treaty violates the *Grundgesetz* and started a so-called 'Organstreitverfahren' [Court proceedings between constitutional actors]. Among other things, he contested a violation of Article 38 GG, which regulates the rights of Members of Parliament. In addition to his initiative, the left-wing group Die Linke also initiated proceedings in which they argued that the Lisbon Treaty was incompatible with the *Grundgesetz*. The BVerfG judgment on these (and several other) motions passed on 30 September 2009 was widely discussed in German politics and beyond. While generally arguing that the Lisbon Treaty is in line with the *Grundgesetz* and rejecting the constitutional complaints, the

BVerfG also formulated several conditions for future EU integration. It also demanded further parliamentary control in EU affairs for the Bundestag. For instance, it ruled that the German government could only consent to the uses of flexibility or passarelle clauses of the EU treaties after prior approval by the Bundestag. Subsequently, this judgment had a decisive influence on the (new) versions of the accompanying laws (IntVG, EUZBBG, EUZBLG) to the Lisbon Treaty.

The two judgments on the ESM also attracted a lot of attention during the crisis. For the second constitutional complaint (BvR 1390/12), the BVerfG numbered more than 37,000 complainants. Among them were members of the Bundestag from several parties, law professors and the association 'Mehr Demokratie' (More Democracy). As in the Lisbon judgment, the BVerfG approved the European political decision in general, but also requested, among other things, stronger participation and information rights for the Bundestag. These include a previous approval by the Bundestag (or its Budget Committee) for any *tranche* paid out by the ESM to Greece and other programme countries, leading to a tight control of every step of the programme.

### 10.3.3 German parties at EU level

With regard to the interactions of the representative forms of democracy in Germany and at EU-level, one can identify strong connections between German political parties and their European counterparts. (Western) German parties were founding members of all of the major European political parties and continue to play a strong role in them. Due to the number of German MEPs, Germans are centre-stage in all of the mainstream EP parliamentary groups.

*Due to the number of German MEPs, Germans are centre-stage in all of the mainstream EP parliamentary groups.*

In the parliamentary term from 2014-19, they constitute the largest or second largest national group within the EPP, S&D, Greens, and GUE/NGL parliamentary groups. German MEPs also hold an above-average number of influential positions in the European Parliament (EP), with four Germans as party group chairs/presidents:

- EPP: Manfred Weber (CSU)
- S&D: Udo Bullmann (SPD)
- European Greens/EFA: Ska Keller (Die Grünen)
- GUE/NGL: Gabriele Zimmer (Die Linke).

By comparison, there is no other member state whose nationals lead even two different party groups. This list also illustrates that at least until the 2019 European elections, the 96 German MEPs are concentrated in the mainstream party groups. This strong role is the result of three combined factors: first, due to its population size, Germany has the highest number of MEPs, even if – in line with the principle of degressive proportionality – the 16.1 per cent of EU-28 population ‘only’ translates into 12.8 per cent of MEPs (96 of 751). Second, however, German MEPs have been concentrated in the mainstream political groups in the European Parliament, constituting around 16 per cent of parliamentarians in the EPP, 14 per cent in the S&D and even 25 per cent in the Greens/EFA group. On the flipside, they have been underrepresented in the Eurosceptic groups and (in this legislature) also within the liberal ALDE, where German MEPs accounted for only 8 per cent of members. Last but not least, the informal ‘grand coalition’ in the EP overlapped with the grand coalition in Berlin, producing a party political overlap between the national and European level.

The influence of German Eurosceptics has so far been limited.

In 2014, the young Alternative für Deutschland (AfD) gained seven seats in the European Parliament and joined the moderately Eurosceptic ECR group. However, many of the elected representatives were part of the more moderate wing of the AfD. After several splits within the party only one AfD MEP is left in the EP in 2019, sitting among the Europe of Freedom and Direct Democracy (EFDD) group. Looking ahead, the party has however committed itself to working together with Matteo Salvini to launch a larger Eurosceptic group after the EP elections, most likely in the form of an enlarged Europe of Nations and Freedoms (ENF) group together with the Italian Lega, the French National Rally, the Austrian FPÖ, among others. Polling at ~13 per cent, which would result in about 13 seats, this would put a larger German faction within one of the Eurosceptic groups of the EP for the first time – though still well

*The influence of German Eurosceptics has so far been limited.*

below the expected size of, inter alia, the French National Movement and the Italian Lega Nord.

One example of the strong influence of German politicians at EU level is the so-called *Spitzenkandidaten* process for choosing the Commission president. Not only its origin, but also the practice of the *Spitzenkandidaten* system has been particularly relevant to Germany, where it received a lot of media coverage, partly due to candidates Martin Schulz and Jean-Claude Juncker debating in German (cf. Hix and Wilks-Heeg, 2014). Even though the process had been deemed a

*One example of the strong influence of German politicians at EU level is the so-called Spitzenkandidaten process for choosing the Commission president.*

success and helped to boost voter turnout in Germany, Chancellor Merkel was originally hesitant to support Juncker's nomination for the Commission presidency and only endorsed him after public pressure. In the run-up to the elections in 2019, attitudes of the heads of state and government towards the *Spitzenkandidaten* system are equally lukewarm. However, as both candidates of the two biggest European parties speak German (Manfred Weber and Frans Timmermans) and German-speaking politicians are also promising candidates in other party groups, a strong presence of the *Spitzenkandidaten* in German media is again likely.

The career paths of German politicians usually still show the European Union as an 'upside-down polity' in which a lower polity level (the national one) – and not the highest polity level (EU) – offers the most popular political offices (Hix 2008, pp. 1260–1263). In recent years a significant shift has happened. Early on, the EU level was regarded as a way to gracefully end a political career, following the logic of "Hast Du einen Opa, dann schick ihn nach Europa" ("If you have a grandpa, send him to Europe"). In this sense, for instance, former German Chancellor Willy Brandt ended his political career in the European Parliament. More recently, a number of politicians have used their EU career as a stepping stone to national political offices, e.g. Martin Schulz who became the SPD's chancellor candidate after having been president of the European Parliament. This is made possible due to the links between MEPs and their national parties, where MEPs are for instance regularly invited to sessions of the EU affairs committee of

the Bundestag and the party organisations. Martin Schulz, for instance, was a long-term member of the executive of the SPD during his time as a MEP long before he became the party's leader and chancellor candidate. Cases in which a leading national politician switches to a European career path, like the German Justice Minister Katarina Barley leading the SPD into the European elections, are still rare.

## 10.4 European policymaking at times of crisis

Despite the strong role that the fathers and mothers of the *Grundgesetz* have ascribed to the German Parliament and despite the legal empowerment of parliamentarians through recent treaty changes and changes to the EUZBBG, EU policy in Germany remains *Chefsache* (leader's competence). The chancellor retains the

*EU policy in Germany remains Chefsache (leader's competence).*

competence to guide German EU policy with help of the *Europaabteilung* (European department), one of the chancellery's six main departments. The department chief acts as the chancellor's

sherpa to the European Council.

In addition, many ministries of the German government have a European department or sub-division themselves. Most important for German EU policy are the ministry of foreign affairs, the ministry of the economy and the finance ministry, all equipped with well-staffed European departments and important competencies in the European institutional structure. This can lead to controversies between chancellery and one of the ministries, particularly in coalition governments. Two recent examples were the votes on extending the market licence for glyphosate and the EU copyright directive. In both instances the German government voted in favour, despite one coalition partner arguing publically against it.

The concentration of EU policy power and EU expertise in the government and particularly the chancellery has, for a long time, made a lot of practical sense: first, because the EU's institutional structure (and that of international politics more generally) favoured national executives. Second, because European integration was not a politicised issue, but was rather seen as a process of identifying common interests and aligning positions among European countries. Giving the chancellor the freedom to

roam in European affairs thus meant a strong negotiating hand to pursue German interests. The former reason is still valid to some degree – the European Council in particular has gained even further importance in setting the EU direction and, in part, taking detailed policy decisions. However, the latter has changed significantly since the 1990s.

*European integration today is much more part of public and political debate.*

European integration today is much more part of public and political debate, making the inclusion of a wider audience into EU decision-making much more plausible. In Germany, the *Bundestag*, but also the *Länder* parliaments and the *Bundesrat* are the natural institutions to demand and achieve more of a say.

Has this development led to a ‘constraining dissensus’ that some EU scholars have linked to EU politicisation? Considering the increased power for information, control and participation mentioned above, the *Bundestag* was set to play a major role during the eurozone crisis. Yet, while the formal power of the *Bundestag* has been increased, there are still strong constraints on its actual influence over EU policymaking. First, the EU’s institutional design still favours (heads of) governments. Second and increasingly important is the rise of ‘emergency politics’ in recent years, i.e. a tendency of leading politicians to evoke a sense of urgency and an air of the exceptional in policymaking. Even the increased rights of the *Bundestag*, for instance in decisions of the ESM to pay out tranches as part of the ESM programme for Greece were of limited practical value when the cost of deviating from the government’s position – triggering a fresh eurozone crisis – were prohibitively high. Thereby delegitimising slower parliamentary methods, governments at times managed to reduce parliaments’ role to a largely post hoc approver (White 2015). In such circumstances, EU policymaking is even more *Chefsache* than before. The increased role of the European Council in recent years is an indicator for this development (Puetter 2015).



## Conclusion

The German representative model of democracy is characterised by bicameralism, strong parliamentarianism and executive federalism. The *Bundestag* is one of the most powerful legislatures in the world and provided with a vast range of rights for information, control and participation in EU affairs. In this analysis of German representative democracy and its relations to EU politics, four aspects can be highlighted:

First, the origin of the strong participatory rights of the Bundestag and Bundesrat in EU affairs stems less from political than from legal confrontations. A series of legal challenges by individual parliamentarians such as on the ratification of the Treaty of Lisbon and during the eurozone crisis compelled the German government to increase the rights of the Bundestag in EU affairs. Only after respective judgments by the German Constitutional Court did the Bundestag, Bundesrat and German government agree on the respective laws governing parliamentary participation.

At the same time, it is striking how little use the Bundestag is making of EU-level instruments to participate in EU law-making, most notably the early warning procedure. Here, the Bundestag has participated in none of the successful yellow card procedures, while the Bundesrat has switched from an early active participant to a much more cautious approach. The strength of parliamentary control over the German government and thus its negotiation position in the Council therefore seems inversely linked to the use of the EU-level procedures. But even here, the strong legal mechanisms to control the German government have translated into a more limited political control in practice, partly because the series of 'grand coalitions' had very big majorities, at least until 2017.

Thirdly, it is important to note the substantial party-political links between German political parties and their European counterparts. Except in the Eurosceptic mainstream, German political parties were among the founders of all mainstream EU political parties and have had a strong influence on their shape and policies. With the EPP, the S&D, the Greens and the European Left, an above average number of EP party groups are led by German MEPs, who are also closely interlinked with their national parties. Last but not least, the overlap between the grand coalition in Berlin

and the informal grand coalition in the European Parliament also opened up avenues for informal coordination between German and EU politics.

Finally, a large part of power and expertise still lies with the German government, particularly the Chancellery and the ministries of foreign affairs, finance and the economy. While the politicisation of European politics has increased the interest and participation of the parliament, recent modes of 'emergency politics' have empowered the European Council on the EU level. Despite the *Bundestag's* improved stance, EU affairs in Germany remain *Chefsache*.

## References

- Abels (2017), "Die Rolle des Bundestages in der deutschen Europapolitik aus politologischer Perspektive", in *Handbuch zur deutschen Europapolitik*, pp. 114-129 ([http://iep-berlin.de/wp-content/uploads/2017/08/10\\_Bundestag\\_Abels\\_MJ.pdf](http://iep-berlin.de/wp-content/uploads/2017/08/10_Bundestag_Abels_MJ.pdf)).
- Beichelt, Ch. and T. Calliess (2013), "Auf dem Weg zum Europäisierten Bundestag: Vom Zuschauer zum Akteur?", Bertelsmann Stiftung, Gütersloh ([https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Presse/imported/downloads/xcms\\_bst\\_dms\\_37438\\_37439\\_2.pdf](https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Presse/imported/downloads/xcms_bst_dms_37438_37439_2.pdf)).
- Chernykh, S., D. Doyle and T.J. Power (2016), "Measuring Legislative Power: An Expert Reweighting of the Fish-Kroenig Parliamentary Powers Index", *Legislative Studies Quarterly*, Vol. 42, No. 2, pp. 295-320.
- Fish, S. and M. Kroenig (2009), *The Handbook of National Legislatures: A Global Survey*, New York: Cambridge University Press.
- Hix, S. (2008), "Towards a Partisan Theory of EU politics", *Journal of European Public Policy*, Vol. 15, No. 8, pp. 1254-1265.
- Hix, S. and S. Wilks-Heeg (2014), "Media coverage in Germany and the UK shows why both countries have radically different views over who should be the next Commission President", on LSE EUROPP blog, 9 June.
- Höing, O. (2015), "With a Little Help of the Constitutional Court: The Bundestag on Its Way to an Active Policy Shaper", in C. Heffler, C. Neuhold, O. Rozenberg and J. Smith (eds), *The Palgrave Handbook of National Parliaments and the European Union*, London: Palgrave Macmillan.
- Puetter, U. (2015), "The European Council", in C. Bickerton, D. Hodson and U. Puetter (eds), *The New Intergovernmentalism: States and Supranational Actors in the Post-Maastricht Era*, Oxford: Oxford University Press, pp. 165-184.
- German Bundestag (2014), Rules of Procedure of the German Bundestag and Rules of Procedure of the Mediation Committee, Deutscher Bundestag (<https://www.btg-bestellservice.de/pdf/80060000.pdf>).
- White, J. (2015), "Emergency Europe", *Political Studies*, Vol. 63, No. 2, pp. 300-318.

# 11. GREEK PARLIAMENTARY DEMOCRACY AS A POST- REPRESENTATIVE REGIME: CONTINUITIES AND DISCONTINUITIES DURING AUSTERITY

FILIPPA CHATZISTAVROU\*

---

*This chapter discusses the transformation of representative politics in Greece during the austerity years. Greece's post-1974 republican regime aimed at ensuring constitutional continuity and stability, making parliament the guarantor of democratic legitimacy. Austerity policies and politics inaugurated a new period known as 'post-metapolitefsi', where the political and partisan system has undergone important shifts.*

*The chapter first deals with the repercussions of the sovereign debt crisis on the parliament's law-making and scrutiny role, revealing the increasingly shrinking space for exercising delegated authority and fostering democratic deliberation. Then, it outlines the new features of the party system, insisting on how it dramatically alters the political space for ideological and partisan competition as well as the relationship between the elected and the electorate.*

## **Introduction**

In just two decades, Greece achieved what took other democracies half a century: the triumph and the decline of the idea of representative democracy (Manitakis, 2012). Following the first institutional legitimacy crisis to strike the system of political

---

\* Valuable research assistance was provided by Konstantinos Papanikolaou, ELIAMEP Junior Research Assistant.

representation since the end of the 80s (Manitakis, 2012), the forced Europeanisation of national economic policies gave rise to substantive shifts in parliamentary representativeness and partisan identity, thus further weakening national representative democracy.

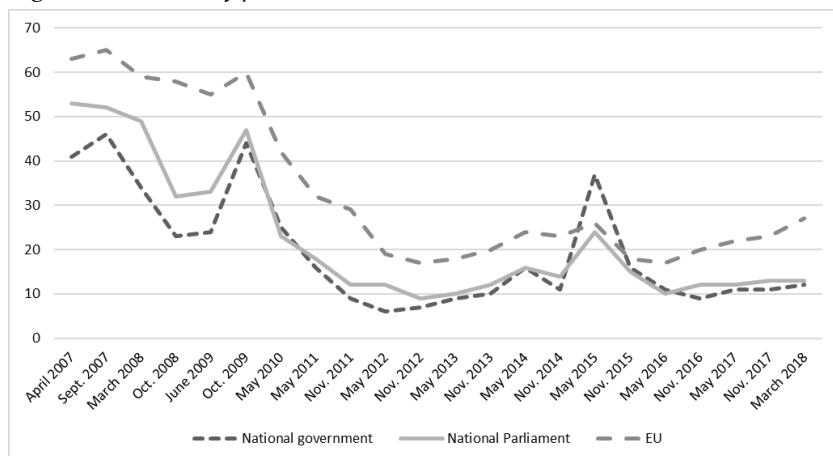
## 11.1 The weak safeguards of a ‘depressed’ parliamentarism

The main constitutional footprint of the *Metapolitefsi* has been the reinforcement of the executive branch in the legislative process, enhancing the formation of parliamentary committees controlled by the majority party. During the 1985-2008 period, the Greek parliament failed to react to the gradual erosion of its power and to the growing popular distrust due to the frequent allegations of opaque and

*Since the outbreak of the economic crisis, public trust in institutions has sharply declined, except for a slight surge during Syriza’s first term in office.*

unfair transactions with economic interest groups. Since the outbreak of the economic crisis, public trust in institutions has undergone a sharp decline, except for a slight surge of support during Syriza’s first term in office (see Figure 11.1).

Figure 11.1 Rates of public trust in institutions in Greece, 2007-18 (%)



Source: Standard Eurobarometer surveys, National reports, Greece.

The government exercises almost exclusive legislative competence via the introduction of bills in a much wider range of issues than had been envisaged in the Greek Constitution.<sup>1</sup> With this trend, the parliamentary space of working and debating narrows, both at the level of committees as in the plenary session, while legislative proposals presented by the opposition are exceptional. This also explains why the Greek Parliament privileges a reactive and ex post, instead of anticipative and ex ante scrutiny process of the EU draft legislation in the ordinary legislative procedure. The Greek Parliament's working style is mainly oriented towards supportive scrutiny in the framework of advisory procedures without formulating and/or voting specific instructions.<sup>2</sup>

*The Greek Parliament  
privileges a reactive instead  
of anticipative scrutiny process  
of EU draft legislation.*

The revisions of the Constitution in 2001 and 2008<sup>3</sup> as well as the initiatives of amending the Rules of Procedures of the Parliament (RoP) did not succeed in improving its internal functioning and the way in which it exercises its competencies. Before 2008, traditional methods of parliamentary control such as petitions, queries, or the mechanism of the 'debates' agenda' rarely led to discussions with any significant political effect. Moreover, the strengthening of the role of parliamentary committees<sup>4</sup> in relation to the plenary session, both in law-making and parliamentary scrutiny, proved insufficient to guarantee the conditions that promote democratic and accountable governance within the Greek parliament.

---

<sup>1</sup> Art. 73 of the Constitution stipulates this possibility only on pension issues.

<sup>2</sup> According to the article 70.8 of the Constitution and the articles 32A, 41B of the RoP.

<sup>3</sup> The 1975 Constitution that proclaimed parliamentary democracy was revised in 1986, 2001 and 2008.

<sup>4</sup> This includes the competence of parliamentary committees for passing bills, the publicity of their meetings and the use of exceptional specific parliamentary scrutiny instruments.

Austerity policies led to a further significant loss of Parliament's power to legislate and scrutinise government policies.

*Austerity policies led to a further significant loss of Parliament's power to legislate and scrutinise government policies.*

Most national parliaments are weakly involved with the various phases of the European Semester's workings and decisions at national level (European Parliament, 2018). During the memorandum era, Greece, exempt from all European Semester reporting

processes, was not subject to a macroeconomic imbalances review. The country did not have to submit a stability programme, but it had to accept the most stringent obligations – this is also the case nowadays in the context of the post-memorandum monitoring programme – for monitoring the implementation of the adjustment programmes that actually covered the policy areas reviewed under the Semester.

Parliamentary structures were not adapted to the new regime of external budgetary and financial monitoring for structural adjustment – a regime that included at least four Troika review missions per year, plus interim missions mainly through government channels.

A series of amendments of the RoP in 2010 brought some changes in order to improve parliamentary awareness of the government's work. The National Statistical Office has been put under the responsibility of the parliamentary committee on institutions and transparency, a State Budget Office has been established in parliament to facilitate the evaluation of budgetary data from the budget committee and to enhance parliamentary control of state finances. Moreover, a compulsory public consultation process has been introduced,<sup>5</sup> while prime minister's questions and ministers' topical questions have been reformed in order to enhance the immediacy of these processes.

It is highly debatable whether these procedural changes increased parliamentary scrutiny of the Troika's views – on actions to undertake, recommendations and policy priorities provided in

---

<sup>5</sup> In this process, each bill must be accompanied by a report on the public consultation and an assessment report on the consequences of the regulation.

the MoUs, or on Greece's national reform programmes. The reinforcement of throughput legitimacy has not increased parliament's influence on the policy outcome although, in principle, adjustment policies were intended to promote growth and employment in line with the Europe 2020 strategy.

All the above initiatives for amending the rules of the parliamentary process failed to mitigate the dominance of government parties – despite their progressively decreasing majorities after 2011 as we will see below – at the expense of opposition parties; on the contrary, they reinforced parliament's dependency on the government. Despite the controversial nature of austerity legislation, there have not been any motions of no confidence (art. 84 C) over the course of the last decade,<sup>6</sup> no increase in the number of petitions (art. 69 C) or requests for deposing documents, no rise in the number of debates on the initiative of MPs or hearings of competent ministers to inform the committees. It is worth mentioning ministers' indifference to parliamentary procedures, since they were either absent or responded after a long time to submitted parliamentary questions or queries. As far as 'prime minister's time' is concerned, by reintroducing this previously abolished institution selectively and sporadically, the Syriza government increased talk time for the prime minister at the expense of that for MPs.

In principle, the President of the Parliament is called upon to transmit regulatory acts and consultative documents to the competent standing committee and the European Affairs Committee. The government has to inform the House about the follow-up given to the opinions expressed during hearings from the competent or joint committees forwarded to the responsible or competent ministers (art. 41B RoP). However, in the framework of parliamentary debates, while austerity legislative measures imposed by the MoUs have been accompanied by explanatory reports – a report by the General Accounting Office and by the

---

<sup>6</sup> The only exceptions were the Syriza motion against the government New Democracy – Pasok in November 2013 after the shutdown of the Greek state broadcaster ERT and the New Democracy motion against the Prespa agreement in June 2018.



Minister of Finance and any other competent minister, and a report from the scientific service of the parliament – there was no substantial debate, where amendments or additions proposed by MPs could have been discussed and eventually accepted within at least the existing consultation processes.<sup>7</sup>

Effective scrutiny by national parliaments of their own governments was deemed extremely important for the credibility of the adjustment programmes given the fact that the MoUs were not taking into account the practice and institutions for wage formation, thus exempting concerned member states from reporting under the anti-poverty and social inclusion targets (European Parliament, 2014).<sup>8</sup> Within a parliamentary assembly engaged in genuine deliberation, ministers of finance should have been regularly reporting and held accountable to the national parliament on what was being negotiated between the European and national authorities.<sup>9</sup> In fact, in the Greek case, formal documents were not clearly communicated and considered in due time by Greek MPs, nor adequately discussed with the social partners.<sup>10</sup>

---

<sup>7</sup> The Special Committee for European affairs (art. 32A RoP) in collaboration with the sectoral standing committees and, if necessary, the sectoral special permanent committees can express advisory opinions by submitting a report to the parliament and the government, in which any minority opinion is registered.

<sup>8</sup> The EP Report also recalls that the recommendations contained in the MoUs were at odds with the modernisation policy drawn up in the Lisbon strategy and the Europe 2020 strategy without taking into account the national reform programme of the member state concerned in the context of the Union's strategy for growth and jobs as set out in Regulation (EU) No 472/2013 (art.7 (1)).

<sup>9</sup> In contrast, the Cypriot parliament rejected the original MoU while in Portugal the MoU was not ratified by the national parliament.

<sup>10</sup> "There has been a voluntary downgrading of the role of the parliament, thereby not allowing Greek deputies to address issues as sensitive as for instance the infrastructure concession agreements imposed under the MoUs", Interview with N. Voutsis, President of the Hellenic Parliament, 10.01.2019.

The EU significantly influences an increasing number of domestic processes of agenda-setting, thus covering a wide variety of issues that depend heavily on government policies and orienting the national parliamentary agenda. Nevertheless, this increasing Europeanisation of parliamentary work has neither resulted in a rise of awareness about EU affairs among Greek MPs nor a strengthening of their European 'expertise and competence',<sup>11</sup> nor in the effective adaptation of the Greek parliament's structures to the new requirements of overlapping and interlocking competences within the EU.

*This increasing Europeanisation of parliamentary work has neither resulted in a rise of awareness about EU affairs among Greek MPs nor a strengthening of their European 'expertise and competence'.*

Under economic pressure with tight deadlines, Greek governments abused specific urgent and emergency legislative procedures, thus *de facto* transforming an exceptional way of legislating into the 'ordinary legislative procedure'. Emergency bills were tabled and voted in a short space of time, restricting the public's access to information and neutralising attempts to generate an organised response through effective mobilisation.

Even earlier, the constitutional review of 2001 had already introduced derogations from the 'common' legislative procedure in order to further ease adoption of emergency legislation and tighten the way in which amendments and additions are made (art. 76.4 & 5 C). Emergency bills and draft laws are debated and put to the vote in one plenary session with no possibility of a time extension for further discussion; if they contain provisions unrelated to their main subject, these are not discussed.

This trend has been reinforced by the amending of the parliament's RoP in 2016. An assessment report, albeit concise, should also accompany the emergency legislation and ministers' amendments (art. 87 RoP). At the same time, new time limits are set for the submission of bills and amendments, so as to avoid

---

<sup>11</sup> "No more than half of Greek deputies have a relatively good knowledge of the EU; their scientific collaborators and the general staff of their respective parties are mainly taking charge of the related legislative work", Interview with N. Voutsis, *ibid.*

surprises. The one-week margin between the first and second reading debate on emergency bills and draft laws has been abolished (art. 109.2 RoP).

Greece's international commitments, legally and politically soft but financially hard, brought with them a marked increase in legislative output (see Table 1). This was accomplished mainly by way of the emergency legislative procedure, as well as by using flexible legislative instruments that are at the exclusive disposal of the executive branch in cases of urgent and unforeseen emergency, known as 'legislative acts'<sup>12</sup> and regulatory instruments (i.e. Acts of Council of Ministers, Ministerial decisions) (see Table 11.1 and Figure 11.2).

*Table 11.1 Legislative output under the framework of memorandums, 2010-18*

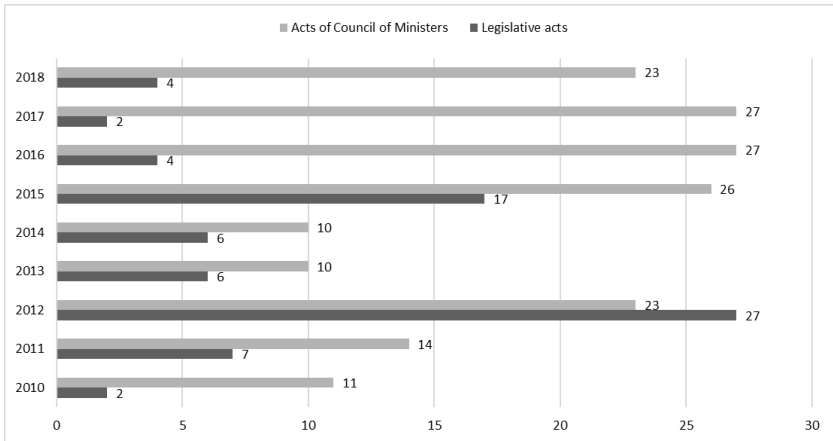
Multi-bills	26
Laws	over 717
Corresponding provisions of the memorandums	over 60,000
Legislative acts	75
Acts of Council of Ministers	171
Ministerial decisions	over 300,000

*Source:* Office of the Secretary General of the Government, 2019 and Directorate General of parliamentary work of the Hellenic Parliament, 2019.

---

<sup>12</sup> The bills introduced into parliament on the ratification of legislative acts, according to the art. 44.1 of the Constitution, necessarily contain one article which automatically ratifies the legislative act (art. 113 RoP).

Figure 11.2 Comparative numbers of legislative acts and Acts of Council of Ministers in the period of memorandums, per year, 2010-18



Sources: Office of the Secretary General of the Government, 2019 and Directorate General for parliamentary work of the Hellenic Parliament, 2019.

However, contrary to what is often said, the unconditional implementation of the memorandums' objectives through government policy did not take place in an emergency environment (Manitakis, 2012). The delegation of extraordinary legislative power to the Council of Ministers, which transformed the parliament into an *ex post* ratification institution, took place in a normal constitutional and political context. The new regime of permanent coercion became a facilitator for carrying out the legislative work, while at the same time exacerbated power asymmetries between national parliaments within the EU (Moschella, 2017, Nguyen, 2018).

While there was no unpredictable or exceptional danger, exceptional legislative processes have been normalised. The fact that the Troika was responsible for drafting the legislative measures and supervising their implementation<sup>13</sup> certainly eliminated any

<sup>13</sup> In 2015, there were some discussions, mainly launched by the re-elected Syriza government in September 2015, on the possible involvement of the European Parliament in monitoring the implementation of the economic

potential danger, whereas, on the other hand, it changed the nature of domestic political legitimacy. Instead of streamlining and improving parliamentary scrutiny, the further ‘executivisation’ of parliamentary power during the memorandum and the post-

*Instead of improving parliamentary scrutiny, the further ‘executivisation’ during the memorandum and the post-memorandum eras weakened it.*

memorandum eras translated into its long-standing weakening.<sup>14</sup> While these excessive amounts of austerity legislative output covered a broad spectrum of public policies largely exceeding the MoUs’ objectives, they failed to provide efficient and equitable policies as well as to

preserve legal sustainability and future legislative stability.

Low levels of parliamentary expertise on EU affairs and the shrinking space for parliamentary debate and legislative initiatives are the features of a system that struggles to participate in the existing framework of European inter-parliamentary cooperation. This low-profile and non-binding cooperation scheme encouraging conferences and networks between national parliaments as well as between them and the European institutions basically aims at exchanging information and discussing matters of common interest.

However, in the framework of the political dialogue with the European Commission, the Greek Parliament demonstrates a markedly low institutional capability in comparison with other member states as far as the task of monitoring compliance of EU legislative proposals with the subsidiarity principle is concerned.<sup>15</sup> Up to now, the Greek Parliament issued a small number of opinions

---

adjustment programmes of countries under financial assistance, but without success.

<sup>14</sup> In the framework of the national parliamentary debate, the Committee of European affairs of the Greek Parliament holds formal hearings for European Commissioners-designate confined to questions addressed by one representative of each political party in a limited amount of time.

<sup>15</sup> “The possibilities offered by the Lisbon Treaty are exploited. We could participate more actively, but this is a political issue”, Interview with E. Konstantinidou, former Director of the Directorate for European and bilateral affairs, Hellenic Parliament.

on Commission documents or policy areas and of reasoned opinions on draft legislative acts with no involvement in the three yellow cards triggered within the early warning mechanism.<sup>16</sup> This allows us to include the Greek Parliament in the group of national parliaments that embrace low-profile activism at the European level (Belgium, Bulgaria, Croatia, Estonia, Finland, Hungary and Lithuania).

However, while national parliamentary involvement in EU law-making is considered very important, it could not restore the problem of competence creep and the need to safeguard domestic socio-economic and politico-legal idiosyncrasies. The best way to alleviate the (national and European) democratic deficit and boost EU legitimacy is to ensure effective national parliamentary oversight of the quality of legislative output and the distribution of competences according to the principle of conferral of powers (Jancic, 2015; Garben, 2017).

## 11.2 Shrunken democracy

After the long post-war period of authoritarian parliamentarism, in the *Metapolitefsi* period Greece built a polarised parliamentary system based on a tripartite partisan system (Alivizatos, 1990). This partisan system reproduced the inherited opposition of the late dictatorship period, i.e. the post-civil war opposition between the Right (New Democracy) and anti-Right/democratic forces (Pasok, Communist party of Greece),<sup>17</sup> establishing a bipolar order of political competition, which was actually consolidated in the 80s (Nikolakopoulos, 1990). The Communist party's core ideology of anti-Americanism and anti-capitalist imperialism became an embedded feature of the one pole of the 'bipolar tripartism' (Nikolakopoulos, 1990).

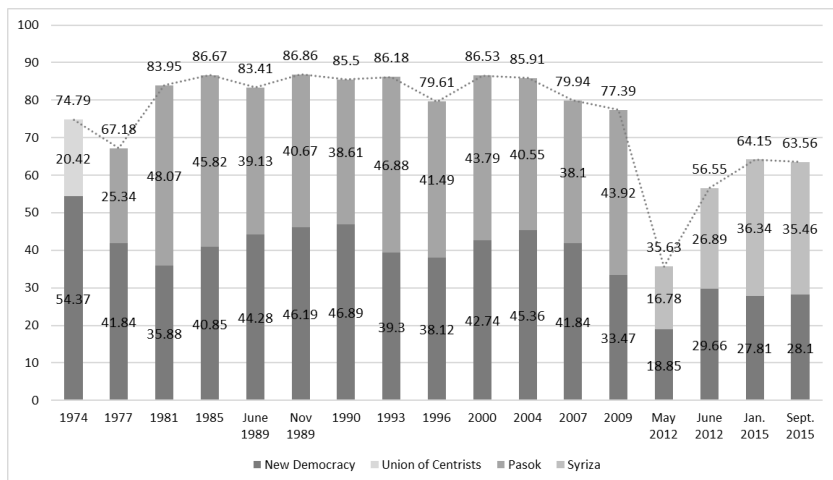
---

<sup>16</sup> Greek governments issued one opinion in 2017 and in 2016, two opinions in 2013, four opinions in 2012 and seven in 2010.

<sup>17</sup> The Communist party of Interior came from the splitting of the Communist party of Greece in 1968. In 1989, an electoral coalition named 'Synaspismos (Bloc) of the Left' was established gathering together different factions of the Greek Left; much later, following the defection of the Communist party of Greece, this coalition evolved into the political party of Syriza.

Two shifts took place more or less in parallel. From the mid-80s, there was a progressive break between the two poles weakening the right / anti-right structure and moving to a genuine polarised tripartite system with two main governing parties. From 1989 to 1990, the formation of coalition governments reinforced bipartisanship (Foundethakis, 2003). The sovereign debt crisis, as a catalyst, dramatically shrank the ideological polarisation of the old adversarial politics, reinforcing personal leadership, and reinvigorated party fragmentation with the appearance of some flash parties,<sup>18</sup> significantly weakening the long-established bipartisanship (see Figure 11.3).

Figure 11.3 The evolution of bipartisanship through elections, 1974-2015 (%)



Source: Election data, Greek Ministry of Interior.

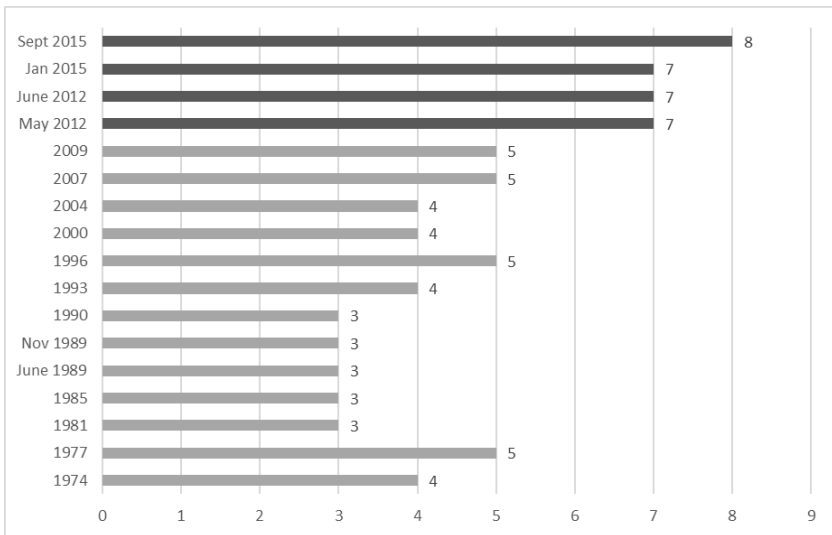
In the election of September 2015, the number of parties in parliament shot up to eight, the highest number in the post-dictatorship period. Indeed, this extreme fragmentation had not been seen before in Greek politics. When we observe the fluctuation of party numbers in the *Metapolitefsi* period, we see that party fragmentation was quite low in periods of stability, while it was higher in periods of political turmoil with shorter parliamentary

<sup>18</sup> Small parties with minor ideological differences risk disappearing.

terms; this was particularly the case during the years of the economic crisis starting with the May 2012 election, the first election held after the implementation of the (first and second) bailout programmes (see Figure 11.4).

*Party fragmentation was quite low in periods of stability, while it was higher in periods of political turmoil with shorter parliamentary terms.*

Figure 11.4 Number of parliamentary parties, 1974 – 2015



Note: This chart takes into account parties with at least 5 MPs.

Source: Elections data, Greek Ministry of Interior.

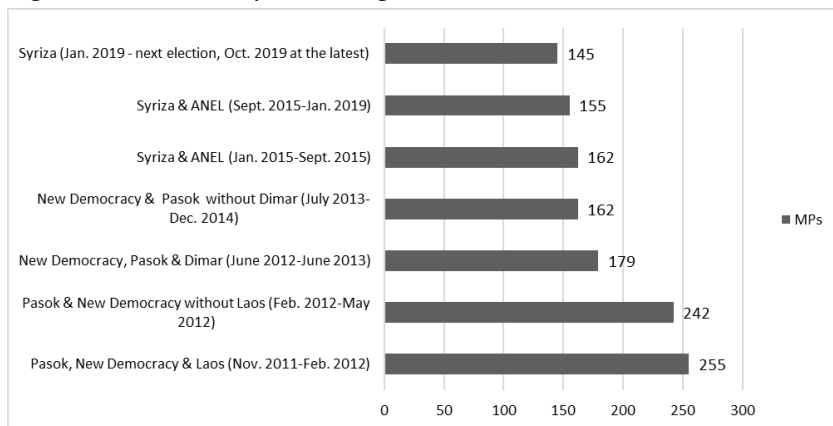
According to the provocative distinction between competitive systems and ‘consociational’ systems, the latter are defined by a “non-competitive ‘cartelised’ pluralist pattern” in which “amicable agreement” plays the leading role (Barber, 2003). The consociational model avoids the fractiousness of majority decision through a process of what we might call holistic bargaining. Greece’s political culture has been previously shaped by a strong tradition of one-party governments neglecting the issue of intra-party democracy. Post-crisis Greece underwent a shift from a

*Greece’s political culture has been previously shaped by a strong tradition of one-party governments neglecting intra-party democracy.*



bipolar partisan system to a post-majoritarian political system, experiencing considerable pressure due to the ever-decreasing government majorities that it produces. This can be seen as a 'south-consociational' model that reinforces its consensual characteristics and favours the development of multi-party governments (see Figure 11.5).

Figure 11.5 Number of coalition governments MPs, 2010-19<sup>19</sup>

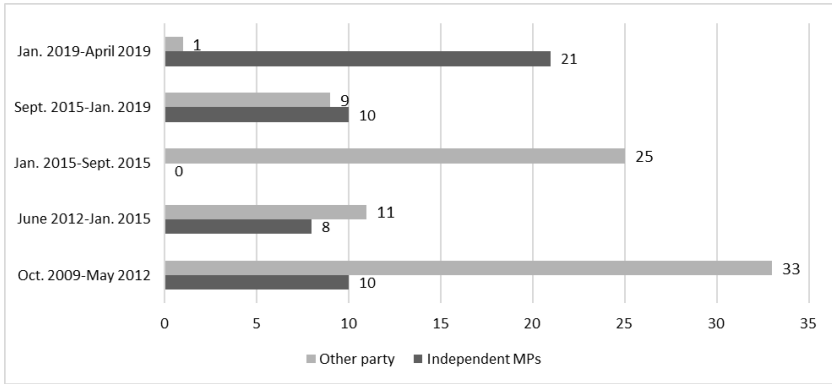


Source: Elections data, Greek Ministry of Interior.

Coalition politics increases the volatility of party preferences, contributes to the ideological vagueness of parties and jeopardises MPs' partisan identity. Parties' strategic rapprochements, along with their flagrant ideological incoherencies and mutations, further increase the growing disengagement of Greeks from parliamentary politics. Increasing numbers of MPs switch political party during their term or become independent, after either being excluded from or because of disagreement with it (see Figure 11.6).

<sup>19</sup> Since January 2019, the disagreement of Syriza's partner ANEL on the Prespa agreement led to the break-up of the government coalition. Syriza government minority of 145 MPs has the support of 6 MPs (2 members of the parliamentary group of ANEL and 4 MPs becoming independent after being expelled from their parties (two former ANEL MPs, one former New Democracy MP and one former The River MP).

Figure 11.6 Number of MPs leaving their party, 2009-19



Source: Hellenic Parliament, 2019.

Currently, the 21 independent MPs compose the 'third' party in the outgoing parliament. While the Constitution guarantees that MPs can decide according to their own conscience (art. 60.1 C), political parties have always used disciplinary measures to achieve voting unity. Memorandums, but also the recently adopted law for the implementation of the Prespa agreement on the Macedonian issue, increased MPs' disloyalty to their party. This general trend may also have a deleterious effect on party identification of voters when elected members of parliament disregard main party lines and show shifting loyalty not firmly rooted in their psychological attachment to their party.

Another aspect of the above trend is the hazy affiliation of Greek political parties with the political groups in the EP. Their ideological commitments seem ever looser, which leads to divergent positioning strategies and political de-alignments within the European political spectrum. New Democracy has been misaligned with the EPP's position on the Prespa agreement as well as on the prospects for Euro-Turkish relations. The Movement for Change – the centre-left alliance of Pasok with other minor centre-left parties – has been misaligned with the Socialists and Democrats' position on the Prespa agreement. Syriza's flirting with the group of

Socialists and Democrats has been a sign of its gradual convergence with centre-left politics.<sup>20</sup>

Syriza positioned itself as the best negotiator and executor of austerity norms and relevant policy actions embracing EU's protestant, positivist and liberal values; and all this within a public space where the margin of acceptable opinion has been strictly limited (Chomsky, 1998).

Three of the seven Greek parties that won EP seats in 2014 were generally registered as uncritical supporters of European integration and committed to keep crisis-stricken Greece in the Eurozone. The remaining four with Eurosceptic programmes won 12 of 21 national seats in the EP. According to a European Parliament survey, the three main issues influencing Greek voters were unemployment, economic growth and the future of pensions (European Parliament, 2014).

*The three main issues influencing Greek voters were unemployment, economic growth and the future of pensions.*

The 2015 referendum further widened the gap between pro-MoU 'globalists' and anti-MoU 'nativists'. It seemed that those voting for the first time and the unemployed had massively chosen 'No'. The voting pattern in the referendum was highly polarised, revealing the class-based division between pro-Europeanists (high-education, high-income) and Eurosceptics (low education, low-income), something that has also been observed historically in other relevant referenda on EU issues (Mavris, 2016).<sup>21</sup> However, that did not prevent Syriza from becoming a prominent pro-European cartel

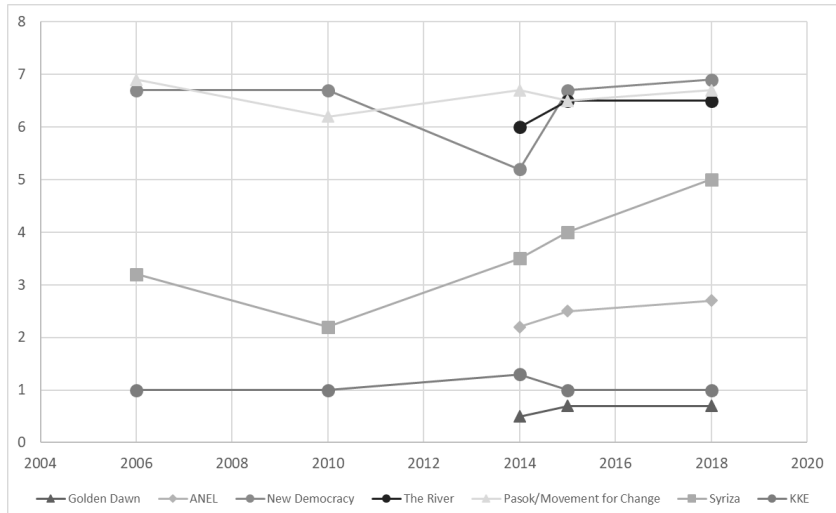
---

<sup>20</sup> Syriza is invited as an observer to the pre-summit gatherings of the political group S&D. In February 2018, J.-L. Mélenchon, the leader of the French left-wing party *France Insoumise* requested that Syriza - one of the oldest members of the European Left party - be expelled from the European Left party GUE-NGL because of its pro-austerity government policies and its rapprochement strategy with the S&D group. However, other members of the confederal group GUE-NGL such as the German *Die Linke* were opposed to the idea.

<sup>21</sup> The most important employers' organisations were very active in the formation of the Yes Committee which was set up on 1 July 2015 (Mavris, 2016).

party, proving once again that Euroscepticism is more a strategic position than an ideologically motivated posture (see Figure 11.7).

Figure 11.7. Greek party positions towards the EU on a 7-point scale ranging from 1 (strongly opposed) to 7 (strongly in favour), 2006-18



Note: Calculations updated in 2015 and 2018 on the basis of a qualitative analysis of party programmes and positioning using the Bakker et al. numerical scale (1-7).

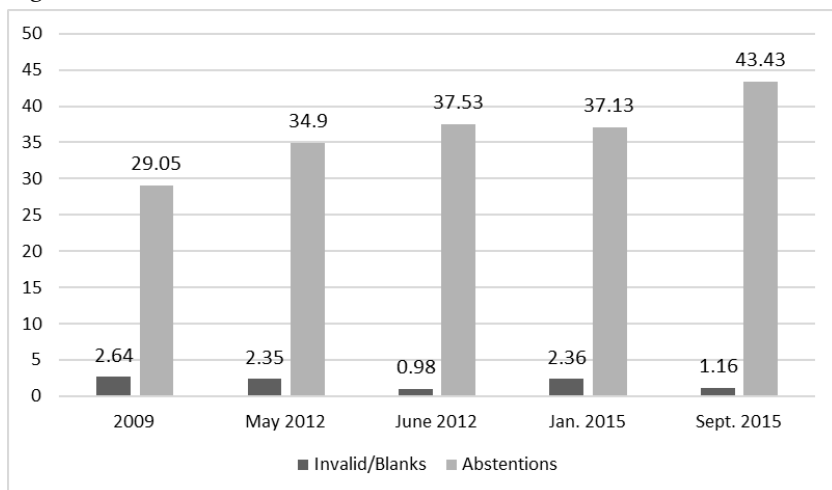
Sources: Bakker et al. (2015); Eimantas (2016), author's calculations (2019).

The September 2015 election had a much more direct effect on the social and electoral base of the party than the split between the leading group and the left-wing faction of the Syriza parliamentary group in the summer of 2015. Syriza's electoral base moved towards the centre of the political spectrum, while the complete disintegration of the remaining party mechanism of Syriza transformed it from a mass party to a cadre party structured around the leader and his leading group (Mavris, 2016).

Greece experienced tremendous social downgrading in much more heterogeneous social contexts. Commonly in established party systems, party identities are enmeshed with social identities erecting macro-partisanship as one of the most stable of political attitudes, more resistant to change than major economic or cultural policy positions (Converse & Markus, 1979). The progressive de-

ideologisation of Syriza disrupted Greece's traditional political geography, breaching the causal link between class and position towards the EU, thus defeating Mutz's idea about the social homogeneity of political behaviour (Mutz, 2006). Consequently, in a context of low or 'disembedded' politicisation, the repositioning by partisan actors in the political competition has entailed crucial consequences. First, there is a continuing rise in the abstention rate at national elections (see Figure 11.8).

Figure 11.8 Abstention rates in Greek national elections, 2009-15 (%)



Source: Elections data, Greek Ministry of Interior.

Second, there is an increase of unstable voters belonging to cross-pressured groups<sup>22</sup> with no organised political participation by membership in a party. Decreasing voter loyalty is the result of increasing distrust not only in parliamentary democracy but also in partisan politics. The current electorate is older compared with that in the mid-2000s, with a higher educational level, mainly composed of retired people. Non-privileged people are more likely to

***Decreasing voter loyalty is the result of increasing distrust not only in parliamentary democracy but also in partisan politics.***

<sup>22</sup> Cross-pressured voters express lower levels of political interest and participation, while their voting decisions come later.

abstain or to vote for small or flash parties. Flash parties that rapidly emerge on the political stage may be a legitimate expression of public interests, but they can also arise from political elites with exploitative intentions or be short-term reactions to a dramatic issue or event. The partisan dealignment is a persisting decline in the public's level of partisanship (Dalton, 2012). While macro-partisanship remains for the older or privileged people, the number of unattached voters can grow further due to the substantial instability of party attachments.<sup>23</sup>

After drastically blurring the pro- versus anti-memorandum dividing line, Syriza's main objective now is to absorb centre and centre-left parties' middle-ranking cadres, thus becoming a mainstream party within a party system that is moving rightward. The Prespa agreement, in contrast with the issue of refugees, has been a good opportunity to attempt to reconfigure the political spectrum. Syriza followed the French LREM's electoral campaigning strategy by tracing a new dividing line in Greek politics between 'progressives' as they now represent cosmopolitanism and Europeanism, and 'nationalists' preaching anti-Westernism, localism and provincialism. Nevertheless, whatever the attribution of political 'roles' may be in the future, a more fundamental realignment of the party system between liberal progressives and backward-looking populists, as is currently taking place in other European countries, seems difficult to establish in Greece.

*Syriza's main objective now is to absorb centre and centre-left parties' middle-ranking cadres, thus becoming a mainstream party within a party system that is moving rightward.*

The economic condition of the country does not make it possible to cultivate feelings of economic nationalism and liberal sovereignty within Greek society. Unlike other Europeans, Greeks seem to be more focused on socio-economic issues rather than socio-

---

<sup>23</sup> In the first post-bailout election of 2012, 'wasted votes' going to parties that did not achieve parliamentary representation climbed sharply to 19.2%, more than the vote share of the winning party New Democracy. In the next three elections, 'wasted votes' were significantly higher than before 2009 when they hovered below 5% (5.98% in the June 2012 election, 8.62% in the January 2015 election, 6.40% in the September 2015 election).

civilisational concerns and identity issues. This aspect is much more telling than analyses about populism in Greece. Contrary to what is often claimed, the degree of populist politics, despite the intensity of the crisis, has been lower than in other countries. Still, while the politics of normalisation seem to be gaining ground, there is a high risk of further shifts toward authoritarianism and right-wing radicalisation, given the fact that the class-based redistributive conflict has been largely wiped out.

## Conclusion

The Syriza government initiative for a constitutional reform that could take place in the next parliamentary term intends to contribute to the reinvigoration of Greek parliamentarism in order to have greater “control of government power by the body”. The proposed changes aim to democratise the political system by introducing a citizens’ right to propose laws as well as proportional representation electoral rules for the parliament. They also stipulate that a prime minister should be elected and not appointed. And they introduce the ratification by referendum of international treaties or agreements transferring sovereign state powers.<sup>24</sup> Changes also aim to restore the credibility of the political class by limiting parliamentary immunity and office to three consecutive terms.

Furthermore, the recent Kleisthenis decentralisation reform in 2018 was an attempt to reinvigorate citizens’ interest in politics and link electoral democracy with European transnationalism by allowing EU citizens to participate in regional elections and the election of an EU citizen as a mayor and president of a regional council.

However, a comprehensive reform should first and foremost guarantee parliament’s area of competence, facilitate the release of and MPs access to information and arguably enlarge its legislative powers by introducing new pre-legislative scrutiny monitoring and

---

<sup>24</sup> “While the right-wing New Democracy party proposes that Greece’s membership of the EU should be constitutionally entrenched, Syriza considers that there is no need for such a constitutional guarantee”, Interview with M. Spourdalakis, Professor of Political Science, University of Athens and Chairman of the Constitutional Review Committee, 26.11.2018.

evaluation tools, such as the government's right to take legal action before the ECJ on behalf of the parliament in case of breaches of the subsidiarity principle.

## References

- Alivizatos, N. (1990), "The Difficulties of 'Rationalisation' in a Polarised Political System: the Greek Chamber of Deputies", in U. Liebert and M. Cotta (eds), *Parliament and Democratic Consolidation in Southern Europe*, London and New York: Pinter.
- Bakker, R, E. Edwards, L. Hooghe, S. Jolly, J. Koedam, F. Kostelka, G. Marks, J. Polk, J. Rovny, G. Schumacher, M. Steenbergen, M. Vachudova and M. Zilovic (2015), *1999 – 2014 Chapel Hill Expert Survey Trend File*, version 1.13, Chapel Hill, NC: University of North Carolina (chesdata.eu).
- Barber, B. (2003), *Strong Democracy – Participatory Politics for a New Age*, Berkeley, CA: University of California Press.
- Chomsky, N. (1998), *The Common Good (interviewed by D. Barsamian)*, Odonian Press.
- Dalton, R.J. (2012), "Apartisans and the changing German electorate", *Electoral Studies*, 31(1): 35-45.
- Eimantas, K. (2016), "Expressions of Euroscepticism in Political Parties of Greece", *Journal of Political Sciences and Public Affairs*, 4(2): 1-35.
- European Parliament (2018), "The role of national parliaments in the European Semester for economic policy coordination, Economic governance support unit (EGOV)", 5 April, PE 614.494.
- European Parliament (2014), "Role and operations of the Troika with regard to the euro area programme countries", Resolution, 13 March, P7\_TA (2014)0239.
- Foundethakis, P. (2003), "The Hellenic Parliament: The New Rules of the Game", *The Journal of Legislative Studies*, 9(2): 85-106.
- Garben, S. (2017), "Competence Creep Revisited", *Journal of Common Market Studies*, doi:10.1111/jcms.12643.
- Hoai-Thu, N. (2018), *An Uneven Balance? A Legal Analysis of Power Asymmetries Between National Parliaments in the EU*, Eleven International Publishing.



- Jancic, D. (2015), "The Game of Cards: National Parliaments in the EU and the Future of the Early Warning Mechanism and the Political Dialogue", *Common Market Law Review*, 52(4): 939-976.
- Manitakis, A. (2012), "The collapse of the *Metapolitefsi* political system", in X. Kontiadis, F. Spiropoulos and K. Tsoukalas (eds), *Democracy, Constitution, Europe in times of crisis*, Savvalas.
- Markus, G. and P. Converse (1979), "A Dynamic Simultaneous Equation Model of Electoral Choice", *American Political Science Review*, 73(4): 1055-1070.
- Moschella, M. (2017), "When Some Are More Equal than Others: National Parliaments and Intergovernmental Bailout Negotiations in the Eurozone", *Government and Opposition*, 52(2): 239-265.
- Mutz, D. (2006), *Hearing the Other Side - Deliberative versus Participatory Democracy*, New York, NY: Cambridge University Press.
- Mavris, G. (2016), "Rise and fall: The electoral influence of SYRIZA before and after the referendum of 5 July 2015", *Tetradia*, issue 66-67, Autumn-Winter 2016-17.
- Nikolakopoulos, H. (1990), "The electoral influence of political forces", in Ch. Lyrintsis and H. Nikolakopoulos (eds), *Elections and parties in the 1980s*, Themelio.

## 12. DOES ITALIAN BICAMERALISM DOUBLE THE CHANCE OF INFLUENCING EU DECISION- MAKING? ELEONORA POLI\*

---

*The Italian Parliament is well-informed about European issues and it is equipped with the necessary instruments to shape EU policies. With a House of Deputies and a Senate sharing the same powers in the legislative and non-legislative processes, its 'perfect bicameral system'<sup>1</sup> should in theory double the parliament's chances for influencing the EU decision-making process. However, differences in intent between the two Houses often puts the effectiveness of its actions at risk. When dealing with the EU, the Chamber of Deputies tends to reflect the executive's positions, while the Senate acts more autonomously. Limited coordination between the two Chambers undermines the parliament's capacity to influence the EU as well as the chance for effective cooperation with other parliaments. At the same time, an increasing governmental centralism in Italy, together with the greater role assumed by the European Council in recent years, reduces the impact and independence of parliamentary actions.*

### 12.1 The Italian parliamentary system and its 'perfection'

Italy has been a parliamentary democracy with a 'perfect bicameral system' since 1948, when the Constitution entered into force. At that

---

\* Special thanks to Virginia Volpi for helping with the background research.

<sup>1</sup> The Italian bicameral parliamentary system is technically defined as perfect or "paritarian" because it is composed of two chambers holding the exact same powers and functions as described by art. 55 of the Italian Constitution.

time, a new Constitution was necessary not only for providing a legal framework to the new Republic's governance, but also for replacing the 1848 Albertine Statute, which had failed to provide legal protection from the forceful hollowing out of parliamentary governance carried out by the Fascist Party between 1922 and 1943. Since then, the parliament has become the guarantee of a state system geared towards the defence and promotion of civil, political and socio-economic rights. Fearing other authoritarian surges, the Founding Fathers promoted a symmetrical bicameral system to avoid having a sole chamber holding the legislative power. Within this frame, the Senate, defined as a "Chambre de Reflection", had to protect the Constitution and citizens' individual rights by balancing the need for innovation to prevent institutional decay with the necessity for stable state institutions (Romaniello, 2017).

Although several scandals and cases of misconduct and corruption involving some members of the Italian Parliament have made Italians very critical vis-à-vis national politics and politicians, the Constitution and its institutions, such as the parliamentary system, have assumed an almost sacred importance. The outcome of the 2016 constitutional referendum, promoted by former Prime Minister Matteo Renzi, partially proves this. The referendum consulted the Italians on a number of constitutional changes, one of those being the need to overcome the perfect bicameral system by reducing the Senate's legislative competences and the number of its members. At the time, 60% of the citizens voted against the constitutional reforms, resulting in Renzi's resignation. Although

*The Italian Parliament is still composed of the House of Deputies and the Senate holding equal powers and performing the same functions.*

there were many political reasons behind such a negative vote, certainly the idea of modifying the Constitution and the structure of the parliament was not welcomed by the electorate.

To date, the Italian Parliament is still composed of the House of Deputies and the Senate holding equal powers and performing the same functions, namely the legislative one, which is its main prerogative, along with that of holding the government to account. The two chambers are independent from each other and from the other constitutional organs. The main difference between the two is related to their structure. Each

Chamber has its own speaker (formally known as chairman or president), internal regulations and parliamentary Committees. The Chamber of Deputies, or the lower house, is composed of 630 members, elected each five years by universal suffrage in 618 districts roughly equivalent in population (12 deputies are elected by Italians residing abroad following a 2001 constitutional amendment). The Senate comprises 315 members elected for five years on a regional basis – meaning that each of Italy’s twenty regions elects a number of Senators proportional to its population – plus up to five Senators-for-life appointed by the President of the Republic as well as former Presidents themselves. The difference in the ways the members of the two chambers are elected, nationally based for the Chamber of Deputies and regionally based for the Senate, is not intended in terms of regional or national representation, yet it could certainly allow for a better reflection of the composition of Italian society.

## **12.2 Which cleavages influence the Italian political spectrum?**

Like many other EU countries, Italy is still characterised by several regional and cultural cleavages. Parliamentary representation should have favoured a national process of reconciliation of all local and regional issues. Unfortunately, this was not always the case. Nowadays, the cultural, social and regional differences characterising Italy are not only numerous and relevant, but often exploited by political parties to build their electoral success. To date, the historical north-south territorial cleavage is certainly less discussed, but it is still deeply rooted in Italian society. It is related to the economic gap between the wealthy northern regions and the south, which has resulted in the former asking for more fiscal autonomy from the central state. In the 90s, such a claim found its political representation in the regional separatist Northern League Party, now the League. The party was able to fuel the discontent of wealthier northerners regarding internal economic migration from the south of Italy as well as misuse of public resources from the State, with the north allegedly paying more taxes than it receives in terms of public goods. Although northern regions have not stopped asking for more fiscal autonomy (the Veneto and Lombardy regions had a referendum on such an issue in 2017 and are now negotiating

with the government), their claim has become of secondary importance since Italian public opinion has been confronted by what is perceived as a bigger challenge.

External migration from African countries and the Middle East has helped in creating a new cleavage between those who would like a more lenient policy towards migrants, and the rest who think the government should block any form of irregular entry. At the same time, such a crisis has to some extent united Italians from the south and north. The same northerners, who criticised southerners for coming to their regions to allegedly steal their jobs, are now united with many of their fellow citizens from the south against foreigners, migration and its presumed effect on public security, social cohesion and cultural homogeneity. Again, the League was the main party to capitalise on such a cleavage (Poli, 2018). Turning attention from the north-south issue to external migration, the League has been able to redefine its nature, becoming a nationalist party. Yet, in recent years, the majority of Italian parties, even on the left, have been adopting a more rigid approach towards migration in order to appeal to the electorate. It was, for example, under the left-wing Democratic Party government, in 2017, that former Minister of Interior Marco Minniti imposed a code of conduct on NGOs. His attempt to regulate the rescue of migrants in the Mediterranean Sea led to a 30% drop in arrivals from 2014 to 2017 (UNHCR data).

The third cleavage is Italy's membership in the EU. While Italy used to be one of the most Europhile countries, European institutions have often been used as a scapegoat by Italian governments, with increasing frequency, as the reason for whatever bitter pills are being meted out – higher taxes or lower public spending. Although centre-left governments have been traditionally Euro-enthusiastic, even the more Eurosceptical centre-

*With a majority of parliamentarians holding Eurosceptic positions, the Italian approach to the EU is increasingly critical.*

right coalitions remained committed to the mainstream thinking that EU membership was in the national interest. To date, leaders of the ruling parties, Luigi Di Maio for the Five Star Movement and Matteo Salvini for the League, are not formally questioning Italian membership

in the EU or even in the Eurozone (Camera, 2018, a). Yet, with a

majority of parliamentarians holding Eurosceptic positions, the Italian approach to the EU is increasingly critical (Morillas-Poli, 2018). According to Eupinion, the majority of Italians want more political and economic integration. However, the number of Italian EU supporters has decreased, going from 79% in 2015 to 69% in 2018 (Eupinion data, 2018). Rising Euroscepticism in Italy is strongly related to a more recent but not less significant divide. It is the one between 'the people' and 'the establishment', variously construed as mainstream forces, bankers, corporations, intellectuals, and 'Eurocrats', all supporting an agenda comprising open borders, multiculturalism and European integration. Both the Five Star Movement (M5S) and the League have widened this cleavage through a political discourse filled with references to (the people's) sovereignty, of which they claim to be the true representatives. While this has enabled both of them to build consensus across different political tribes, regional communities and social classes, the two parties act differently. The League has built its consensus on nationalist discourses to attract all who feel left behind by globalisation or threatened by migration flows. The Five Star Movement, instead, has coalesced support by claiming to rejuvenate democratic representation in Italy, fight corruption and boost social welfare. For instance, the party has set out precise internal rules whereby candidates should not have any criminal record, are selected online by members of the Movement and once elected have to voluntarily contribute part of their salary to social causes.

### **12.3 What are the instruments that the parliament has to control the executive?**

Formally, the parliament sits atop Italy's constitutional set-up. Not only does it wield the legislative power, but it is also the body that holds the executive to account, as the latter needs support from a (simple) majority of Members of Parliament (MPs) in both houses to take office (Art. 94, Constitution). The government is technically a Council of Ministers headed by a President of the Council, who is appointed by the President of the Republic after consultations with the leaders of all parties sitting in parliament. Thus, governments in Italy are always an expression of a majority of MPs, organised in a coalition of parties (Mezzetti, 2013, 303-304).

The parliament can vote down the government or even a single minister at any time, through a motion of no confidence presented by just ten MPs, discussed by both Houses and voted by the majority. The Chamber and the Senate also have other tools for addressing the government. The parliament can use a simple motion to propose a debate, a resolution that contains a specific directive to the government, and generally, it can provide instructions for the implementation of laws (Camera, c). In this respect, the government is formally dependent on the parliament and its majorities.

Although the aim of the Constitution was to develop a system that elevated the parliament to the role of ultimate decider in the deliberation process, the political power of the latter has progressively reduced stability of governments since 1948. In the early days of the Italian Republic, a proportional electoral system favoured the development of broader coalitions among diverse and conflicting parties, which the government had to reflect in its composition. This system increased the role of the parliament in decision-making but weakened the cohesiveness of the executive, making the latter hostage to parliamentary centralism. As a result, from 1948 to 1993, when the first electoral reform was passed, Italy changed government around 47 times, an average of almost one per year.

Since the early 90s, the failure of the political and institutional system based on pluralism, the 'First Republic', and the consequent call for stability resulted in the 1993 electoral law, which replaced the proportional system with one that mixed a first-past-the-post system with a residual proportional component. Since then, various electoral reforms followed. In 2005, Berlusconi's government introduced a proportional system with a majority premium and, in 2017, a new reform enforced the current mixed system, where elements of first-past-the-post and proportional systems are combined.

The new electoral systems contributed to guarantee more stability to the Italian governments. From 1946 to 1993, five governments did not receive the necessary vote of confidence after taking office and the governments of the 'First Republic' remained in office approximately 342 days on average. Since 1993, the governments have experienced an average duration of 626 days,

and only two were voted down by a no-confidence motion, in 1998 and in 2008 (Senato della repubblica, a).

Yet, the condition of political continuity between the majority parties and the government, partially favoured by the electoral reforms, together with an increasing personification of the governments by political leaders, risks undermining parliamentary independence of action and judgment, especially when it comes to European affairs (Rizzoni, 2017, Politi, 2012; Pisicchio, 2012, Manzella, 2002). Considering the increasing role of the European Council in the European decision-making process, the parliament should make an extra effort to influence EU political trends. Yet, excessive political bonds to government positions often come at the expense of parliamentary independence, undermining the chances of an effective bipartisan collaboration between majoritarian and opposition parties.

*Political continuity and the increasing personification of governments risk undermining parliamentary independence of action when it comes to European affairs.*

## **12.4 The European dimension of the Italian Parliament**

Although historical parliamentary centralism has been progressively replaced by government centralism in decision-making, the Italian Parliament has achieved greater power in dealing with EU affairs since 2012. In the aftermath of the Lisbon Treaty, the Italian Law 234/2012 “General norms regarding the Italian participation in the formulation and implementation of European Laws and policies” strengthened the role of both Houses in the formation and implementation of EU laws and policies (Parlamento italiano, 2018).

According to article 6 of the Law 234/2012, the Italian Prime Minister or the Minister of Foreign Affairs have to update the parliament on legislative acts discussed at the EU level and provide technical reports on the potential impacts of these acts at the national level. Moreover, every year, the government presents a report to the parliament on national priorities vis à vis the European integration process (Camera dei Deputati, a; Nesti, 2018; Lupo,



2017). The government also needs to inform the Italian Parliament beforehand about its general positions at the European Council meetings. Yet, details on the progress of negotiations in the Council are only given on parliament's request (art. 4). In this case, the parliament can recommend to the government the adoption of a specific negotiating position and the latter needs to consider these recommendations and respond in case of any deviation (art. 7). Moreover, according to article 8 and 9 of Law 234/2012, the Italian Parliament can take an active part in the EU legislative process through the Early Warning System (EWS) and Political Dialogue (PD) mechanisms (Nesti, Grimaldi, 2018).

While both Houses are fully entitled to use the above instruments to express their opinions on EU affairs, the Italian Senate has been more active than the Chamber of Deputies in using the instruments of political dialogue. This is mainly related to procedural differences but also to diverging views on parliamentary participation in the EU decision-making process. The Chamber of Deputies appears to be more concerned with producing opinions, which might diverge from the government's political line. In contrast, the Senate considers the direct dialogue with the Commission as an effective tool, up to a certain extent, to act more independently from the government (Romaniello, 2017). Similarly, when it comes to Italian participation in the Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC) (Bindi, 2011), there is no coordination between the two Houses. MPs normally use inter-parliamentary conferences to exchange best practices. Senators instead, believe that inter-parliamentary cooperation can increase EU democratic oversight by national parliaments (Griglio, 2017, 212-13).

*If the two houses cooperated, they could have greater impact on the EU decision-making process.*

If the two houses cooperated, they could have greater impact over the EU decision-making process. Yet, data shows that they rarely do so, having adopted a reasoned opinion on the same issue only

once in 2014.<sup>2</sup> Lack of coordination between the two houses, together with increasing centralism of government, undermine the capacity of the parliament as a whole to influence European affairs effectively at a time when EU issues have become increasingly relevant in parliamentary debates.

## 12.5 EU affairs in the Italian government and parliamentary debates

The current government reflects a very heterogeneous electorate, with different visions when it comes to economic and foreign policy. The League combined nationalist positions with neo-liberal economic policies. For instance, its main political goal is to stop migration and protect the interests of companies by lowering taxes. The Five Star Movement has a more undefined nature. On economic policies, it has a radical left-wing approach, which is exemplified by the introduction of a citizens' income to reduce poverty. Yet, on migration, it has followed in the League's footsteps. On foreign policy, the League winks at Russia, but acts within the traditional set of alliances Italy has developed, such as NATO and the US. The M5S is more disruptive. For instance, it strongly supported the recent agreement on the 'Belt and Road' project signed with China, although the League, in line with the US and the EU, was more sceptical. Within this framework, Prime Minister Conte often has to mediate different and conflicting positions on internal and external affairs. Yet, when it comes to the EU, the situation is quite different. With EU matters mostly relegated to a couple of points on the coalition agreement and the idea of exiting the euro area abandoned, the coalition government has found some solid common ground on the need to reform and revitalise the EU. This idea is shared by the majority of European leaders. Yet, according to Prime Minister Conte and his government, such a revitalisation should come by

*The rising number of national parliamentarians with Eurosceptic ideas has at least contributed to more general interest in the EU.*

---

<sup>2</sup> On the approximation of the laws, regulations and administrative provisions of member states concerning the manufacture, presentation and sale of tobacco and related products.

devolving more power to member states.

As far as the role EU affairs play in the Italian Parliament is concerned, the rising number of national parliamentarians holding Eurosceptic ideas has at least contributed to increasing general interest in the EU. Moreover, the extent of the multiple global crises of recent years, such as the 'Credit Crunch', 'Great Recession', unprecedented migration flows, terrorist attacks or instability in the Middle East, which transcend any national problem-solving capacity, has highlighted the impossibility for national parliaments to manage them without coordinating their actions at EU level. In this respect, EU affairs are central in many parliamentary debates. Yet, they are often used to fuel a sort of anti-European propaganda machine, with the EU and some allegedly pro-EU member state governments, like France, being blamed for the problems affecting Italy (i.e. lack of solidarity when it comes to rescuing migrants).

Some EU issues are predominantly framed as national matters with a European dimension. For instance, the Italian Parliament supports the development of a European defence system to promote the security of Italian citizens. On the other hand, national issues, such as meagre Italian economic performance, are often Europeanised. For instance, while Italian economic issues are mostly related to its huge public debt, corruption, tax evasion and low productivity, the EU, the euro and austerity policies are often referenced as the main and unique cause of poor economic growth. When it comes to EU economic governance, the Italian Parliament criticises the institutional structure of the Economic and Monetary Union. The majority of Italian MPs agrees on the need to introduce some exceptions to the Fiscal Compact and the deficit-GDP parameter to allow more public spending and boost economic growth (Camera dei Deputati, 2018a; Alcaro-Poli, 2017). Moreover, Italian MPs agree on the need to reform euro area governance through a revision of the budgetary law, to foster social inclusion and employment and share common risks. In this respect, the Banking Union should be completed with a deposit insurance guarantee and an effective fiscal union (Camera dei Deputati, 2018b).

Likewise, migration is also a relevant EU-related topic. However, the perceived lack of European solidarity together with the failure, by previous Italian governments, to push forward a

revision of the Dublin Treaty, has reduced trust in a European capacity to solve the migration issue. To date, the Italian Parliament has welcomed EU initiatives for an EU Emergency Trust Fund for Africa and it has called for European shared management of migratory flows via the central Mediterranean route (Parlamento italiano, 2018; Camera, 2018). Yet, when it comes to the Dublin Treaty and the need to introduce a binding acceptance of migrant quotas by member states, the current Italian Parliament, with the majority of members belonging to the Five Star Movement and the League, has not implemented any specific action. Indeed, Five Star Movement MPs believe in the need for a more ambitious reform than the simple shared management of arrivals and asylum requests. In contrast, according to League MPs these reforms are not “good enough”. Migration flows have simply to be stopped and if the EU cannot do it, it is time for member states to act.

## **12.6 Italian parties and European political families in the EP elections**

With EU matters of little import in their coalition agreement and with quite different political agendas, M5S and the League are not going to run together during the electoral campaign for the next EP elections. On the contrary, both parties seem willing to promote ‘change’ at the EU level by building new and competing coalitions.

The leader of the League, Matteo Salvini aims to develop an alliance with other European Eurosceptic nationalist parties to challenge EU bureaucratic institutions that undermine national governments. The new political group will likely be called the European Alliance of People and Nations (EAPN) and might include former members of the Europe of Nations and Freedom Group such as Le Front National and the Dutch Freedom Party together with other right-wing parties such as Alternative for Germany, the Danish People’s Party and the Finns party.

In contrast to Salvini, whose newly branded European group has a clear right-wing ‘sovereignist’ position, the Five Star Movement appeals to various political families. The only commonality of potential M5S allies is to be relative new comers in the European or national political space and to have a very thin ideological background. Indeed, beyond ideologies, the Movement

aims at building a coalition to challenge old EU institutions and traditional political parties. To do that, Deputy Prime Minister Luigi Di Maio has been in contact with several parties and movements such as the far-right Polish Kukiz'15, the Croatian Human Shield, the pro-market Finnish Movement Now and even the French Yellow Jackets movement. To date, however, it is not clear whether the Five Star Movement will succeed in creating a new European political group.

As far as traditional Italian parties and their political groups are concerned, on the centre-right, Berlusconi has declared he will run for the EP elections without mentioning his party's European group, the European People's Party (EPP). Moreover, the economic and social policies it supports are often closer to those of the League than those of the EPP (Elif Lab, 2016). On the centre-left, the Democratic Party (PD) currently has the largest share of seats in the Social and Democrats (S&D) group, and the S&D symbol is on the PD electoral manifesto. Yet, there is a clear voting misalignment at the EU and national level, with PD members of the Italian Parliament sharing a greater number of positions with traditional right-wing parties (Elif Lab, 2016).

## Conclusion

The Italian Parliament, with its 'perfect bicameral' parliamentary system and two Houses holding the exact same powers and functions, should have a greater chance of influencing EU decision-making processes. Especially in the aftermath of the Treaty of Lisbon, Italian Parliamentarians have several instruments to oversee EU policies and institutions. Yet, although both Houses are very active, the effectiveness of their actions is often undermined by a lack of cooperation. This can be noticed at both a vertical and horizontal level. From a horizontal point of view, different interpretations of how independently the parliament should act from the government contributes to jeopardising cooperation between the two Houses. The Chamber of Deputies very rarely contradicts a position put forward by the government when it comes to EU affairs, while the Senate seems to act more autonomously. At the vertical level, the personalisation of political power by government leaders has contributed to establish a type of continuity between majoritarian parties in parliament and the

government itself, undermining the chances for developing bipartisan positions on EU affairs, which would better reflect Italian society as a whole. Hence, although the parliament has the instruments necessary to be more involved in EU affairs, there is wide room to increase the effectiveness of its actions. Certainly, the increasing governmental centralism experienced in Italy, especially at a time when the government is very critical towards the EU, together with the growing importance of the European Council in recent years, might well undermine the parliament's role and capacity to positively and actively influence the EU decision-making process.

## References

- Alcaro, R. and E. Poli (2017), "New Pact for Europe National Report: Italy", European Policy Centre (EPC) (<https://www.iai.it/en/pubblicazioni/new-pact-europe-national-report-italy>).
- Bindi, F.M. (2011), *Italy and the European Union*, Brookings Institution Press.
- Camera dei Deputati, (a) La partecipazione del Parlamento alla formazione delle politiche europee [http://leg16.camera.it/398?europa\\_estero=44](http://leg16.camera.it/398?europa_estero=44).
- Camera dei Deputati (b), L'Unione Interparlamentare. [http://www.camera.it/leg18/420?europa\\_estero=20](http://www.camera.it/leg18/420?europa_estero=20).
- Camera dei Deputati, (c) L'attività di indirizzo e di controllo, [http://legxiv.camera.it/cost\\_reg\\_funz/671/673/documentotesto.asp](http://legxiv.camera.it/cost_reg_funz/671/673/documentotesto.asp)
- Camera dei Deputati, (2018), XVIII LEGISLATURA Resoconto stenografico dell'Assemblea Seduta n. 12 di mercoledì 6 giugno (<http://www.camera.it/leg18/410?idSeduta=0012&tipo=stenografico>).
- Camera dei Deputati (2018a), Comunicazioni del Governo, Dichiarazione Programmatiche del Governo, XVIII legislature, Seduta n. 11 di martedì 5 giugno.
- Camera dei Deputati (2018b), Discussione del Documento di economia e finanza 2018 (Doc. LVII, n. 1).
- Elif Lab (2016), "What future for Italian political parties? Comparison of voting behaviour in the European and Italian Parliament", 17 November (<https://medium.com/@eliflab/what-future-for-italian-political-parties-2e1f5ea1f6ac>).
- Eurofund (2017), "Yellow card procedure" (<https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/yellow-card-procedure>).
- Griglio, E. (2017), "Procedures vis-à-vis the European Parliament and the Other National Parliaments: Interparliamentary Cooperation", in N. Lupo and G. Piccirilli (eds), *The Italian Parliament in the European Union*, Oxford: Hart Publishing, pp. 195-214.
- Lupo, N. (2016), "Il terzo «cartellino giallo» e i multiformi usi dell'early warning system", *Quaderni Costituzionali*, No. 3, pp. 571-573.
- Lupo, N. and G. Piccirilli (eds) (2017), *The Italian parliament in the European Union*, London: Hart Publishing.
- Manzella, A. (2002), "Il parlamento federatore", *Quaderni costituzionali*, Vol. 22, No. 1, pp. 35-50.
- Mastenbroek, E. et al. (2014), "Engaging with Europe. Evaluating national parliamentary control of EU decision making after the Lisbon Treaty. Part I: Report of findings".

- Mezzetti, L. (2013), *Diritto costituzionale. Manuale breve. Tutto il programma d'esame con domande e risposte commentate*, Giuffrè Editore.
- Morillas, P. and E. Poli (2018), "Why the New Italian Government Puts the EU Reform at Risk", Centro de Estudios y Documentación Internacionales de Barcelona, 2 June ([https://www.cidob.org/publicaciones/serie\\_de\\_publicacion/opinion/europa/why\\_the\\_new\\_italian\\_government\\_puts\\_the\\_eu\\_reform\\_at\\_risk](https://www.cidob.org/publicaciones/serie_de_publicacion/opinion/europa/why_the_new_italian_government_puts_the_eu_reform_at_risk)).
- Nesti, G. and S. Grimaldi (2018), "The reluctant activist: the Italian parliament and the scrutiny of EU affairs between institutional opportunities and political legacies", *The Journal of Legislative Studies*, Vol. 24, No. 4, pp. 546-567.
- Parlamento Italiano (2018), "I temi dell'attività parlamentare nella XVII legislatura. L'Italia e l'Unione europea", Dossier XVIII Legislatura (<https://temi.camera.it/dil/pdf/l-italia-e-l-unione-europea.pdf>).
- Pisicchio, P. (2012), "Forma di Governo e Sistemi Elettorali: Verso il Governo Tecnico", Forum Costituzionale ([http://www.forumcostituzionale.it/wordpress/images/stories/pdf/documenti\\_forum/paper/0324\\_pisicchio.pdf](http://www.forumcostituzionale.it/wordpress/images/stories/pdf/documenti_forum/paper/0324_pisicchio.pdf)).
- Poli, E. (2018a), "Matteo Salvini, the anti-immigration storyteller of Italian politics", *The Progressive Post* (<https://progressivepost.eu/spotlights/matteo-salvini-the-anti-immigration-storyteller-of-italian-politics>).
- Poli, E. (2018b), "2019 European elections: What's new under the sun?", *Aspenia online* (<https://www.aspeniaonline.it/2019-european-elections-whats-new-under-the-sun/>).
- Politi. F. (2012), "I rapporti Parlamento-Governo", *Treccani* ([http://www.treccani.it/enciclopedia/i-rapporti-parlamento-governo\\_%28Il-Libro-dell'anno-del-Diritto%29/](http://www.treccani.it/enciclopedia/i-rapporti-parlamento-governo_%28Il-Libro-dell'anno-del-Diritto%29/)).
- Rizzoni, G. (2017), "The Function of Scrutiny and Political Direction of the Government, Between Foreign Affairs and European Affairs", in N. Lupo and G. Piccirilli (eds), *The Italian Parliament in the European Union*, Oxford: Hart Publishing, pp. 87-98.
- Romaniello, M. (2017), "The Italian Symmetrical Bicameral System in EU Affairs", N. Lupo and G. Piccirilli (eds), *The Italian Parliament in the European Union*, Oxford: Hart Publishing, pp. 285-304.
- Senato della Repubblica, (a) Il Governo ([http://www.senato.it/leg/15/BGT/Schede/Governi/0068\\_M.htm](http://www.senato.it/leg/15/BGT/Schede/Governi/0068_M.htm)).
- Senato della Repubblica (2017), La partecipazione del Senato al processo decisionale europeo: strumenti e procedure. Servizi Studio del Senato, 4. (<http://www.senato.it/service/PDF/PDFServer/BGT/01068353.pdf>).



Vote Watch, (2016), "What future for Italian political parties? Comparison of voting behaviour in the European and Italian Parliament" (<https://www.votewatch.eu/blog/what-future-for-italian-political-parties-comparison-of-voting-behaviour-in-the-european-and-italian-parliament/>).

# 13. POLITICAL IDEOLOGIES AND THE EU IN LATVIA'S

## REPRESENTATIVE DEMOCRACY

RASMUS FILIPS GEKS,

ELIZABETE VIZGUNOVA, KARLIS BUKOVSKIS &

IVETA KAZOKA

---

*Latvia's representative democracy is not set up along the traditional basis of left and right ideologies. The ethnic division between 'Latvian' and 'Russian' parties still plays a major role in determining the agenda of the Saeima (parliament). All the major political parties in Latvia support the European Union, although they sometimes object to specific policies proposed by EU institutions, especially relating to EU budgetary and migration policies. Even though issues related to the EU were almost irrelevant in domestic politics for several years, Latvia's political parties have increasingly aligned themselves with European political groups. However, the process of integrating into European political families has not yet resulted in clearer ideological affiliations.*

### 13.1 *Saeima* and ideologies: where does the EU fit in?

The divides in the Latvian political system are along ethnic and geopolitical rather than traditional left-right lines, based on economic premises<sup>1</sup> – the role of economic ideologies has not been widely developed in the modern Latvian democratic period. It is substituted by a 'catch-all' approach, where parties pick and choose

---

<sup>1</sup> A. Cheskin and L. March (2016), "Latvia's 'Russian left': trapped between ethnic, socialist, and social-democratic identities", in L. March and D. Keith (eds), *Europe's Radical Left: From Marginality to the Mainstream?*, London: Rowman & Littlefield, pp. 231-252.

the agenda items best suited for a momentary appeasement of the electorate, regardless of their belonging to a traditionally rightist or leftist political spectrum; this is widely recognised as populist politics.<sup>2</sup> This chapter explains in depth the most recent current trends in Latvian politics, considering the increasing divisions between socially liberal and conservative political streams, as well as the related trend of a growing debate surrounding intergovernmentalism versus federalism in Latvia's attitude towards the European Union. It then illustrates the management of EU affairs at a parliamentary and governmental level, before proceeding to an in-depth analysis of the influence of EU affairs on domestic politics and political parties.

### *13.1.1 The divides in Latvia's representative model*

Latvia's electoral system is proportional with a 5% electoral barrier and open party lists. This means that voters vote for the party list as a whole, but can then make adjustments by using their personal preference voting option. All elections over the last decade have demonstrated that Latvian voters use this instrument actively to influence the results, and hence the results are tailor-made. To a considerable extent, this option allows the democratic system of the country to absorb the general trend of people voting for personalities rather than for parties. Party allegiance among voters is not a widespread phenomenon in modern Latvian politics, and therefore open party lists allow people to vote for specific candidates and their policies. Moreover, it increases accountability and puts the burden of active campaigning on individual politicians.

The 5% electoral barrier was introduced after Latvia regained independence to prevent the extreme parliamentary fragmentation that occurred between the world wars. Although this has dramatically reduced the number of political parties able to gain public support, it has not brought a parliamentary majority to any of the elected political parties – coalition governments formed of no less than three political parties have been the norm. Moreover, a

---

<sup>2</sup> K. Bukovskis and I. Bruge (forthcoming 2019), "The Financial Crisis and the Curse of Latvian Left Parties", in K. Roder and M. Holmes (eds), *The European Left and the Crisis*, Manchester: Manchester University Press.

single party has only seldom managed to acquire significantly more seats than the others. Therefore, majority coalition governments in Latvia (and some minority coalition governments, such as during the 9<sup>th</sup> *Saeima*) create a situation in which the political process needs to be based on consensus and political bargaining.

The level of unpredictability in voter turnout and allegiances, alongside the electoral system and the fact that politics is divided along geopolitical and ethnic party lines instead of economic ideologies, makes government formation extremely difficult. Coalition-building often involves most of the political parties elected to parliament, and it can be a lengthy process if the election outcome does not result in a clear winner. The most recent government formation process, following the 13<sup>th</sup> *Saeima* elections on 6 October 2018, involved a record-breaking period of coalition-building. All 7 political parties won between 8 and 20 seats in the 100-person unicameral parliament, which vividly demonstrates the volatility of the Latvian party system and coalition governments. Moreover, the Latvian state has had 14 prime ministers and 21 governments in less than 30 years.

*The fact that politics is divided along geopolitical and ethnic party lines instead of economic ideologies makes government formation extremely difficult.*

Government volatility and the bargaining process is further complicated by the fact that individual politicians frequently tend to change their political parties both before the elections and afterwards during the coalition-building process. Individual politicians switching political parties or establishing new ones before every election, political parties being dissolved and renamed, and electoral associations (*vēlēšanu apvienība*) being created before each election are a regular trend at municipal, national and European Parliament levels. This situation exacerbates the situation of grand political and economic ideologies mattering very little.

And as a result, the bargaining process over Latvian government ministries during the coalition-consolidation process takes place with little influence of political ideologies. "Obstructions of coalition partners" are often brought into the equation. Personalities, party financiers and interests, the electoral base, and bargaining power matter much more than ideologies do, and often

even more than having concrete positions on specific issues. Outspoken differences tend to be 'reconciled' when the coalition-building process takes place. Consequently, coalition parties, ministers and ministries continue to struggle over the interpretation of and priorities of agreements made in the coalition-building process.

A notable exception to general coalition-building trends has been the role of the Social Democratic Party Harmony (officially translated as "Concord"). In spite of winning the most votes in national elections for the past 10 years, Harmony has never been part of any national government. The fact that it is seen as a 'Trojan horse' for Russia in Latvian politics has it a sizeable party that is nevertheless 'unacceptable' in coalition negotiations. Harmony is the leading 'ethnic' party, and it has a major stake in questions relating to linguistic rights, non-citizens' rights and 'friendly' relations with Russia. However, it plays its cards wisely and rarely instrumentalises these questions in its rhetoric. Although smaller parties such as the Latvian Russian Union are more pro-Russian in the political spectrum than Harmony, they have not garnered sufficient public support to be elected to the national parliament. However, neither of the pro-Russian parties are anti-EU, and Harmony even has a federalist position on the future of the EU. On the other side of the spectrum is the right-wing National Alliance, which espouses the idea of "Latvia for Latvians". Meanwhile, other mainstream political parties are situated between these two extremes.

This demonstrates the original core structure of Latvian party politics - political divides based on ethnicity (pro-Russian speaking versus pro-Latvian speaking) and geopolitical positioning (pro-Russian Federation versus pro-West). The primary divide in Latvia is ethnic, and this spills over into centre-right and centre-left ideological stances. For this reason, whereas the overall representation of the opinions and values of Latvia's society has been well in line with most of the categories reviewed in the European Values Study,<sup>3</sup> there is an ongoing discussion about the

---

<sup>3</sup> Social Sciences of GESIS - Leibniz Institute in Cologne (2008), "EVS 2008 - Variable Report Latvia" ([https://dbk.gesis.org/dbksearch/file.asp?file=ZA4767\\_cdb.pdf](https://dbk.gesis.org/dbksearch/file.asp?file=ZA4767_cdb.pdf)).

lack of representation of the interests of Harmony voters in Latvia's parliament and about finding a viable alternative to the party.

### *13.1.2 Party ideologies and the Saeima agenda*

Overall, the party programmes and agenda play a minimal role in defining the parliamentary agenda, which thus far has arisen out of political bargaining and compromise. The issue of party platforms can be viewed through two prisms. First, in the pre-election period, party programmes cover long-standing issues related to the rule of law and governance, the legal status of minorities, strengthening the judiciary's powers and independence, patriotism, education reform (including a transition to the Latvian language, decreasing the number of schools and enhancing education quality), tax reform (implementing a progressive tax), a united property tax, families, various administrative reforms, increased health and retirement benefits, families, patriotism, etc. The issues that serve as a 'glue' for the coalition have largely remained unchanged from 2014 to 2018.

The second phase follows in the post-election period. Judging from the work the last parliament carried out, several substantive issues can be seen in this phase: education reform, pension indexation, tax reform, administrative reform, and healthcare reform. Despite the fact that the previous coalition, led by the Greens and Farmers Union, referred to themselves as the "champions of good deeds", many of the tasks remain incomplete and will now be carried over to the current coalition. These issues are widely recognised as especially important in the face of high emigration rates, which make optimising the management of Latvia's welfare system an urgent matter. Recently elected parties have expressed concern over the status of the rule of law and governance, the size of the administration, 'payday loans', closing gambling halls, raising the minimum wage, doubling pensions, increasing child benefits, paying higher salaries to doctors, and cancelling the 'green energy' surcharge (which is widely unpopular and considered fraudulent).<sup>4</sup>

---

<sup>4</sup> Re:Baltica, "Who is who in the upcoming Latvian parliamentary elections?", 14 August 2018 (<https://en.rebaltica.lv/2018/08/who-is-who-in-upcoming-latvian-parliamentary-elections/>).

It is interesting to note that the current coalition agreement includes article 2.8., which stipulates that:

The cooperation partners respect each other's right to direct the draft laws and the right to vote differently in such cases as:

- 2.8.1. granting citizenship to minor children of non-citizens born in Latvia;
- 2.8.2. extending the rights of unmarried spouses;
- 2.8.3. the Cohabitation Law;
- 2.8.4. the restitution of the property rights of Latvian Jewish communities lost as a result of the Holocaust;
- 2.8.5. the Council of Europe Convention on Violence against Women and Domestic Violence.

The coalition agreement is not legally binding, but rather an 'unwritten' political tradition in Latvian politics, and as it usually includes clauses similar to this one, this situation is not unprecedented. However, the array of issues on which the 13<sup>th</sup> *Saeima* 'agree to disagree' is much wider and exemplifies the breadth of disagreement the coalition partners must bridge to reach a consensus.

### ***13.1.3 The relevance of EU issues in Saeima party politics***

Although for a long time the traditional divisions and specific character of the Latvian political party system meant that many initiatives related to any of the categories of social diversity were often omitted, new issues dealing with narrow topics and the entertainment value of politics are emerging as dominant in political discussion. Some of these could potentially create serious new divisions if there is enough political charisma, talent and drama to elevate them to the level of national and fully fledged political debates. For instance, the clash between the 'catch-all' parties, which advocate for the demolition of old institutions and elites, and the introduction of a "just state" is now becoming more relevant (as could be seen, for example, in the aftermath of the October 2018 elections). However, the "struggle against oligarchs" has been a recurring theme in Latvian political rhetoric. With actual indictments and court cases pending, many of the former (and

recently elected) politicians/political forces could be forced to exit politics.

Extremely low levels of public trust in the national parliament and ministries (according to Eurobarometer, only 19% of the population trust the parliament and 28% trust the government),<sup>5</sup> together with a high index of corruption perceptions among the Latvian population (Transparency International's CPI put Latvia in 41<sup>st</sup> place in 2017 and 2018), create the perfect grounds for a "justice against corruption" theme to become a serious topic in many future elections. However, the real concern in Latvia, as in rest of Europe, lies in the fact that the reputation or qualifications of politicians is losing all relevance; it is their ability to orate and appeal to the masses in expressing popular views (such as that the media and the state administration are engaged in conspiracies to cover up large-scale corruption scandals) that matters in the new game of Latvian politics.

*Extremely low levels of public trust together with a high index of corruption perceptions create the perfect grounds for a "justice against corruption" theme.*

Here, it should be briefly mentioned that Latvia's investigative media platform *Re:Baltica* has been highly engaged in the pre-election process by uncovering promises unsupported by evidence and untruthful information in the election campaign, most of which came from the new populist party KPV. This episode was clearly an example of discrediting 'fake news' promulgated by political forces. Various online media tools created by public broadcasters or liberal media – such as *ir.lv*, *Ir Politiskajā Tinderī* (Political Tinder)<sup>6</sup> or LSM's *Partiju šķirotava* (Party Sorter) – were good examples of attempts to make sense of Latvia's political spectrum by offering comprehensive questionnaires to the 'better

---

<sup>5</sup> Portal "Tvnet.lv", "Kritusies iedzīvotāju uzticība politiskajām partijām" [Decrease in people's trust in political parties], 17 June 2018 (<https://tvnet.lv/4518329/kritusies-latvijas-iedzivotaju-uzticiba-politiskajam-partijam>).

<sup>6</sup> Portal "IR.lv", "Ar kuru partiju tev ir pa ceļam, noskaidro "Ir Politiskajā Tinderī"" [Which party is heading your way? Find out in Political Tinder], 11 September 2018 (<https://ir.lv/2018/09/11/ar-kuru-partiju-tev-ir-pa-celam-noskaidro-ir-politiskaja-tinderi/>).



connected' electorate to direct them to the best-suited party. Following the election, leading internet news portals *Delfi.lv* and *Tvnet.lv* started to show TV debates ("20 minutes in the TVNET studio" or "Delfi TV with Janis Domburs"),<sup>7</sup> which enable the electorate to become acquainted with the programmes of individual politicians and political forces in greater detail.

Socio-political issues and the juxtaposition of liberal against conservative values has been another increasing trend that is expected to continue to grow. Same-sex marriage, the legalisation of marijuana and sex education in schools are increasingly commonly discussed topics among politicians and in broader society. However, it is unlikely these will become strong positioning points for individuals or entire political parties. Although individual politicians will continue centring their careers on these issues, none of these are clear-cut enough to become decisive. Moreover, strong categorical positions and divides go against the political logic of a 'catch-all' approach adopted by a growing number of political parties and politicians. Hence, categorical politics based on new ideologies is almost impossible to market unless a strong catalyst appears, for example in the form of an external enemy or a dire situation. As a result, populism, both in form and substance (demagogy), has been and will continue to be a visible part of the Latvian political scene.

The fact that categorical positioning can do electoral damage is also visible in the fact that the traditional ethnic divide has been slowly fading out of fashion. Recent political developments brought about by the parliamentary elections of October 2018 demonstrate this dynamic. Although the coalition-building process and repeated exclusion of Harmony indicated that the 'ethnic question' has not fully disappeared from the picture, there was significantly less electoral rhetoric about 'Latvian' versus 'Russian' parties and instead a greater focus on the rule of law and oligarchy,

*One of the most important trends has been that political parties are becoming more outspoken about the European Union.*

---

<sup>7</sup> Portal "Tvnet.lv", "Mārtiņš Daugulis" (<https://www.tvnet.lv/author/115947>); Portal "Delfi.lv", "Delfi TV ar Jāni Domburu" [Delfi TV with Janis Domburs] (<https://www.delfi.lv/delfi-tv-ar-jani-domburu/>).

particularly in terms of the elite operating against the interests of the masses.

Nevertheless, one of the most important trends has been that political parties are becoming more outspoken about the European Union. After years of silent acceptance (permissive consensus) in Latvia's firm pro-EU stance, both in general society and consequently also among Latvian politicians, since 2015 there has been a rise of voices openly critical of EU policies. Attitudes towards the role of the European Commission and supranational EU institutions in general could become a new (or just an additional) divide in Latvian politics.

At the same time, it is imperative to point out that Latvia does not have strong or popular Eurosceptic parties or politicians (that is to say, those who are advocating detachment from the EU, or a 'minimising' of Brussels power). This is clearly visible in all the election results. In spite of intergovernmentalist positions appearing among mainstream political parties, they still support Latvia's membership in the EU and the EU integration process. All Latvia's governing parties have increasingly been expressing a stronger interest in EU-related issues, although for many years it has been the Unity party and its members that have devoted themselves to foreign policy and to EU issues. After Unity lost many of its places in parliament, the party still managed to acquire the posts of prime minister and minister of finance, and it has retained its long-time position of being in charge of the Ministry of Foreign Affairs.

*Latvia does not have strong or popular Eurosceptic parties or politicians.*

Another pro-EU political party, Development/Pro, took over the chairmanship of the European Affairs Committee in the *Saeima* and obtained the office of Minister of Defence. It is largely due to the activities of these two political parties, as well as some politicians with EU expertise from other political parties, that EU issues have prominently entered the public sphere and have gained substantial media interest. Some recent examples of this include biological farming, the intensive versus sustainable farming debate, and migration issues (including Latvia's contribution to the EU Africa fund and FRONTEX). However, these issues have been

primarily mobilised as domestic issues with an EU dimension, as that makes them easier to ‘sell’ to the population.

The 2019 European Parliament elections were expected to make debates surrounding EU issues even more prominent, as highly knowledgeable candidates had been chosen as frontrunners in the current election campaign. Latvian parties submitted 16 lists, of which 6 appeared to be serious contestants. According to polls, Harmony (15%), Development/Pro (10.6%), New Unity (11.7%), National Alliance (8.1%), Latvian Russian Union (5%) and Progressives (4.5%) were all likely contenders for seats in the EP.<sup>8</sup> Many of these Latvian EP candidates were considered political and diplomatic ‘heavyweights’ with international experience. In previous EP elections, the ability to show credentials from past achievements has largely been the key to success; this election seems to present an array of polarised candidates who hold strong opinions on Latvia’s presence in the EU and the future shape of the Union. Despite these discussions remaining largely low-key, for the first time they seemed to be more about Europe and less about internal political quarrels. This should be counted as a significant ‘Europeanisation’ achievement.

### 13.2 Shaping EU policies at a national level

The Latvian system of managing EU affairs and coordinating the decision-making process was established in 1995, when Latvia officially submitted its bid for EU membership. Shortly after the submission, the European Affairs Committee was established with the task of overseeing and coordinating parliament’s involvement in the transposition of the *acquis communautaire* into Latvian legislation. Parliamentary scrutiny and the active involvement of the European Affairs Committee is a standard that has been retained beyond 2004, with slight adjustments to the procedures during the Latvian Presidency of the Council of the European

---

<sup>8</sup> Jānis Geste, “Partiju reitingi: pirms Eiroparlamenta vēlēšanām lideros “Saskaņa” un “Jaunā vienotība” [Party ranking: prior to EP elections, “Harmony” and “New Unity” in the lead], 18 April 2019 (<https://www.lsm.lv/raksts/zinas/latvija/partiju-reitingi-pirms-eiroparlamenta-velesanam-lideros-saskana-un-jauna-vienotiba.a316480/>).

Union.<sup>9</sup> The system involves all line ministries, social partners and other NGOs, as well as other state institutions like the Bank of Latvia, the Cabinet of Ministers and the *Saeima*.<sup>10</sup> If the co-responsible institutions, local governments and social partner organisations, associations and foundations fail to agree on a national position in accordance with the procedure provided for in cabinet regulations, then the different opinions are indicated in the national position.

The division of responsibilities between ministries and government institutions is determined by Cabinet Regulation No. 141,<sup>11</sup> which defines and maintains a list of competences. The “Procedure for the development of the Republic of Latvia's national position in the EU and related instructions and information circulation” of 2009 defines the procedure for adopting a national position. It explains that the Ministry of Foreign Affairs is the main ‘hub’ that ensures the smooth circulation of information between social partners (such as trade unions, depending on the sector), local governments, the ministries and the Cabinet of Ministers, and, eventually, the *Saeima*.

Every line ministry, in cooperation with other institutions and social partners, develops national positions for the issues in their field of competence. The ministries maintain structures for coordinating EU issues – these can include specific departments for coordinating EU issues, as well as individuals who supervise the procedure. Furthermore, the positions are coordinated in meetings between senior ministry officials and are confirmed either by the

---

<sup>9</sup> Likumi.lv, Kārtība, kādā izstrādā, saskaņo un aktualizē mandātus un nodrošina to izpildi Latvijas prezidentūras Eiropas Savienības Padomē laikā [Procedures for the Establishment, Coordination and Updating of Mandates and their Enforcement during the Latvian Presidency of the Council of the European Union], 2014 (<https://likumi.lv/doc.php?id=269235>).

<sup>10</sup> The Latvian Ministry of Foreign Affairs, “ES jautājumu koordinācija Latvijā” [Coordination of EU matters in Latvia], 01 March 2018 (<https://www.mfa.gov.lv/arpolitika/eiropas-savieniba-arpolitika/es-jautajumi-arlietu-ministrijas-kompetence/es-jautajumu-koordinacija-arlietu-ministrija/es-jautajumu-koordinacija-latvija>).

<sup>11</sup> Regulation No. 141 of 28 March, 2018, “On Ministry Competence Division on European Union Issues”.

responsible minister or by the Cabinet of Ministers, depending on the issues covered by the position. The national position is then adopted via a vote in the Cabinet of Ministers.

The role of presidential powers (veto power and decree power) and executive powers (some role in cabinet formation, cabinet dismissal and the dissolution of parliament) has not been exercised in relation to EU affairs aside from occasional comments or representative involvement. Although President Vaira Vīķe-Freiberga was active on the international scene – including pushing for Latvia’s EU membership – sitting presidents have generally been reluctant to engage with and actively participate in EU-related matters. The visible exception to this was the signing of ratified EU treaties, but those have not been contentious points. Therefore, on EU affairs, despite the overall ‘representative’ (and relatively weak) role of the president, the relationship between the parliament and the president has been positive and has not been marked by obstruction.

### 13.2.1 *The Saeima European Affairs Committee*

When it comes to overseeing the actions of ministers in the Council, the Cabinet of Ministers must obtain a mandate from parliament via the ‘parliamentary scrutiny process’ before it is able to take a position on an EU issue; as part of this process, positions are reviewed by the European Affairs Committee of the parliament.<sup>12</sup> Its functions include the *ex ante* review and adoption of Latvian national

*The Cabinet of Ministers must obtain a mandate from parliament before it is able to take a position on an EU issue.*

positions, monitoring of investments from EU funds, ensuring the closer involvement of NGOs and civil society in the EU’s legislative processes, as well as monitoring cooperation with the EU’s neighbouring countries. This stands in contrast to other member states, where the parliament has the ability to issue mandates or

---

<sup>12</sup> Centre for Public Policy PROVIDUS, EUROPEUM Institute of European policy, Institute of Public Affairs (2014), “Opportunities for the Organized Civil Society to Influence EU Decision-Making via National Positions”, Riga ([http://providus.lv/upload\\_file/Projekti/Eiropas%20politika/2014/EU\\_decision%20making\\_petijums.pdf](http://providus.lv/upload_file/Projekti/Eiropas%20politika/2014/EU_decision%20making_petijums.pdf)).

resolutions (and must be given adequate time to do so). The parliament scrutinises not only the activities of representatives of the Council of the European Union, but also the European Council. European Affairs Committee meetings take place once or twice a week depending on the number of national positions that need to be evaluated.

The framework of the *Saeima* European Affairs Committee is legally established by the parliament's order roll (*Saeimas Kārtības rullis*), in which Article 104 highlights the roles of committees, in this case that of the European Affairs Committee:

104. (1) After examining all the proposals, the president shall put to a vote the bill as a whole, with the adopted proposals.

(2) If the *Saeima* adopts the bill in this way, it shall be returned to the responsible commission for preparation for the third reading. After the adoption of the bill in the second reading, the *Saeima* shall decide on a deadline for the submission of proposals. This time limit may not be less than five days.

(3) If the *Saeima* does not accept the draft law in the second reading, it shall be returned to the responsible committee and may be re-submitted for a second reading in accordance with the provisions of Articles 94 and 96.

Therefore, in Latvia, executive-legislative relations are primarily based on a model where the mode of interaction between the parliament and the government is balanced in favour of the parliament. Parliament enjoys both non-partisan control powers and 'penalty' powers over the executive branch. Furthermore, within the European Affairs Committee, opposition representatives are granted the same rights to question the line ministers and to vote for or against a position. But since the opposition will not vote against national positions unless the parliamentarians have clear and strict objections to the document, this does not often lead to noticeable disagreements.

Yet the European Affairs Committee often clashes with line ministries on national positions, and line ministries do not regard the parliamentary scrutiny process as a mere formality. Although ministers and ministry representatives tend to be able to explain their arguments to the members of the European Affairs Committee

in a convincing way, political approval is only given by a majority vote in the committee. As a consequence, suggested amendments are usually included in the final national position for the minister that represents Latvia at the respective Council formation.

### 13.2.2 EU topics and the Saeima

The European Affairs Committee is often the main arena for debates on EU issues. As the committee meetings are in most cases open to the public, members of the committee tend to appeal to the NGOs and mass media that are occasionally present. Despite this, the parliament of Latvia has been relatively inactive in sending opinions to the European Commission.<sup>13</sup> Nevertheless, it has experience in engaging in both yellow-card (subsidiarity check) and green-card (sending proposals to European Commission) procedures.<sup>14</sup>

Migration and the refugee crisis have become exceptional issues due to the activity of some members of the *Saeima* – this led to a ruling that mandates measures on these matters to be adopted not only at the committee level, but also after plenary discussions. Most debates on EU positions happen on several foreign policy issues, most notably in terms of positions on Russia, Belarus or Ukraine-related issues that are presented by the Ministry of Foreign Affairs for the Foreign Affairs Council. The often conservative positions put forward by the Ministry of Justice tend to be challenged not only by committee members from opposition

---

<sup>13</sup> Directorate-General for Internal Policies, *The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges*, pp. 21–23 ([http://www.europarl.europa.eu/RegData/etudes/STUD/2017/583126/IPOL\\_STU\(2017\)583126\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/583126/IPOL_STU(2017)583126_EN.pdf)).

European Commission, *Annual report 2017 on relations between the European Commission and national parliaments*, p. 6 ([https://ec.europa.eu/info/sites/info/files/law/law-making\\_process/documents/annual-report-2017-relations-between-european-commission-national-parliaments\\_en.pdf](https://ec.europa.eu/info/sites/info/files/law/law-making_process/documents/annual-report-2017-relations-between-european-commission-national-parliaments_en.pdf)).

<sup>14</sup> Directorate-General for Internal Policies, *The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges*, pp. 27 and 38 ([http://www.europarl.europa.eu/RegData/etudes/STUD/2017/583126/IPOL\\_STU\(2017\)583126\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/583126/IPOL_STU(2017)583126_EN.pdf)).

parties, but also by representatives of coalition partners. Similar challenges are faced by the Ministry of Agriculture in its support for intensive farming.

General parliamentary discussions on important EU topics take place during annual parliamentary debates on foreign policy. The content of these discussions follows the annual report by the Ministry of Foreign Affairs,<sup>15</sup> which covers key EU-level issues. Historically, issues related to migration or the country's stance on Russian aggression have caused the most polarisation among parliamentary parties. Party ideologies are also more visible in these discussions, as individual members of the coalition government parties are not afraid to scrutinise the stance of the Ministry of Foreign Affairs. In this way, the debate in 2018 featured disagreements on Latvia's stance regarding the EU's future and a multi-speed Europe, priorities for the EU's multi-year budget, support for the diaspora, the reaction to Russian military exercises, and the EU's stance on Catalanian independence.<sup>16</sup>

The most recent debate at the start of 2019 saw sharp clashes on the stance towards the EU's transatlantic relationship. The opposition, in line with their ideological position, criticised reliance on a partnership with the US for geopolitical security. Furthermore, the debate covered the topics of Brexit, China's political ambitions, the future of the EU, the role of NATO in the context of defence and security, and others.<sup>17</sup> Somewhat similarly to previous years, the issue of migration saw disagreements between government parties.

---

<sup>15</sup> The Latvian Ministry of Foreign Affairs (2019), *Annual Report of the Minister of Foreign Affairs on the accomplishments and further work with respect to national foreign policy and the European Union* (<https://www.mfa.gov.lv/en/news/latest-news/62322-annual-report-of-the-minister-of-foreign-affairs-on-the-accomplishments-and-further-work-with-respect-to-national-foreign-policy-and-the-european-union-2018>).

<sup>16</sup> Jolanta Plauka, "No šaha partijas līdz cirkam" [From a chess party to a circus], *Diena*, 28 January 2018 (<https://www.diena.lv/raksts/latvija/zinas/no-saha-partijas-lidz-cirkam-14189722>).

<sup>17</sup> Portal "LSM.lv", "Opozīcija kritizē tradicionālo ārlietu ministra ziņojumu" [Opposition criticises the traditional annual report of the Minister of Foreign Affairs], 24 January 2019 (<https://www.lsm.lv/raksts/zinas/latvija/opozicija-kritize-tradicionalo-arlietu-ministra-arpolitikas-zinojumu.a307142/>).



Given the broad spectrum of parties that position themselves as conservative, and the fact that the newly elected parliament had already decided not to join the UN Global Migration Pact, the debate saw criticism towards the stance of (and specific actions of) the foreign minister, who represents the New Unity party.

Overall, ideologies play a part in these discussions in two ways. In line with their ideological position, the opposition often criticises positions with a favourable stance towards NATO and Western partnerships. Among political parties that mostly represent ethnic Latvians, the biggest clashes have occurred recently between liberal and conservative viewpoints, especially on migration.

### ***13.2.3 International cooperation***

Latvia and its decision-makers have not been shy of international collaboration at the parliamentary level, and even at the level of large municipalities. At the same time, the lack of English-language skills often become a trivial reason for limited collaboration with other EU member states. Again, with a younger generation of politicians coming to the stage, the intensity of contacts is increasing. Overall, Latvia also sees itself as a frequent user of the Early Warning System, and it is engaged in political dialogue and inter-parliamentary cooperation.

The European Parliament elections and EU-level political parties are becoming a significant tool and channel for the integration of Latvian politicians. Many of Latvia's political parties, as will be further elaborated below, have established connections with and membership in EU-level political parties and are attending common events. This 'internationalisation' of Latvian politicians and political parties lays the foundation for further engagement on EU issues – however, as will be demonstrated further, the devil is in the details.

*European Parliament elections and EU-level political parties are becoming a significant channel for the integration of Latvian politicians.*

### *13.2.4 Overall expertise on EU issues*

The level of skills and knowledge about the EU have been increasing throughout Latvia's EU membership. The overall positive attitude of Latvia's population towards the EU in the 1990s was related to modernisation and promises of security and welfare for the country. An understanding of the functioning of the Union was limited to experts at the Ministry of Foreign Affairs and other state institutions, as well as a few politicians, academics and journalists. Since gaining EU membership, the trend of increasing expertise has been growing. An increasing number of people with both practical and academic experience in EU affairs are becoming visible in the media and the skillsets of decision-makers have increased dramatically.

A major turning point that increased expertise was the Latvian Presidency of the Council of the EU in the first half of 2015. This can be considered to be a membership test for the country, which only joined the EU in May 2004. The mobilisation of national administrative and expert resources was most prominent during the six-month period, and this provided a successful result. Due to recurring issues such as the Multiannual Financial Framework, Eurozone membership, or the future of the European Union, the level of expertise and skills continues to increase. Brexit discussions are expected to increase EU awareness not only among decision-makers, but also in the wider population. Finally, and maybe most importantly – the younger generation of politicians, experts, decision-makers and the general population is becoming more visible. The number of 'millennials' educated since the collapse of the Soviet Union and in the first EU-related study programmes (which were opened in 1998), with or without additional experience in western universities, has been significantly increasing. This has created a substantial pool of EU-skilled people on which to draw.

In the Latvian expert community, academia and think tanks, the traditional trends have been to think in terms of "islands of competence", where people often focus on single-question issues. Latvia's foreign affairs expertise also has a strong Russia/Central Asia focus, taking attention away from EU issues. This is gradually changing, and many think tanks are more visible on EU issues – for instance, Providus, which has a strong focus on migration issues, citizen engagement and strengthening the influence of Latvia at the

EU level; the Latvian Institute of International Affairs, which covers EU-Latvia relations in various sectors, including the future of the EU, the EU budget, Brexit, and shifts in the Economic and Monetary Union, in addition to having a strong eastern focus (in terms of transatlantic security, EU-China relations, EU-Russia relations, and EU-ENP relations); and the Baltic International Centre for Economic Policy (mostly focusing on EMU-related issues).

### 13.3 The Euro-integration of Latvian political parties

As mentioned earlier, policy-making and government has historically been dominated by Latvian-identifying parties, while the Russian-speaking minority is represented by a limited number of other parties that work in the opposition.<sup>18</sup> The Latvian-identifying parties have seen a significant fragmentation within the centre-right, resulting in parties aligning with similar political families on the EU level. As a consequence, the consolidated Russian-speaking party has aligned itself with the centre-left. The October 2018 parliamentary election saw new parties with clearer ideological positions gain prominence, which seemingly had the potential to alter previous alignments with European political parties.<sup>19</sup> Nevertheless, centre-right fragmentation remains severe, and the leaders of four out of the seven political parties currently represented in Latvia's parliament have expressed their desire to join the European People's Party or are already members thereof (this includes New Unity, the New Conservative Party, KPV.LV and the Greens and Farmers Union).

---

<sup>18</sup> R. Nakai (2014), "The influence of party competition on minority politics: A comparison of Latvia and Estonia", *JEMIE*, 13, 57.

<sup>19</sup> I. Ijabs (2018), *2018 Parliamentary Elections in Latvia*, Friedrich Ebert Stiftung (<http://library.fes.de/pdf-files/bueros/baltikum/14739.pdf>).

Table 13.1 Party affiliations at the EU and national levels

EP group	Associated Latvian party (elected MEPs)	EU political party (associated MEPs)	Latvian members (national MPs, of 100)	Expressed some interest / application in process (current national MPs of 100)
EPP Group	<b>New Unity (4)</b>	EPP (211)	<b>New Unity (8)</b>	<b>Green and Farmers' Union** (11)</b> <b>New Conservative Party (16)</b> <b>KPV.LV (16)</b>
S&D Group	<b>Harmony*** (1)</b>	PES (182)	<b>Harmony (23)</b> LSDSP (0)	Progressives (0)
ALDE Group	<b>Green and Farmers (1)</b>	ALDE (49)	For Latvia's Development* (0)	<b>Latvian Regional Alliance (0)</b> Proud to serve Latvia/Riga (0) <b>Development/Pro* (13)</b>
ECR Group	<b>National Alliance (1)</b>	ACRE (44)	<b>National Alliance (17)</b>	
Greens/EFA Group	-	EGP (36)	Latvian Green Party** (0)	Progressives (0)
Greens/EFA Group	-	EFA (6)	Latvian Russian Union (0)	-
ECR Group	-	ECPM (2)	Christian Democratic Union (0)	<b>For Latvia From the Heart (0)</b>
<b>Represented in the national parliament / In parliament from 2014-2018 / Between 2% and 5% in 2018</b>				

\* Development/Pro is a party alliance that consists of the liberal For Latvia's Development and the centre-left Movement Pro. The former is a member of ALDE.

\*\* The Latvian Green Party is a member of the Green and Farmers Union.

\*\*\* The currently elected MEP no longer officially represents Harmony, and has instead joined the Latvian Russian Union.

An analysis of political party platforms for the EP 2019 elections shows that 9 out of 16 parties running in Latvia have indicated their preferred European party affiliation,<sup>20</sup> while the various dimensions of current EU-level alignment are shown in Table 13.1. Parties with the longest parliamentary history also have the most visible ties with their EU families. However, most experts acknowledge that the impact of European political parties on national politics in Latvia is very limited. A compilation of survey responses on interactions between European political parties and their current full-member Latvian counterparts (see Table 13.2) provides a general overview of the impact they have had. On the one hand, all of them use European political parties as platforms for political engagement, and European political parties have had an influence on the national positions of the parties on important policy questions – for example, the quota system for asylum seekers. On the other hand, almost none of the parties found European political foundations to be significant actors – instead, Latvian parties have closer ties, with political foundations, with parties in Germany and the Scandinavian countries. These have contributed significantly more, especially in terms of support for youth political engagement.

---

<sup>20</sup> Centre for Public Policy PROVIDUS (2019), “Analysis of the Latvian political party programs for the 2019 EP elections”, Riga ([http://providus.lv/article\\_files/3548/original/PARSKATS\\_-\\_EP\\_v%C4%93l%C4%93%C5%A1anu\\_Latvijas\\_partiju\\_programmu\\_anal%C4%ABze.pdf?1556633251](http://providus.lv/article_files/3548/original/PARSKATS_-_EP_v%C4%93l%C4%93%C5%A1anu_Latvijas_partiju_programmu_anal%C4%ABze.pdf?1556633251)).

*Table 13.2 An evaluation of cooperation between European political parties and the associated Latvian national party*

	<b>Unity Party</b>	<b>Harmony</b>	<b>National Alliance</b>	<b>For Latvia's Development</b>
Involvement with the European political party	3	2	3	3
Involvement with the European political party foundation	1	0	1	0
Impact on national positions	2	1	3	3
Impact on party programmes	2	1	1	3
Access to funding	2	1	2	1
Platforms for political engagement	3	3	3	3
Influence on organisational development	1	1	1	3

*Notes:* (3 - significant, 0 - not significant). The assessment was made by the author based on semi-structured interviews with four party representatives.

Table 13.1 also shows that previously existing ideological gaps are now being filled by newly established parties, which has the potential to further facilitate EU-level alignment in the future. This is visible, for example, in Development/Pro, a largely liberal coalition that is represented in the national parliament, or the Progressives, who are engaging in a more active campaign on green issues.

Yet this also highlights some ideological conflicts that prevent new parties from engaging in European-level politics. As mentioned earlier, two of the largest newcomers to the national parliament, the New Conservative Party and KPV.LV, have both indicated a desire to join the EPP. Similarly, the Progressives, which have modelled themselves on the socioeconomic traditions of the EU, would prefer to join PES, but, in light of the position held by Harmony, the party has chosen to highlight their European Green identity instead. Since none of the parties holding a full membership have indicated an openness to other Latvian parties joining, they could continue to block this kind of alignment, which highlights an

important barrier of entry for new political parties into the EU political families.<sup>21</sup>

While the general ideological positions for these parties are clear, specific stances on various EU-level issues are barely available for some of the parties. Since Development/Pro includes a party that is a member of ALDE, it has already begun to develop its EP election campaign based on the published ALDE manifesto. The stance of other new parties is less clear, with the only available information being some early indications from surveys conducted during the national elections (see Table 13.3).

Table 13.3 Party responses to a survey prior to the national elections

	Support for same-sex civil unions	Voluntary acceptance of asylum seekers from conflict zones	Support for an EU army	Stricter EU-level money laundering regulations at the cost of Latvian banks	Prioritisation of domestic issues rather than EU issues
<b>Development/Pro* (13)</b>	5	3	4	5	1
<b>New Conservative Party* (16)</b>	1	1	4	4	5
New Unity (8)	5	3	1	5	4
<b>KPV.LV* (16)</b>	4	3	3	4	5
Latvian Russian Union	1	4	2	2	4
Latvian Regional Alliance	1	1	4	3	4
National Alliance (13)	1	1	1	5	4
Progressives*	5	5	5	5	1
Harmony (23)	3	3	5	3	3
Greens and Farmers (11)	1	1	2	4	5

<sup>21</sup> Interviews with party representatives during 2018.

*Notes:* Parties could pick an answer between 1 and 5, where 5 – fully agree, 4 – agree, 3 – agree and disagree, 2 – disagree, 1 – fully disagree). An asterisk (\*) indicates political parties that ran in the national elections for the first time. The numbers following the party names indicate the number of MPs they have in parliament (out of 100).

This indicates some initial political positioning for the parties. For example, Development/Pro and the Progressives are the only parties that clearly stand for deeper EU integration. Similarly, parties are split on the issue of same-sex civil unions, and hold mixed positions on asylum seekers and on decision-making in national parliaments versus the EP. And while KPV.LV, branded as the populist party of Latvia, has demonstrated some conservative leanings when opposing the UN Global Migration Compact,<sup>22</sup> their answers to the survey are less ideologically clear. These positions will, of course, become clearer during and after the 2019 EP elections, but, at least for the New Conservative Party and KPV.LV, this stance is currently unlikely to be significantly influenced by European political families.

Overall, it can be concluded that alignment with European political families is becoming stronger. Nevertheless, it is unusual that four political parties that are perceived to be highly dissimilar by Latvian voters and the media have all chosen the European People's Party as their preferred political family. The barrier for national parties to be included in the major families, given the close ideological positions of parties, will, therefore, remain an important obstacle to transcend.

## Conclusions

In the Latvian political system, major ideological disagreements mostly occur between parties representing ethnic Latvians or ethnic Russians. This is supplemented by discussions dealing with their geopolitical stance towards the West and/or Russia. A relatively new trend has been disagreements between parties identifying as liberal and conservative, and an even newer trend is to see divisions

---

<sup>22</sup> Portal "LSM.lv", "Saeima rejects UN migration compact", 6 December 2018 (<https://eng.lsm.lv/article/politics/saeima/saeima-rejects-un-migration-compact.a302055/>).



between a federalist or intergovernmentalist stance on the EU and the powers of the European Commission. Despite their divisions, there is traditionally a fairly broad coherence on most EU issues among coalition parties due to very low levels of openly anti-European sentiment. As for Latvian parties and their relationship with European politics, the alignment of these parties with European political families is becoming stronger, although many of the current frontrunners have still not formed alliances with EU-level political parties and will make their bids only after achieving victory at the EP elections. This means that while established parties have already begun this process, newly elected parties are just now starting to initiate new partnerships on a European level.

The Latvian system has a strong parliamentary scrutiny process for establishing national positions for both the Council and the European Council, conducted by the European Affairs Committee of the *Saeima*. The system was originally introduced to give Latvia's EU accession process additional political legitimacy – the parliamentary dimension has been preserved and has turned into an important forum for debating EU issues and national positions due to its accessibility. The drafting of national positions and the coordination process offers a significant number of opportunities for it to be influenced by civil society and social partners.

Therefore, it is clear that not only has the overall state of Latvia's democracy matured over the years, it has grown to encompass a wider representation of ideological views (i.e., moving beyond identity politics). It has also become more open and active regarding EU issues and problems. But just as in other member states, the 'catch-all' approach and the use of populist methods for attracting an audience are prevalent and continue to secure victories. Voters searching for charisma and personalities, in addition to modern technology and the media, are turning politics into a volatile theatre. The volatility in voter support for parties is greatly influenced by the popularity of preferential candidate voting, leading to the discontinuity of political coalitions and programmes and difficulties in forging new governments. It is evident that the Euro-integration of the Latvian political party system is part of an overall learning curve and continued Europeanisation.

## References

- Bukovskis, K. and I. Bruge (forthcoming 2019), "The Financial Crisis and the Curse of Latvian Left Parties", in K. Roder and M. Holmes (eds), *The European Left and the Crisis*, Manchester: Manchester University Press.
- Centre for Public Policy PROVIDUS (2019), "Analysis of the Latvian political party programs for the 2019 EP elections", Riga ([http://providus.lv/article\\_files/3548/original/PARSKATS\\_-\\_EP\\_v%C4%93%C4%93%C5%A1anu\\_Latvijas\\_partiju\\_programmu\\_anal%C4%ABze.pdf?1556633251](http://providus.lv/article_files/3548/original/PARSKATS_-_EP_v%C4%93%C4%93%C5%A1anu_Latvijas_partiju_programmu_anal%C4%ABze.pdf?1556633251)).
- Centre for Public Policy PROVIDUS, EUROPEUM Institute of European policy, Institute of Public Affairs (2014), "Opportunities for the Organized Civil Society to Influence EU Decision-Making via National Positions", Riga ([http://providus.lv/upload\\_file/Projekti/Eiropas%20politika/2014/EU\\_decision%20making\\_petijums.pdf](http://providus.lv/upload_file/Projekti/Eiropas%20politika/2014/EU_decision%20making_petijums.pdf)).
- Cheskin, A. and L. March (2016), "Latvia's 'Russian left': trapped between ethnic, socialist, and social-democratic identities", in L. March and D. Keith (eds), *Europe's Radical Left: From Marginality to the Mainstream?*, London: Rowman & Littlefield, pp. 231-252.
- Directorate-General for Internal Policies (2017), *The Role of National Parliaments in the EU after Lisbon: Potentialities and Challenges*, pp. 21–23, 27, 38 ([http://www.europarl.europa.eu/RegData/etudes/STUD/2017/583126/IPOL\\_STU\(2017\)583126\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/583126/IPOL_STU(2017)583126_EN.pdf)).
- European Commission (2017), *Annual report 2017 on relations between the European Commission and national parliaments*, p. 6 ([https://ec.europa.eu/info/sites/info/files/law/law-making\\_process/documents/annual-report-2017-relations-between-european-commission-national-parliaments\\_en.pdf](https://ec.europa.eu/info/sites/info/files/law/law-making_process/documents/annual-report-2017-relations-between-european-commission-national-parliaments_en.pdf)).
- Geste, J. (2019), "Partiju reitingi: pirms Eiroparlamenta vēlēšanām lideros "Saskaņa" un "Jaunā vienotība" [Party ranking: prior to EP elections, "Harmony" and "New Unity" in the lead], 18 April (<https://www.lsm.lv/raksts/zinas/latvija/partiju-reitingi-pirms-eiroparlamenta-velesanam-lideros-saskana-un-jauna-vienotiba.a316480/>).
- Ijabs, I. (2018), *2018 Parliamentary Elections in Latvia*, Friedrich Ebert Stiftung (<http://library.fes.de/pdf-files/bueros/baltikum/14739.pdf>).
- Likumi.lv, Kārtība (2014), kādā izstrādā, saskaņo un aktualizē mandātus un nodrošina to izpildi Latvijas prezidentūras Eiropas Savienības Padomē laikā [Procedures for the Establishment, Coordination and Updating of Mandates and their Enforcement during the Latvian Presidency of the Council of the EU] (<https://likumi.lv/doc.php?id=269235>).
- Nakai, R. (2014), "The influence of party competition on minority politics: A comparison of Latvia and Estonia", *JEMIE*, 13, 57.

- Plauka, J. (2018), "No šaha partijas līdz cirkam" [From a chess party to a circus], *Diena*, 28 January (<https://www.diena.lv/raksts/latvija/zinas/no-saha-partijas-lidz-cirkam-14189722>).
- Portal "Delfi.lv", "Delfi TV ar Jāni Domburu" [Delfi TV with Janis Domburs] (<https://www.delfi.lv/delfi-tv-ar-jani-domburu/>).
- Portal "IR.lv", "Ar kuru partiju tev ir pa ceļam, noskaidro "Ir Politiskajā Tinderī"" [Which party is heading your way? Find out in Political Tinder], 11 September 2018 (<https://ir.lv/2018/09/11/ar-kuru-partiju-tev-ir-pa-celam-noskaidro-ir-politiskaja-tinderi/>).
- Portal "LSM.lv", "Opozīcija kritizē tradicionālo ārlietu ministra ziņojumu" [Opposition criticises the traditional annual report of the Minister of Foreign Affairs], 24 January 2019 (<https://www.lsm.lv/raksts/zinas/latvija/opozicija-kritize-tradicionalo-arlietu-ministra-arpolitikas-zinojumu.a307142/>).
- Portal "LSM.lv", "Saeima rejects UN migration compact", 6 December 2018 (<https://eng.lsm.lv/article/politics/saeima/saeima-rejects-un-migration-compact.a302055/>).
- Portal "Tvnet.lv", "Kritusies iedzīvotāju uzticība politiskajām partijām" [Decrease in people's trust in political parties], 17 June 2018 (<https://tvnet.lv/4518329/kritusies-latvijas-iedzivotaju-uzticiba-politiskajam-partijam>).
- Portal "Tvnet.lv", "Mārtiņš Daugulis" (<https://www.tvnet.lv/author/115947>).
- Re:Baltica (2018), "Who is who in the upcoming Latvian parliamentary elections?", 14 August (<https://en.rebaltica.lv/2018/08/who-is-who-in-upcoming-latvian-parliamentary-elections/>).
- Social Sciences of GESIS – Leibniz Institute in Cologne (2008), "EVS 2008 - Variable Report Latvia" ([https://dbk.gesis.org/dbksearch/file.asp?file=ZA4767\\_cdb.pdf](https://dbk.gesis.org/dbksearch/file.asp?file=ZA4767_cdb.pdf)).
- The Latvian Ministry of Foreign Affairs (2018), "ES jautājumu koordinācija Latvijā" [Coordination of EU matters in Latvia], 01 March (<https://www.mfa.gov.lv/arpolitika/eiropas-savieniba-arpolitika/es-jautajumi-arlietu-ministrijas-kompetence/es-jautajumu-koordinacija-arlietu-ministrija/es-jautajumu-koordinacija-latvija>).
- The Latvian Ministry of Foreign Affairs (2019), *Annual Report of the Minister of Foreign Affairs on the accomplishments and further work with respect to national foreign policy and the European Union* (<https://www.mfa.gov.lv/en/news/latest-news/62322-annual-report-of-the-minister-of-foreign-affairs-on-the-accomplishments-and-further-work-with-respect-to-national-foreign-policy-and-the-european-union-2018>).

# 14. POLAND'S POLITICAL DISCOURSE ON EUROPE

WOJCIECH BIAŁOŻYT, JACEK KUCHARCZYK,  
ROMAIN LE QUINIOU & FILIP PAZDERSKI

---

*Since the beginning of Poland's political and economic transition of 1989, democratic reforms have been underpinned by values and ambitions that can best be expressed as the country's 'return to Europe'. Continuing public support for EU membership had laid the foundations of political consensus around the integration process and, perhaps more importantly, the democratic and institutional reforms necessary for successful EU accession. But this democratic and pro-European consensus came under strain with the victory of the Law and Justice (PiS) party in presidential and parliamentary elections in 2015. Since coming to power, the PiS undertook a series of radical changes targeting the judicial system and other democratic checks and balances. These reforms gave rise to even more conflict with the EU institutions, notably the European Parliament and the Commission, and the unprecedented triggering of Article 7 of the Treaty on the European Union. At the same time these systemic changes and the ruthlessly majoritarian way of legislating them caused deep social and political polarisation. While the overwhelming majority of society continues to support EU membership and democratic governance, there are serious divisions when it comes to more specific political issues and their interpretation. These divisions have been exploited by the ruling party to maintain public support in the face of growing domestic and international criticism. This chapter argues that Poland's current politics could have severe consequences for both the condition of representative democracy and the country's EU membership.*

## **Introduction**

"Return to Europe" was one of the guiding ideas of Poland's transition from communism to democracy and a market economy. In the early 1990s, it found concrete expression in the signing of the

Europe Agreement establishing the Polish association with the European Communities in December 1991. Notably, the agreement recognised “the fact that the final objective of Poland is to become a member of the Community”. Poland’s membership perspective was confirmed at the June 1993 European Council in Copenhagen. The same Council laid down the so-called Copenhagen Criteria requiring that a country seeking EU membership “has achieved stability of institutions guaranteeing democracy, the rule of law, human rights, respect for and protection of minorities”. After Poland started its membership negotiations in 1997, the European Commission carefully monitored its progress in fulfilling the Copenhagen criteria in annually published reports. Thus, the process of building democratic institutions in Poland became closely associated with the country’s desire to join the European Union, even though no specific model of democratic governance was prescribed by EU membership criteria. Crucially, in spite of deep political and social divisions in the first decade of transition, EU membership enjoyed the support of a vast majority of Poles as well as all key political parties and actors. For this reason, the accession process, as well as EU membership, has had a stabilising effect on Polish democracy. The resilience of Polish democratic institutions and the economy after the economic and financial crisis of 2008 encouraged many Polish and European politicians and opinion makers to name Poland as a poster boy of democratic transition and a role model for struggling democracies in the EU’s Eastern Neighbourhood.

However, following the victory of the authoritarian populist Law and Justice party (PiS) in Presidential and Parliamentary elections in 2015, the new government has embraced a series of systemic reforms, which (as critics claimed) aimed to dismantle key checks and balances and other crucial elements of democratic governance. These policies set the Polish government and the ruling party on a collision course with the EU, which for the first time in history evoked Article 7 of the Treaty on European Union (TEU) against Poland for rule of law infringements. The state of Polish democratic institutions has thus become a crucial issue in Poland’s relations with Brussels. Significantly, in this conflict, both sides, the Law and Justice government on one side, and the European Commission and Parliament (as well as Polish opposition parties

and civil society) claim to defend democratic principles. PiS claims that its victory in parliamentary elections and the majority it has in the Polish Parliament allows it to implement whatever systemic changes it deems necessary as an expression of the popular vote. PiS critics, on the other hand, claim that taking political control of the judiciary system and public media directly contradicts the principles enshrined in Article 2 TEU. What is at stake is clearly the definition of representative democracy, which both sides of the conflict claim to endorse.

## 14.1 Poland's constitutional model

Bronisław Geremek once said '*the path for liberty is open, the one for democracy remains uncertain*' (Mink, 1990). This symbolic sentence expresses as much the pride in Poland rediscovering freedom as the need to build a long-standing democratic system. The uneasy political transition from communism to democracy in the 1990s along with Polish historical legacies are the sources of the current Polish political system (Cole, 1998). The system is seen today as a semi-presidential regime centred around the Prime Minister and characterised by a bi-cameral Parliament. The *Sejm* – 460 deputies elected through universal, equal, direct and proportional elections – being preponderant over the *Senat* – 100 senators elected through universal and direct elections every four years.

*The uneasy political transition from communism to democracy in the 1990s along with Polish historical legacies are the sources of the current Polish political system.*

### 14.1.1 From communism to democracy: the provisional constitution

At the end of the 1980s, the social situation in the country became unmanageable and the communist government accepted negotiations with the opposition – namely *Solidarność* and its leader Lech Wałęsa. Both sides were inclined to find a measured and consensual agreement that would allow for a peaceful system transition (Kennedy & Porter, 2000). On 5 April 1989, the Round Table Agreement was signed. It led to the legalisation of *Solidarność*, the holding of partially-free elections and the creation of new

political tools (the function of president and re-establishment of bicameralism with the *Senat*).

The outcome of the elections – organised on 4 June 1989 – minimised the Communist political advantage and contributed to speed up the political transformation (Matthes, 2006). *Solidarność* won every contested seat in the *Sejm* (35%) and all except one in the *Senat* (99%). Tadeusz Mazowiecki was tasked with forming a government – becoming the first non-communist prime minister since 1946. Mazowiecki's government had an essential aim: to build a modern Poland and re-unite with Europe through the establishment of a democratic political system and a liberal and free-market economy.

The first step was to modify the basis of the existing Constitution (1952) in order to allow fast-acting political and economic transformations. As such, in December 1989, the Parliament voted through an amendment removing all references to Communism and introducing the principles of rule of law, private property and diverse political freedoms. Simultaneously, deputies were working on the constitutional draft. However, the process was disturbed by many events such as the crisis of legitimacy of the *Sejm* (followed by its significant political fragmentation after the 1991 parliamentary elections), the competition between the Constitutional Committee of the *Sejm* and that of the *Senat* or the interference of President Wałęsa in the constitutional drafting process (Górski, 2014). On December 8, 1992 the *Small Constitution*, a short-term constitutional document aimed at fixing the immediate political instability (McMenamin, 2008), was implemented. As such, 1992's Constitution emphasised the semi-presidential character of the Polish political regime and the idea of compromise between presidential and parliamentary regimes (Cole, 1998). The main added value of this document was a clearer definition of the relations between the president, the government and the parliament, which had been a source of conflict since regaining independence.

### ***14.1.2 Finally, a definitive Polish Constitution***

After a few years of instability, a favourable political context following the 1993 parliamentary elections and the election of A. Kwaśniewski to the post of President of Poland in 1995, work was

initiated on the new Constitution. The main objective of the deputies was now to gain the legitimacy and efficiency for the final constitution needed for its future approved by the Parliament and in a popular referendum. Consequently, the Constitutional Commission decided to enlarge its spectrum through the involvement of civil society either by active (legal experts) or passive (Catholic Church representatives) representation. To create legitimacy around the Constitution, the leftist coalition also needed to create a political consensus involving extra-coalition parties in the Constitutional process and hence to accept some political concessions (Garlicki & Garlicka, 2010). The Constitutional Commission was finally able to present the ultimate version of the Constitutional draft to the parliament on 16 January 1997. The Constitution was finally adopted by parliament on 2 April 1997, followed its approval in the referendum with 52.7% of positive votes despite a weak participation of 42.86%.

The adopted Constitution was directly inspired by modern European democratic constitutions (Cole, 1998). Consequently, the Polish political system is currently based on the division and balance of power between its four political pillars, namely the legislative power (*Sejm* and *Senat*), the executive power (prime minister and government), the representative power (president) and the judiciary power (Supreme Court). The system is also based on the principle of law as its Article 7 underlines: "The organs of public authority shall function on the basis of, and within the limits of, the law."

*The prime minister has a central role, benefitting from the dominance of the government over both the president and the parliament.*

In this semi-presidential system, the prime minister has a central role, benefitting from the dominance of the government –the core of executive power – over both the president and the parliament. The president, elected in general elections, retains a relatively strong influence in this system. Finally, the parliament – in which the *Sejm* is preponderant – also retains considerable power in this system. In fact, the *Sejm* exercises a certain power over the executive as the government engages its responsibility, has to answer questions from deputies and can be dissolved after a constructive motion of no confidence (for its nomination and during its term). The *Sejm* also has an important



role in relation to the president as it can override a presidential veto simply through a 3/5 majority and is liable to dissolution only in two specific cases. Furthermore, the *Sejm* plays a significant role in the management of the budget through its functions of voting and reporting. With the implementation of its constitution in 1997, Poland was then ready to engage with its ultimate objective – accession to the European Union.

### ***14.1.3 EU accession: constitutional and political arrangements***

The process of adoption of the new constitution was conducted to meet the objective of accession to the EU and of compliance with EU criteria (Matthes, 2006). It allowed Poland to present a concrete request for accession without an obligation to substantially modify its Constitution, even if some modifications were necessary on specific issues. Moreover, Article 90 of the 1997 Constitution was written in order to guarantee the possibility for EU Law to have preponderance over Polish law when it is required (Matthes, 2006).

However, even if the Polish Constitution was designed to comply with EU law, the latter has been in permanent evolution. As such, Polish law has had to adapt to these modifications and also to make changes, even after the country's accession. Regarding this issue, constitutional amendments (Article 235, 1) are necessary, e.g. in the case of the future adoption of the European currency. In fact, a proposal of amendment can be made by a group representing at least 1/5 of deputies, by a group representing the majority of senators or by the president. Then, it has to be approved by 2/3 of the *Sejm* (with 50% present) and by the majority of the *Senat* (also with 50% present), which is difficult to obtain in Poland due to the high polarity of political life (Osiński, 2010). One positive example is the amendment made in 2006 to comply with the *European Arrest Warrant* legislation. Some issues raised by the EU can be more controversial for the Polish political system and would not be able to be handled by an amendment (the adoption of the euro for example).

Amending the Constitution is not the only way to comply with EU requirements. It is also possible to implement legislative acts in order to modify and adapt economic, social, political or administrative systems in relation to EU requirements

(Tomaszewski, 2015). The best example of legislation prepared to adjust to EU requirements is probably the 1999 Polish Public Administration Reform, which led to a large scale decentralisation. Its objective was to reform the territorial administration to adapt the Polish system to the concept of 'European regions' and its strategy of trans-border cooperation. At the end of the 1990s, Poland was on its way to joining the EU, so in order to be effective, an adaptation of its institutional system was therefore necessary.

## 14.2 Poland's institutional system: formal aspects of the EU dimension

In Poland, European policy is treated as a special branch of foreign policy. It is primarily under the control of the government, which conducts Poland's foreign policy, supported by the president, the parliament and the Committee for European Affairs. In addition, the principle of presumption of competence of the Council of Ministers contained in the Constitution is of particular significance in this matter – according to which, the Council of Ministers includes matters of state policy not clearly reserved for other state bodies (Wiesław, 2013).

*European policy is treated as a special branch of foreign policy.*

The role of the President in this field is special, as he is the highest representative of Poland. However, the Constitution requires his cooperation with the prime minister and the minister for foreign affairs. The president's competences in representing the state in external relations, including European ones, are included in accordance with their traditional representational scope (Wiesław, 2013). The provisions of the Constitution are not unequivocal in the division of competences in foreign and European policy between the government and the president. In the recent past, this led to open competence disputes, culminating in 2008, when there was a conflict between President Lech Kaczyński and Prime Minister Donald Tusk about who had the right to represent Poland at the European Council summit (Żaczekiewicz-Zborska, 2008). The dispute turned in favour of the Prime Minister.

There is also a special political role for the Secretary of State for European Affairs. Until 2010, the deputy minister served as the

head of the Office of the Committee for European Integration, thus acting as the secretary of the Committee for European Integration. In 2010, the European Integration Committee was incorporated into the structure of the Ministry of Foreign Affairs and exists as a specialised department servicing the Committee for European Affairs (Wiesław, 2013). The Committee for European Affairs is a specialised institution serving cooperation among members of the Council of Ministers and other government administration bodies in matters related to the membership of the Republic of Poland in the European Union (Ministerstwo Spraw Zagranicznych, 2009).

Also, within the internal structure of both chambers of the Polish Parliament – the *Sejm* and the *Senat*, there are specialised committees for foreign policy and the EU that deal with matters related to EU membership. In particular, their tasks include taking positions and expressing opinions on draft EU legal acts, drafts of international agreements, work plans of the Council of the European Union, annual legislative plans or formulating recommendations for the government. The principles of cooperation between executive organs with the *Sejm* and the *Senat* in matters related to EU membership are currently regulated by a special Act. Their competences include the following areas: information from the Council of Ministers on the participation of the Republic of Poland in the work of the EU, including in the sphere of the presidency; cooperation in the field of EU law making; cooperation in amending the treaties; cooperation in the implementation of EU law; cooperation in bringing complaints to the Court of Justice of the EU; cooperation in the field of issuing opinions on candidates for certain positions in the EU (Sejm, 2011). Overall, this specific institutional organisation has allowed Poland to interact with the EU, an interaction which has evolved considerably from 1991 to the present day.

## 14.3 Poland's European policy in practice

### 14.3.1 1991-2004: Association Agreement to membership

The political changes in Poland after 1989 paved the way towards association with the European Communities, concluded with the signing of the Europe Agreement in 1991. Throughout the period after 1989, European integration, along with accession to NATO,

became strategic goals in Polish foreign policy, based on a strong social consensus and a consistent policy of political elites, regardless of the change of government (Zięba, 2017).

In 1994, the Government of Poland submitted a formal application for membership of the European Union at the 1994 European Council Summit in Essen. In 1996, the Office of the Committee for European Integration commenced its activity, coordinating all ministries and institutions directly involved in the process of Poland's integration with the EU (Łastawski, 2012).

In 1997, the National Strategy for Integration was adopted. It formulated specific tasks on the road to full membership in the EU and the time sequence of their implementation. Adaptation measures in view of membership were implemented within the framework of the National Programme of Preparation for Membership in the EU prepared by the government. The membership and the Programme were directly linked to the implementation of the adjustment priorities set by the European Commission. By 1 May 2004, around 270 laws were adopted that adapted Polish law to EU law (Osrodek Informacji i Dokumentacji Europejskiej, 2004). For the purposes of negotiations in Poland, 37 task sub-assemblies were appointed, which were responsible for the development of positions in specific areas. The adoption of the accession treaty in Poland took place in the form of a nationwide referendum on 7-8 June 2003. The accession treaty was signed on 16 April 2003 in Athens. On 1 May 2004, Poland became a full member of the European Union.

Membership in the EU as a 'civilisation choice' became Poland's basis for strengthening democratic values, security and freedom, the driving force for modernisation, raising the standard of living and accelerating economic development.

### ***14.3.2 Polish parties within European political families***

The current composition of the political scene was shaped in the early 2000s, shortly before Poland's accession to the EU, and has not changed much since. The two major political parties are Civic Platform (PO), pro-European, Western-style, moderate centre-right led by

*The current composition of the political scene was shaped in the early 2000s and has not changed much since.*

Donald Tusk until 2014 and Law and Justice, conservative and sceptical towards the EU, which radicalised further during the 2010s. Other include the Democratic Left Alliance (SLD), a modernised post-communist party that led the government between 1993-1997 and 2001-2005 and the Polish People's Party (PSL), rooted in rural areas, and known for its capacity for political swings – it was minor government partner in 1993-1997, 2001-2005 (with the post-communist SLD) and 2007-2015 with Civic Platform. Since joining the EU, other minor parties (e.g. liberals, anti-European radicals) were also represented in the European Parliament.

The European agendas of the four parties mentioned above have been consistent since the early 2000s, with EU affairs included in their programmes on the margins of their internal policy focus.

Both PO and PSL joined the European People's Party (EPP), with particularly PO gaining influence as witnessed by the nominations for Jerzy Buzek as president of the European Parliament (2009-2012) and for Donald Tusk in 2014 as European Council President.

Since its creation, PO has certainly been a major pro-European force in the country, seeing Poland as an active and constructive contributor to the European project. It supported the adoption of the European Constitution (while being sceptical towards the abolishment of the Treaty of Nice voting weights), enhancement of the European foreign and defence dimension. Throughout the 2000s, it has also been supporting further enlargement of the EU (e.g. to Turkey).

SLD has also been clearly pro-European, though with limited political strength, and has been a member of the Party of European Socialists.

PiS has been sceptical towards the EU since its creation. Since

*PiS initially joined the Union for a Europe of the Nations and then the European Conservatives and Reformists.*

Polish accession to the EU, PiS has not joined the EPP as opposed to the two centre-right Polish parties, PO and PSL, as well as the Hungarian Fidesz party that mirrors the PiS reticent attitude towards the EU project. It

initially joined the Union for a Europe of the Nations and then the European Conservatives and Reformists set up by the UK's Tories.

PiS has become the second major political force of the third largest European political party. However, with the ongoing Brexit process that has occupied Tories exclusively with UK-EU matters, the Group has been less influential than expected. While PiS can rely on the support of the majority of the Group (for instance regarding resolutions against the judicial laws), it is expected it may try to increase its influence in the next EU Parliament, notably through the setting-up of new partnerships (e.g. Vox, Lega Nord, True Finns, AfD or Danish People's Party).

PiS has been steadily highlighting its preference for the nation-state concept of EU composition and has seen itself as defender of Europe's Christian roots and values that, in PiS opinion, have been abandoned throughout the European integration process.

Between 2005-2007, when PiS was biggest party in the Parliament (while lacking the majority) it was seen as radically Eurosceptic and having an instrumental approach to the membership in the EU focusing on economic benefits.

The PSL, with major part of its electorate being based in rural areas, shares with PiS a social conservatism and lack of enthusiasm towards deepening European integration. However, it was PSL that, being part of the government between 2001-2005, co-negotiated crucial elements of the Accession Treaty and has held on to its legacy placing itself in the EU mainstream through membership in the EPP and a constructive approach to the EU project.

### ***14.3.3 Key areas of political discourse on the EU (2004-15)***

The European debate in 2003 concerning the Constitution for Europe did not resonate much in Poland, apart from the unanimous criticism from all political parties to the proposed voting system in the Council of the European Union that was to replace that in the Treaty of Nice considered to be advantageous for Poland. This criticism was reflected in the delayed and hesitant ratification of the Lisbon Treaty by the President of Poland L. Kaczyński. Eurosceptic parties, including PiS, used the modification of the voting system as proof of domination of big countries in the EU, and this remains an important part of their narrative until today.

Since the 2004 EU accession, most European debate in Poland was centred around the Eastern dimension of the EU (e.g. supporting Ukraine in its turbulent attempts to move closer to the EU), energy policy in the context of Russian supplies and securing a substantial inflow of structural funds.

The arrival to power of the PO-PSL coalition headed by Donald Tusk in late 2007 brought Poland back to a constructive role within the EU with an ambition to position the country in the decision core of the EU. The new majority claimed Poland would become a key actor on the European scene, announced its intention to enter the euro zone quickly and flagged the EU structural funds as key to the economic success of Poland. The pro-European narrative that the PO-PSL coalition conducted in its first term was fuelled by the Presidency of the Council of the EU that Poland was to hold in 2011.

Since accession to the EU, Poland has considered itself as a natural supporter of the European ambitions of Ukraine. Polish general public interest in the democratic and European transition of Ukraine peaked during the Orange Revolution in 2004 and particularly with regards to the successful mediation in which President of Poland A. Kwaśniewski managed to engage Javier Solana, at the time High Representative for the Common Foreign and Security Policy.

The most ambitious Polish set of proposals to reform the EU was presented by Foreign Minister Radosław Sikorski on 28 November 2011 during the Polish Presidency of the Council of the European Union at the German Council on Foreign Relations. Sikorski proclaimed that Poland was no longer the source of European problems but of European solutions. He proposed reshaping the European Commission, enhancing the competences of the EU institutions and merging the posts of presidents of the Commission and the European Council, vowed for the European Parliament to have a single seat and called for pan-European lists of candidates in the EP elections. Sikorski called Germany an indispensable nation and stated that what he feared most was German inactivity.

The moment of the highest exposure of Poland as a leading member of the EU was its 2011 presidency of the Council of the

European Union, for which the Polish Solidarity movement's heritage became the leitmotif.

Structural funds were a major issue in the Polish European debate. In 2013, it was announced that Poland would receive €105 billion for 2014-2020. The final size of the allocation for Poland was a clear success, however the way in which it was communicated to the general public very much reflected the simplified and instrumental way of treating EU membership – Prime Minister Tusk posed for pictures in front of a big layer cake in the shape of piles of euro notes.

*Structural funds were a major issue in the Polish European debate.*

The *Sejm's* Committee for European Affairs has not played a significant role in the process of shaping Polish European policies since accession. It has been chaired by political lightweights who have been unable to impose themselves and counterbalance the executive in legal proceedings. Since 2015, the role of *Sejm* committees in the process of law making has been in further sharp decline and they have become just another area in which the PiS majoritarian way of policymaking has reached its full potential. The most striking example here was the extraordinary way substantial judiciary measures proceeded through the *Sejm's* Justice and Human Rights Committee, being approved by the PiS majority within hours with discussion time limited to minimum.

Since EU accession, Polish political parties have not proposed any specific, original vision of the future of Europe. The EU debate is conducted instrumentally by the political parties; the longer the membership lasts, the less political parties talk about the significance or future of Europe, focusing instead on technical, specific issues, most often economic.

#### ***14.3.4 Rule of law and the perception of the EU since 2015***

The key strategic goal of the political elite after 1989 was leaving the 'grey zone' of instability by anchoring Poland in the Western security system (NATO) and in the legal, political and economic structures of the EU. The goal of Europeanisation has been implemented by all political parties, regardless of their ideological affiliations. Polish foreign policy has been defined and conducted by all governing parties on the basis of a national consensus on a



pro-West orientation. This consensus and the 'myth of the West' that largely dominated public discussions was a narrative that drove Poland's political, economic and social transition forward. It constituted above all the major civilisation and modernisation direction of Poland. This approach recognised that Poland had different interests in minor issues with various European partners, but it was based on negotiating and seeking compromise to protect Poland's long-term strategic interests. This was over and above Poland's ambition and goal to be present at the centre of European policy (Balcer et al., 2016).

This direction changed after the 2015 parliamentary elections when PiS prioritised internal policy over strategic foreign policy

*This direction changed when PiS prioritised internal policy over strategic foreign policy goals.*

goals and the party has not been eager to take institutional obligations and the opinions of Poland's European partners into consideration. In the view of PiS leader Jarosław Kaczyński, internal

policies conducted on his part are targeted by a "European establishment" hostile to his party and to himself.

The most significant redefinition of Polish foreign policy is the party's deep pessimism about the future of the European project. PiS presents the EU as a disintegrating structure and destined for failure in its current shape. This vision is deeply rooted in the intellectual environment of PiS and has strongly influenced the

*The criticism and pessimism of PiS has not only been about questioning the future direction of EU integration, but about liberal democracy perceived as a danger for "traditional Polish values".*

direction of Polish foreign policy since 2015. Accordingly, PiS has been attempting to redefine the perception of the EU as a risk, not a chance for Poland as was the case from 1989 to 2015. In its pessimistic perception, PiS thinks that the EU needs to become an alliance of equal nation-states in order to survive. The major assumption of PiS presented to the public is that the

EU project, considered as "utopian" is inevitably declining and that Poland has no interest in defending the current model of European integration. The criticism and pessimism of PiS towards the EU project has not only been about questioning the future direction of

EU integration, but more importantly about questioning the model of liberal democracy and the values embodied in Western Europe, perceived by PiS as a danger for “traditional Polish values” (Balcer et al., 2016).

## 14.4 Consensus and political polarisation – public opinion on EU membership and policies

### 14.4.1 *Attitudes towards EU membership and its potential future developments*

Traditionally, Polish public opinion has supported EU membership – both before and after accession. This support has remained remarkably stable since the electoral victory of PiS in 2015, in spite of anti-EU narratives, which this party has employed on a number of issues (migration, rule of law) both before

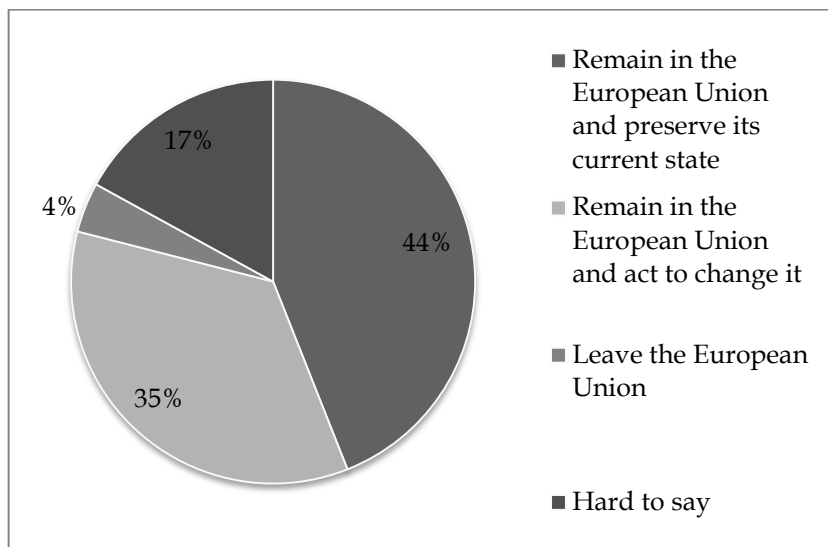
*Polish public opinion has supported EU membership in spite of anti-EU narratives.*

and after the elections. According to surveys of the Social Opinion Research Center (CBOS), the share of Poles who support EU membership reached 88% in April 2017, compared to 85% in February 2017 and 81% in February 2016 (Roguska, 12.2018: 1). Moreover, the supporters of Poland’s membership in the EU dominate in all socio-demographic groups and in the electorates of all political parties currently enjoying the greatest support. It is even popular with 87% of declared voters of both anti-EU political actors – the ruling PiS and the Kukiz’15 movement. This finding seems contradictory with the stances of both parties on Europe, since both political actors endorse policies of opposing the EU and emphasise the overriding principle of the sovereignty of nation states. However, as explained below, strong pro-EU attitudes in Polish society compel them to endorse the continued presence of Poland in the EU, while attacking ‘Brussels’ for alleged infringement of national sovereignty.

Thus, support for leaving the EU, promoted by some right-wing politicians, remains low, if not negligible. If anything, the experience of Brexit negotiations seems to discourage possible ‘Polexit’ proponents further. This was confirmed in IPA own research carried out in mid-2018. Asked about the preferred future relation between Poland and the EU, the vast majority of

respondents supported remaining in the EU (79%). At the same time, the largest group of respondents wished to maintain the current state of integration (44%). A little over one third of Poles supported reforming the Union (35%). Only 4% opted for leaving (see Figure 14.1; Łada, 2018: 1).

*Figure 14.1 What should the future of Poland look like in relation to the EU?*



Source: Institute of Public Affairs 2018.

The continued support for EU membership is grounded in the perception of many Poles that their country has benefited from membership in the EU on many levels. According to a survey conducted on the tenth anniversary of Polish membership in the EU, these benefits do not just include freedom of movement (especially free flow of labour) and the transfer of EU funds to Poland. According to the same poll, most Poles believe that accession to the EU has strengthened the country's international security (72%) and Poland's position in Europe (74%) (Roguska, 2014: 26).

Such strong support for membership makes it hard for any party to advocate leaving the EU and Poles remains a taboo in the mainstream public debate. The conflicts with Brussels over refugee quotas and the rule of law prompted the opposition to accuse the

governing party of aiming to take Poland out of the EU, a charge vehemently denied by PiS politicians. Instead, PiS politicians argue that by criticising the government in Warsaw, Brussels is abusing its powers and infringes on Polish sovereignty. Consequently, they speak of the need to reform the EU by which they mean a repatriation of EU powers back to member states, e.g. by giving national parliaments the power to veto Brussels legislation. Despite the generally positive appraisal of the EU, the “sovereignty instead of cooperation” approach of PiS appears to resonate with parts of the Polish electorate. IPA original polling conducted in late 2016 shows that while only 8% of Poles supported leaving the EU, another 32% supported staying in and trying to reduce the EU’s powers (see details in Table 14.1 below), which is the official policy of the PiS government (Kucharczyk et al., 2017: 329). Thus, where European matters are concerned, PiS is actively shaping the views of its followers, talking tough about the “Brussels elite”, but vehemently denying it wants Poland out of the EU.

*Table 14.1 Public opinion on European integration*

<b>Do you think Poland's long-term policy should be...</b>	<b>Total</b>	<b>PiS</b>	<b>PO</b>
(1) To leave the European Union	<b>8</b>	13	1
(2) To stay in the EU and try to reduce the EU’s powers	<b>32</b>	46	23
(3) To leave things as they are	<b>21</b>	12	40
(4) To stay in the EU and try to increase the EU’s powers	<b>14</b>	10	17
(5) To work for the formation of a single European government	<b>10</b>	6	10
Don’t know	<b>15</b>	12	8
‘Eurosceptics’ (answers 1+2)	<b>40</b>	59	24
‘Euro-enthusiasts’ (answers 4+5)	<b>24</b>	16	27

*Source:* Nothing to Fear but Fear Itself?, YouGov polling for Demos/IPA, 2016/2017.

According to these figures, 40% of Polish citizens (the 8% who want to leave the EU and the 32% who want EU powers to be reduced)

can be defined as at least to some degree Eurosceptic. As seen in the table above, views on the preferred future for the EU are strongly correlated with party affiliation, with a slight majority of PiS supporters opting for hard or soft Euroscepticism.

Thus, Polish opinions on the shape of European Union are more complex than their recognition of the benefits of European integration. However, other studies reveal significant support for

*The conviction that integration went too far is expressed by just over one-fifth of respondents.*

deeper integration. For example, CBOS research indicates that support for this idea has somewhat increased under the current government. According to data from November 2018, almost half of the respondents (45%) believe that Europe should unite more. At the same time, the conviction that integration went too far is expressed by just over one-fifth of respondents (21%), the lowest figure since 2009. In comparison to July 2016 data, the share of respondents convinced that the integration of Europe has already gone too far decreased by 7 percentage points. At the same time, the number of those supporting further integration increased by 4 percentage points (Roguska, 12.2018: 4).

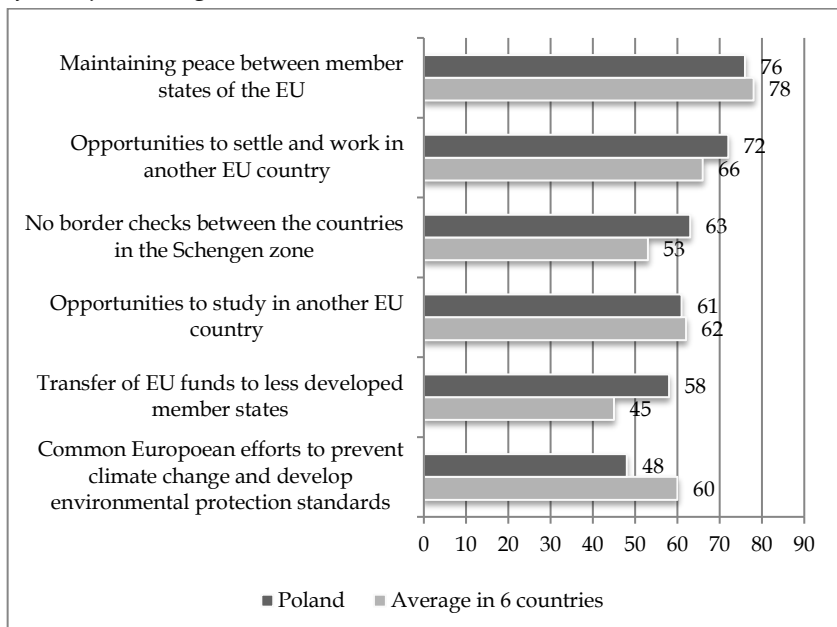
The same CBOS study reveals decreasing support for the key narrative of the PiS government, namely the need to return more competences to nation states. In November 2018, such a statement was chosen by just 14% of respondents, while maintaining the status quo and deepening integration are each preferred by 35% of the respondents. Regarding the different approaches to the future shape of the EU that are presented in the discourse of Polish political parties (as discussed in previous sections of this chapter), Poles are even more diversified in their opinions. Although different studies indicate various levels of support for both more Eurosceptic and Euro-enthusiastic attitudes towards the future directions of the EU (often depending on the precise wording and number of pre-defined policy choices), all preferences are significantly differentiated by political orientation (left-right) and party support.

Although support for the EU is generally considered to be fairly stable, diverging tendencies can be observed among younger Poles. Young adults (aged 18-24) are nowadays more sceptical towards Europe than they were a few years ago. Whereas in 2008, support for the EU was the highest in this age group (93%, compared to 88% of the general public) (Roguska, 04.2008), and in 2012, young Poles still favoured the EU more than the general population (88%, compared to 83%) (Hipsz, 05.2011), the situation has changed with the current generation of Poles reaching adulthood. Today's young Poles seem to be less pro-European than the rest of the society. CBOS research shows that 79% of Poles aged 18-24 support Poland's EU membership, significantly less than the general population (87%) (Roguska, 12.2018: 16). Moreover, it is an age group with the lowest support for the EU in Polish society

*Young adults (aged 18-24) are nowadays more sceptical towards the EU than they were a few years ago.*

According to the 2017 IPA and Bertelsmann Stiftung survey, the majority of Polish youth positively assess Poland's EU membership: 76% generally consider membership in the EU a good thing, whereas 22% think the opposite. Young people are encouraged by the benefits of membership – freedom of movement and possibility to work abroad, but also the belief that it maintains peace (Kucharczyk, Łada, and Wenerski, 2017: 15-17).

Figure 14.2 How important for you personally are the following benefits of European integration?



Note: Responses of “very important” and “important” are added together (in %). Data for Poland compared to results in 6 surveyed countries (Austria, Czech Republic, Germany, Hungary, Poland and Slovakia).

Source: Bertelsmann Stiftung and Institute of Public Affairs, 2017.

The same study indicates that young women are more pro-European than young men. Although young Poles in general see EU membership in a positive light, they believe that reforming the EU is the most desirable scenario for the future. Almost two-thirds of Polish youth (64%) confirm that the best option for Poland is to stay in the EU and work to reform it. One-fifth (21%) are ready to remain in the EU and leave things as they are, while 15% of young Poles would opt to leave the community (Łada and Wenerski, 2017: 122-123).

Another IPA study on young Poles’ political attitudes indicates their broad identification with Europe (80% of Poles aged 16-29), although less strong than identification with the Polish nation (92%). Identification with Europe is stronger than the

identification with the Catholic religion (declared by 74%) or local community (chosen by 71%) (Pazderski, 2018: 22-23).

While the Polish public and its key segments broadly support EU membership, the views on preferred future developments are varied and strongly dependent on political orientation. At the same time, even voters for the ruling PiS do not entirely follow the party line in its soft Euroscepticism by rejecting Polesxit. Nevertheless, the majority of Poles do not see Polesxit as a possible scenario and think that the voices on the opposition warning that PiS will take the country out of the EU are motivated by political expediency (51%) rather than genuine concern for Poland's future in Europe (31%). The opinions are strongly connected with party affiliations (Roguska, 11.2018).

#### ***14.4.2 Opinions regarding EU policies present in national party political discourse***

Despite the large and stable Euro-enthusiasm of Polish society, a number of studies show significant sceptical pluralities or majorities on some policy issues where the position of the current Polish government significantly differs with the official policies and opinions of the EU institutions. This concerns the issue of refugee relocation and migration in general as well as the alleged violation of the European values as defined by Art 2 of the Treaty on the European Union (rule of law and democracy) by the PiS government. Another, although less politically urgent, issue is the adoption of the common European currency, which Poland is obliged to do by its EU accession Treaty of 2004 (albeit with no particular deadline).

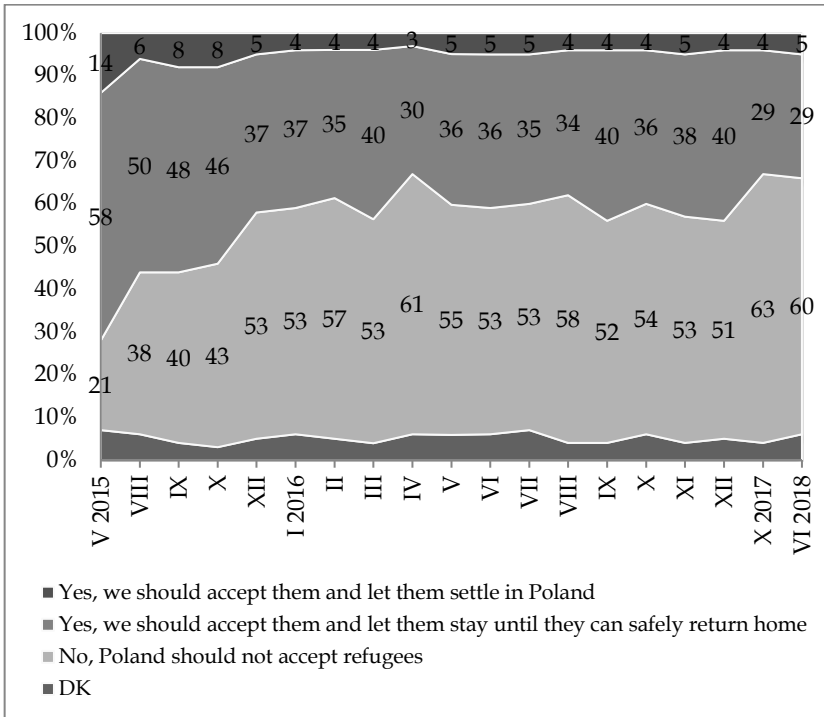
#### ***Migration and accepting refugees***

The scheme for relocating and resettling refugees adopted by the EU in the midst of the so-called refugee crisis in autumn 2015 split the Polish political scene and society at large at the crucial moment of the 2015 parliamentary elections. The outgoing PO government reluctantly supported the scheme against the tsunami of anti-refugee and anti-Brussels rhetoric from both the PiS (already poised to win the elections) as well as the anti-establishment Kukiz'15 movement and a plethora of smaller far-right groups. As a result, in



the last three years there has been a steep increase in public opposition to receiving refugees: from a mere 21% in May 2015 to 60% in July 2018 (see Figure 14.3). Poles are opposed to the relocation of refugees from other European countries more affected by the refugee crisis. Only one in five Poles agrees to such a solution (see Figure 14.4). Significantly, there is a clear hierarchy of refugees from different countries of origin: refugees from Ukraine (perceived as culturally close to Poland) are much more welcome than refugees from the Middle East and Africa. 32% of those who claim Poland should not receive some of the refugees coming to the EU say 'yes' to receiving Ukrainian refugees (Bożewicz, 07.2018: 7-8).

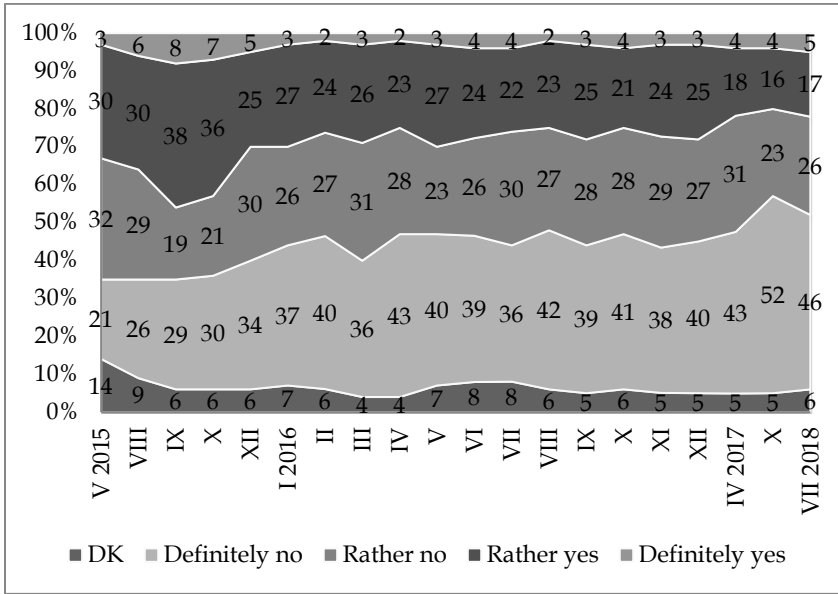
Figure 14.3 Dynamics of support for receiving refugees



Source: CBOS 87/2018.

Note: The question was: "Should Poland accept refugees from countries torn by military conflict?"

Figure 14.4 Changing support for relocation of refugees



Source: CBOS 87/2018.

Note: The question was: “Due to considerable inflow of refugees from Middle East and Africa some EU member states are not able to deal with this problem. Do you think that Poland should accept some of the refugees coming to Europe?”

Moreover, Poles are opposed to receiving refugees from Muslim countries even under a hypothetical threat of losing part of EU funds. Only 16% of Poles agree to receive refugees in order to avoid such a threat, while 75% are set against it (ibid.: 1-4).

Aversion to immigrants and a lack of understanding of their role in society are even higher among the youngest Poles. Only a quarter of 16-29 year-olds believes that immigrants make a positive contribution to their society (70% are of the contrary opinion) (Pazderski, 2018: 34-35). They are also unenthusiastic about the role played by immigrants. A majority of Poles aged 15-24 (60%) see them as a burden to the social welfare system and a threat to public safety and security (Łada and Wenerski, 2017: 128-130).

The data seem even more striking in view of the fact that Poland receives very few refugees in any case. In 2017, the total

figure of officially recognised refugees was 742 people, and 567 in 2016.<sup>1</sup>

As before, the key division lines regarding the attitudes towards refugees and the EU relocation programme are political, with supporters of the ruling parties significantly more opposed to both than supporters of the opposition parties. The latter also tend to see these issues as less politically salient. Although the widespread opposition to refugee relocation has not weakened public support for EU membership so far, it continues to fuel support for political forces using anti-EU rhetoric, not just related to migration and refugees, and contributes to the deep political polarisation of Polish society.

### *EU actions concerning the rule of law and the state of democracy in Poland*

Another EU-related issue that definitely resonates within Polish society is related to disputes between the Polish government and European institutions, which accused Poland of systematic violation of democratic values, such as the rule of law. The criticism followed the PiS government's assault against the political independence of the Constitutional Tribunal, which it ultimately staffed with party loyalists, and later legislation aimed at curbing the independence of the judiciary, including the country's powerful Supreme Court. These policies incited widespread and systematic social protests and were criticised by a number of international organisations, including the Venice Commission of the Council of Europe and the European Commission (Fomina and Kucharczyk, 2016). The situation in Poland was also a subject of debates in the European Parliament. Finally, the European Commission decided to trigger the TEU Article 7 procedure against Poland.<sup>2</sup> Moreover, the EC decided to refer Poland to the Court of Justice of the EU due to the violations of the principle of judicial independence created by the new Polish Law on the Supreme Court (case filed on the 24 September 2018).<sup>3</sup> The Polish government consistently rejected EU

---

<sup>1</sup> See <https://migracje.gov.pl/statystyki/>.

<sup>2</sup> See <https://www.dw.com/en/european-commission-triggers-article-7-against-poland/a-41873962>.

<sup>3</sup> See [http://europa.eu/rapid/press-release\\_IP-18-5830\\_pl.htm](http://europa.eu/rapid/press-release_IP-18-5830_pl.htm).

criticism and actions as “interference in the affairs of a Member State” and “infringement of sovereignty” and yet gave in and modified at least some of the controversial legislation when ordered by the CJEU.

Polish society has remained divided in its response to the criticism of the PiS government by international institutions (CoE, EC and EP). According to CBOS polling, the percentage of respondents who oppose the decision of the European Commission to start rule-of-law procedures against Poland more or less equalled the number of those who assess it positively (36 vs. 37%) and the results were clearly correlated with political preference, with a fairly large group of respondents unwilling or unable to form a clear opinion on the matter (Roguska, 02.2016).

So far, there is scarce evidence that criticism from EU institutions has significantly changed Poles’ attitudes to EU membership or trust in EU institutions. Public trust in the European Commission, which is Poland’s main international critic, remained unchanged compared to the situation before the elections.<sup>4</sup>

*Although trust in EU institutions is not very high, it remains higher than trust in Polish national institutions.*

Although trust in EU institutions is not very high, it nonetheless remains higher than trust in Polish national institutions, the government and the parliament. According to IPA research in 2016, 60% of Poles declared moderate or high levels of trust in the European Commission and 59% in the European Parliament, whereas just 42% and 38% respectively declared moderate or high levels of trust in the Polish government and the Polish Parliament (Kucharczyk et al., 2017: 336).

---

<sup>4</sup> Eurobarometer, May 2016: 45% trust, 34% do not trust, November 2015 – 42% trust, 32% do not trust, May 2015 – 46% trust, 27% do not trust.

*Table 14.2 Public trust towards national and European institutions (average score on a 0-10 scale)*

Polish Government	3.31 (low trust)
Polish Parliament	2.98 (low trust)
European Parliament	4.45 (medium trust)
European Commission	4.51 (medium trust)

*Source:* Nothing to Fear but Fear Itself?, YouGov polling for DemosDemos/IPA, 2016/2017.

Later studies also confirmed that, on average, Poles give higher ratings to EU institutions than to corresponding national institutions. The IPA survey conducted in mid-2018 shows that while a majority of Poles positively evaluate the work of European Commission and European Parliament (respectively 53% and 56%), the numbers are significantly lower in the case of the Polish government and Parliament (respectively 37% and 36%). As both studies reveal, the differences are enhanced if we take the political affiliations of respondents into consideration. Thus, the supporters of the opposition both trust and rate EU institutions well above average, whereas declared supporters of the ruling PiS party have more trust in national institutions and give them a better rating than European institutions (Łada 2018: 3).

Such differences in attitudes to European and national authorities are thus clearly influenced by current political debates on the quality of democracy in the country. This also seems to be confirmed by the figures presenting the levels of trust towards the most important institutions of public life in all Visegrad countries (V4). What is significant is the difference in trust towards the EU institutions in the countries, where the EU is one of the main enemies of local populist, ruling political actors, which in the meantime implement policies – that in Poland and Hungary are recognised by majority of internal and external experts as violating the rule of law (see Table 14.3 below). 52% of Poles (58% of Hungarians) trust the European Commission and 51% of Poles trust the European Parliament (57% of Hungarians) (Penno Hartlová, Bútorová, Wessenauer and Pazderski, 2018: 28). In a similar vein, in both countries, the perception of non-governmental non-profit organisations is visibly better than in the rest of the V4. Almost 60%

of Poles and 58% of Hungarians declare having trust towards NGOs. This seems especially important given the fact that in both countries, inhabitants were exposed to smear campaigns defaming part of the non-governmental sector and other activities aiming to undo the bonds rooting NGOs in the society (Pazderski, 2017: 181). It appears that official propaganda against EU institutions (and domestic NGOs) may paradoxically enhance public trust in such institutions among opponents of the government, while it diminishes trust among government supporters, thus leading to deeper social polarisation.

*Table 14.3 Levels of trust/distrust in public institutions compared for the V4 area*

	Levels of trust/distrust in public institutions (average)				
	V4	Czech Rep.	Slova- kia	Poland	Hun- gary
Fireman	1.36	1.31	1.35	1.39	1.39
Police	2.4	2.2	2.6	2.3	2.4
Local authorities in your village/town	2.4	2.3	2.6	2.4	2.4
Non-governmental organisations	2.6	2.9	2.9	2.3	2.4
President	2.6	2.5	2.5	2.5	2.9
Courts	2.7	2.6	3.0	2.6	2.6
Public media (radio & TV)	2.7	2.5	2.3	3.0	3.0
European Commission	2.7	3.2	2.9	2.4	2.3
European Parliament	2.8	3.2	2.9	2.5	2.4
Church	3.0	3.3	3.0	2.9	2.9
Government	3.1	3.1	3.1	3.0	3.1
Parliament	3.1	3.1	3.1	3.1	3.2
Political parties	3.3	3.3	3.4	3.3	3.3

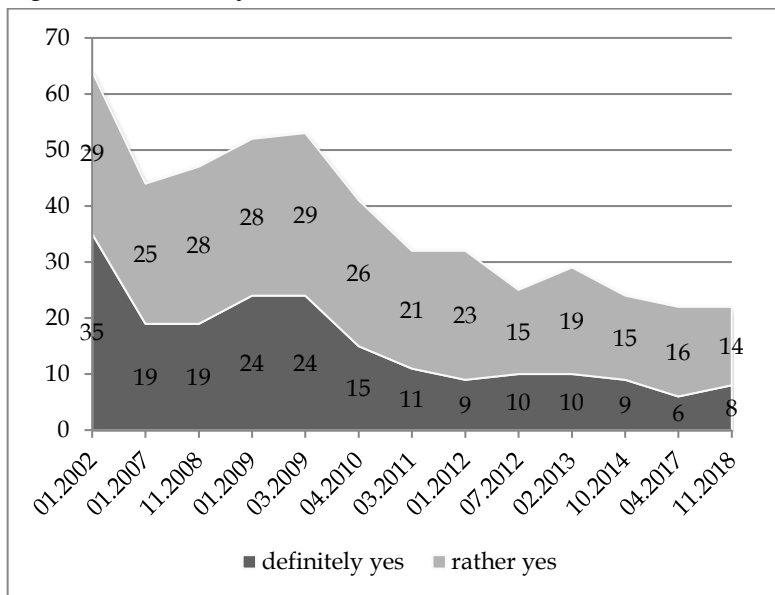
*Note:* Average results; scale: 1 – greatest trust, ..., 4 – greatest distrust.

*Source:* Civic participation in the Visegrad countries, 2017 & 2018, STEM/IVO/Political Capital/IPA.

### *Poland's membership of the European Monetary Union*

The adoption of the European common currency is opposed by 71% of adult Poles and supported by only 22% of respondents. Acceptance of adopting the euro in Poland was the strongest in the pre-accession period and peaked again around the time of Slovakia's accession to the euro area in 2009 (at that time 52-53% of Poles supported it). The public turned against the euro in the wake of the Greek financial crisis and the prevailing political narrative became for Poland to wait until the "Eurozone is fixed". Ever since that time, a majority of Poles has remained in opposition to adopting the euro, with this opposition prevailing across all analysed socio-demographic groups (Roguska, 12.2018: 5-6).

Figure 14.5 *The zloty or the euro?*



*Note:* Question: Would you agree to replace the Polish currency (zloty) with the currency common to many EU countries - the euro? Only positive answers presented, in %. *Source:* CBOS 166/2018.

Since the PiS government came to power in 2015, political discourse in Poland has started to change, with opposition parties increasingly articulating the disadvantages of Poland's staying out of the euro area. Opposition politicians and numerous experts regularly issue warnings that such a policy will lead to Poland's

exclusion from the crucial part of the integration process and relegation to the position of 'second class membership'. This has so far failed to change the negative views of the majority. Nevertheless, research indicates that attitudes to the introduction of the common European currency in Poland are most strongly differentiated by political orientation rather than by other factors.

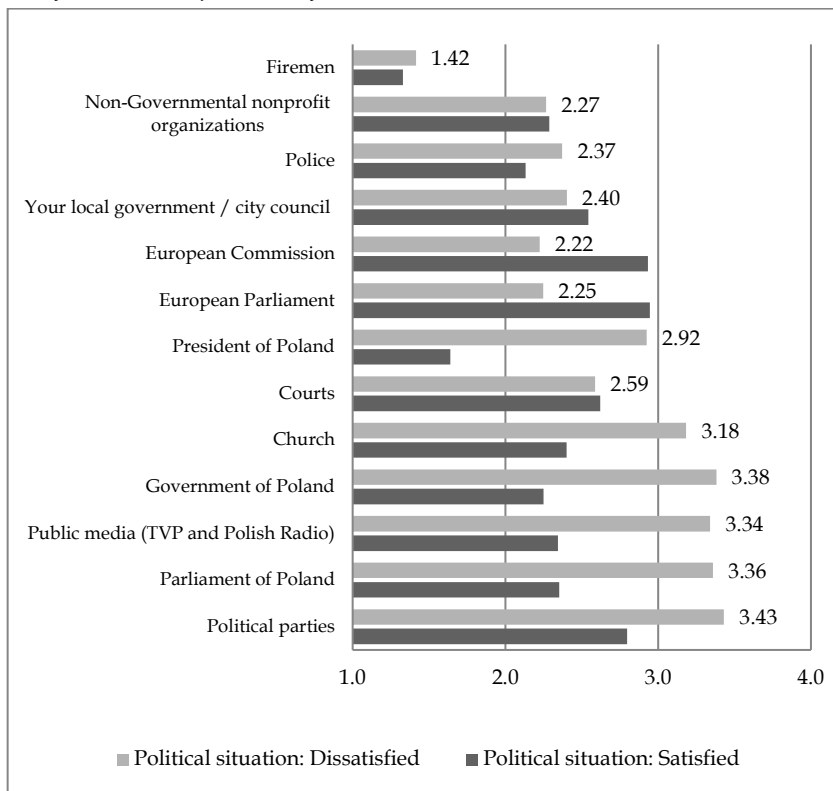
#### ***14.4.3 Attitudes towards EU policy issues among political party electorates***

It is clear that Polish attitudes to the EU may further evolve as a result of the deep political polarisation in society. The already-mentioned research conducted in the Visegrad countries also shows an interesting influence of public debates on people's perception of the most important democratic institutions in Poland. Thus, there is a correlation between the level of distrust towards particular public institutions and satisfaction or dissatisfaction with the current political situation in Poland. People dissatisfied with it also declare greater distrust towards all central authorities (parliament, government and the president), church, public media, political parties and even the police. On the other hand, distrust towards the European Commission and Parliament is much higher amongst people who are satisfied with the current political situation. The same group of respondents distrust slightly more their local authorities and (very slightly) the courts (see Figure 14.6). Such features might be one of the factors of the pronounced division within Polish society and might be a sign of the influence of the public debates inspired by the main political actors.

***There is a correlation between the level of distrust towards particular public institutions and satisfaction or dissatisfaction with the current political situation.***



Figure 14.6 Levels of distrust towards public institutions correlated with satisfaction with political life in Poland



Note: Average answers and figures are provided for people dissatisfied with the political situation (scale: 1 - I definitely trust; ...; 4 - I definitely do not trust).

Source: Civic participation in the Visegrad countries, 2017 & 2018, STEM/IVO/Political Capital/IPA.

However, political discourse and political affiliations strongly influence people's opinions on several EU-related policy issues. In comparison to 40% of all Polish citizens who could be identified as Eurosceptic (hard or soft), they make up the majority of the PiS electorate (59%) (Kucharczyk, J. et al., 2017: 330). At the same time, they constitute only 22% of PO voters. In another poll from October 2015, the IPA obtained similar results: one third felt that the EU's competences should be reduced (51% of PiS supporters and 26% of PO voters) (ibid.). Looking at these results, one can assume that the

PiS sovereignty narrative has been accepted by a majority of their supporters.

Not just party affiliations, but also the respondent's political self-identification (left, centre or right) is strongly connected with attitudes towards European integration. Further integration of Europe is supported by two-thirds of respondents identifying themselves with the left (66%), 50% placing their political views in the centre and just two-fifths (37%) supporters of the right, among whom a relatively large group (31%) inclines to the opinion that the unification of Europe has already gone too far (Roguska, 12.2018: 3).

Opponents of joining the euro prevail in the electorates of most important political actors. But the level of support for adopting the common currency differs depending on the respondent's political affiliation. While among PO voters the group of euro supporters is only slightly smaller than its opponents, people rejecting the euro constitute a huge majority in the PiS electorate (see Table 14.4; *ibid.*: 6-7).

*Table 14.4 Would you agree to replace the Polish currency (zloty) with the currency common to many EU countries - the euro? (in %)*

Potential electorates*	Yes	No	Hard to say
PO (Civic Platform)	43	47	10
SLD (Democratic Left Alliance)	37	49	14
PSL (Polish People's Party)	35	62	3
Kukiz'15	23	76	1
PiS (Law and Justice, with its allies)	8	87	5

\*Based on the voting declaration in possible parliamentary elections

Source: CBOS 166/2018.

Therefore, despite consistent and broad support for European integration and Poland's EU membership, there are significant political divisions within Polish society as regards both the future of European integration as well as Poland's place in the EU. Hard and especially soft Eurosceptics are strongly represented in the electorates of right-wing political actors, including the ruling PiS and Kukiz'15 movement. There are also certain specific policy issues in which a significant part of Polish public opinion is at odds

with the EU. This refers to the migration/refugees protection policy, especially linked with the threat to public security, as well as disputes over how democratic values are understood, related to the ruling party sovereignty discourse. Both issues may be used to deepen the polarisation of Polish society in its attitude towards European integration.

## Conclusions

1989 changed the path of Poland's history, driving the country towards Western Europe-style liberal democracy and the free market model. The major transformational effort on the country has led to it achieving its major goals in security and foreign policy: membership of NATO and the European Union. However, since 2015, the values and cornerstones of Poland's European policy have been put in question with the Law and Justice party following Hungary's trajectory towards illiberalism. The potential success of PiS in the parliamentary elections scheduled for autumn 2019 would most likely reinforce current majoritarian tendencies in Poland and further undermine the representativeness of the Polish political system. PiS is likely to follow the path of majoritarian democracy, which would automatically contribute to the reinforcement of political tensions and polarisation within Polish society. PiS practices, for instance seizing control over institutions such as the Constitutional Tribunal with the objective of preserving its influence on Polish society and its political system, could undermine both the societal and legal foundations of Poland's membership of the European Union. The 2019 European and parliamentary elections in Poland will therefore have consequences far beyond a standard political struggle for power and shape Poland's European future for many years to come.

## References

- Balcer, A., P. Buras, G. Gromadzki and E. Smolar (2017), "Polityka Europejska rządu PIS" [PIS European policy], W zwarciu, *Fundacja im. Stefana Batorego*, Warsaw.
- Bożewicz, M. (2018), "Stosunek Polaków i Czechów do przyjmowania uchodźców" [The attitude of Poles and Czechs to receiving refugees], Research Report No. 87/2018, Centre for Public Opinion Research, Warsaw.
- Cole, D. (1998), "Poland's 1997 Constitution in its historical context", Paper No. 598, Indiana University – Maurer School of Law, Bloomington.
- Fomina, J. and J. Kucharczyk (2016), "The specter haunting Europe: populism and protest in Poland", *Journal of Democracy*, Vol. 27, No 4.
- Garlicka, Z. and L. Garlicki (2010), "Constitution-making, peace-building, and national reconciliation", in L. Miller (ed), *Framing the state in times of transition: case studies in constitution-making*, Washington: United States Institute of Peace Press.
- Górski, G. (2014), "Constitutional changes in Poland between 1989 and 1997", *Law and Administration in Post-Soviet Europe – The Journal of Kolegium Jagiellonskie Torunská Szkoła Wyższa*, Vol. 1, pp. 5-15.
- Hipsz, N. (2011), "Siedem lat obecności Polski w Unii Europejskiej" [Seven years of Poland's presence in the European Union], Research Report No. 52/2011, Centre for Public Opinion Research, Warsaw ([http://www.cbos.pl/SPISKOM.POL/2011/K\\_052\\_11.PDF](http://www.cbos.pl/SPISKOM.POL/2011/K_052_11.PDF)).
- Kennedy, M. and B. Porter (2000), "Negotiating radical change: Understanding and extending the lessons of the Polish Round Table talks", unpublished manuscript, University of Michigan, MI.
- Kucharczyk, J. et al. (2017), "Poland - When fear wins: causes and consequences of Poland's populist turn", in S. Gaston and P. Harrison-Evans (eds), *Nothing to Fear but Fear Itself?*, DEMOS, London.
- Kucharczyk, J., A. Łada and Ł. Wenerski (2017), "Youth from six member states. Similarities and differences in their approach to the common European future", in J. Kucharczyk, A. Łada and G. Schöler (eds), *Exit, Voice or Loyalty? Young People on Europe and Democracy. Case Studies from Austria, the Czech Republic, Germany, Hungary, Poland and Slovakia*, Instytut Spraw Publicznych, Bertelsmann Stiftung, Warszawa/Gütersloh.

- Łada, A. and Ł. Wenerski (2017), "Poland", in J. Kucharczyk, A. Łada and G. Schöler (eds), *Exit, Voice or Loyalty? Young People on Europe and Democracy. Case Studies from Austria, the Czech Republic, Germany, Hungary, Poland and Slovakia*, Instytut Spraw Publicznych, Bertelsmann Stiftung, Warszawa/Gütersloh.
- Łada, A. (2018), "Polacy o Parlamencie Europejskim - wiedza i oceny rok przed wyborami" [Poles on the European Parliament - knowledge and assessment a year before the election], Instytut Spraw Publicznych, Warsaw.
- Lastawski, K. (2012), "Historia integracji europejskiej" [History of European integration], Wydawnictwo Adam Marszałek, Toruń.
- Marody, M. (2006), "La question de la démocratie en Pologne" [The issue of democracy in Poland], *Pouvoirs*, Vol. 3, No. 118, pp. 59-72.
- Matthes, C-Y. (2006), "Poland", in A. Fruhstorfer and M. Hein (eds), *Constitutional Politics in Central and Eastern Europe: from Post-Socialist transition to the reform of political systems*, Berlin: Springer.
- McMenamin, I. (2008), "Semi-presidentialism and democratization in Poland", in R. Elgie and S. Moestrup (eds), *Semi-presidentialism in Central and Eastern Europe*, Manchester: Manchester University Press.
- Mink, G. (1990), "L'Europe de l'Est : la transition" [Eastern Europe: the transition], *Problèmes Politiques et Sociaux*, La Documentation Française, No. 636.
- Ministerstwo Spraw Zagranicznych (2009), "Komitet do spraw Europejskich" [Committee for European Affairs] ([https://www.ms.gov.pl/pl/polityka\\_zagraniczna/unia\\_europejska/kse/komitet\\_do\\_spraw\\_europejskich](https://www.ms.gov.pl/pl/polityka_zagraniczna/unia_europejska/kse/komitet_do_spraw_europejskich)).
- Osiński, J. (2010), "Constitution of the Republic of Poland as the Foundation of Democratic Society", *Warsaw Forum of Economic Sociology*, Vol. 1, No. 2, pp. 123-142.
- Ośrodek Informacji i Dokumentacji Europejskiej (2004), "Wykazy ustaw dostosowujących prawo polskie do prawa UE - przed 1 Maja 2004" [List of laws adapting Polish law to EU law - before May 1st, 2004] ([http://oide.sejm.gov.pl/oide/index.php?option=com\\_content&view=article&id=14946&Itemid=1042](http://oide.sejm.gov.pl/oide/index.php?option=com_content&view=article&id=14946&Itemid=1042)).
- Pazderski, F. (2017), "CSO Sustainability Index 2016: Poland", in *The 2016 CSO Sustainability Index for Central and Eastern Europe and Eurasia*, USAID, Washington (<https://www.usaid.gov/europe-eurasia-civil-society>).
- Pazderski, F. (2018), "Odlegli obserwatorzy, niezadowoleni konformiści czy poszukujący obywatele? Młodzi o demokracji i polityce w

- Polsce” [Distant observers, dissatisfied conformists or seeking citizens? Polish youth attitudes towards democracy and politics], Instytut Spraw Publicznych, Warsaw.
- Penno Hartlová, H., Z. Bútorová, V. Wessenauer and F. Pazderski (2018), “Citizenship empowerment: potential for civic participation in the Visegrad countries, 2017 & 2018”, STEM/IVO/Political Capital/IPA (<http://www.isp.org.pl/publikacje,1,955.html>).
- Rapaczynski, A. (1993), “Constitutional Politics in Poland: A report on the Constitutional Committee of the Polish Parliament”, in H. Dick (ed), *Constitution making in Eastern Europe*, Baltimore: John Hopkins University Press.
- Roguska, B. (2008), “Bilans czterech lat integracji Polski z Unią Europejską” [Balance of four years of Poland's integration with the European Union], Research Report No. 66/2008, Centre for Public Opinion Research, Warsaw ([http://www.cbos.pl/SPISKOM.POL/2008/K\\_066\\_08.PDF](http://www.cbos.pl/SPISKOM.POL/2008/K_066_08.PDF)).
- Roguska, B. (2014), “10 lat członkostwa Polski w Unii Europejskiej” [10th Anniversary of Poland's membership in the European Union], Research Report No. 52/2014, Centre for Public Opinion Research, Warsaw.
- Roguska, B. (2016), “Preferencje partyjne w lutym” [Party preferences in February], Research Report 19/2016, Centre for Public Opinion Research, Warsaw ([http://www.cbos.pl/SPISKOM.POL/2016/K\\_019\\_16.PDF](http://www.cbos.pl/SPISKOM.POL/2016/K_019_16.PDF)).
- Roguska, B. (2018), “Czy PiS wyprowadza Polskę z Unii Europejskiej?” [Does PiS lead Poland out of the European Union?], Research Report No. 154/2018, Centre for Public Opinion Research, Warsaw.
- Roguska, B. (2018), “Polska w Unii Europejskiej” [Poland in the European Union], Research Report No. 166/2018, Centre for Public Opinion Research, Warsaw.
- Sejm Rzeczypospolitej Polskiej (2011), “Sejm i Senat a Unia Europejska” ([http://orka.sejm.gov.pl/prezydencja.nsf/lexi/pl\\_Sejm\\_Senat\\_UE](http://orka.sejm.gov.pl/prezydencja.nsf/lexi/pl_Sejm_Senat_UE)).
- Tomaszewski, W. (2015), “Polish Accession to the EU: participating institutions”, *Baltic Region*, Vol. 2015, No. 2, pp. 73–80.
- Skrzydło, W. (2013), “Konstytucja Rzeczypospolitej Polskiej” [Constitution of the Republic of Poland], Wydawnictwo Kluwer Polska, Komentarz, Warsaw.
- Styczyńska, N. (2018), “Więcej czy mniej Europy”, Wydawnictwo Uniwersytetu Jagiellońskiego.

- Zięba, R. (2017), "Polityka zagraniczna Polski w strefie Euroatlantyckiej" [Polish foreign policy in the Euro-Atlantic wonne], Wydawnictwo Uniwersytetu Warszawskiego, Warsaw.
- Żączkiewicz-Zborska, K. (2008), "Spór kompetencyjny prezydenta i premiera w Trybunale Konstytucyjnym", *Gazeta Prawna*, 20 October (<https://prawo.gazetaprawna.pl/artykuly/90863,spor-kompetencyjny-prezydenta-i-premiera-w-trybunale-konstytucyjnym.html>).

# 15. THE EUROPEANISATION OF REPRESENTATIVE DEMOCRACY IN ROMANIA

MIHAI SEBE, BOGDAN MUREŞAN & ELIZA VAŞ

---

*Romania has experienced a gradual 'Europeanisation' of its representative democracy model since joining the European Union. We therefore focused our research on describing the changes since 2007 in Romania and analysing the EU dimension of the national parliament and the relationship between EU politics and national representatives. Among our findings are that EU subjects are a key component of the parliamentary agenda, but they are still treated as second- or third-order issues, classed as 'foreign affairs' issues rather than internal or national ones. We also noted the absence of Eurosceptic mainstream parties in Romania's political landscape.*

## Introduction

Romania's representative democracy model has evolved since the country joined the European Union in 2007. Starting with the legal provisions that govern the relationship between the executive power and the legislative branch in the field of European affairs, we have seen changes in the parliamentary debate both internally and at the European level. By following what is happening in the EU legislation and acting in accordance with the 'competences' taken on, the national parliament has become a source of expertise (through its EU affairs committees) and an open forum for debate on European issues.

### 15.1 The post-2007 national context

Romania's integration into the European Union brought with it a much-needed constitutional reform in 2003. Law no. 429/2003 on the revision of the Constitution of Romania established the



appropriate constitutional framework and the legal grounds for Romania's envisioned Euro-Atlantic integration. It harmonised provisions with the main regulations of the European Union and underlined the right of Romanian citizens to elect and be elected to the European Parliament (Constitution of Romania).

Romania is a semi-presidential republic whose president is elected by universal suffrage and has important powers; complementary to this role are the prime minister and ministers who have executive and governmental power and can remain in office as long as parliament does not oppose them. There is an indirect (representative) democracy model in which people control the government through elected political representatives. All citizens elect their representatives on a regular basis (e.g. every four years for parliamentary elections).

In accordance with constitutional provisions, the president represents the Romanian state and is the safeguard of the nation's independence, unity and the territorial integrity. The prime minister steers the government's actions and coordinates the activities of its cabinet, while Parliament is the supreme representative body of the Romanian people and the sole legislative authority of the country, consisting of the Chamber of Deputies and the Senate.

This semi-presidential government is reflected in the fact that the president appoints a candidate for the prime minister office, as a result of consultations with the party having obtained absolute majority in the Parliament, or if not the case, with the parties represented in Parliament. In this situation, the parties seek to form a governing coalition.

A characteristic of Romania's electoral system, from the 2008 legislative elections on, is that no political party has achieved a majority in Parliament, so all governments have been coalition-based. According to the Freedom House reports, Romania's multiparty system has ensured regular rotations of power, while civil and political liberties are generally respected (Freedom House, 2018).

The only exception to the coalition-based government was Dacian Cioloş's cabinet (November 2016 – January 2017), appointed in the aftermath of the Colectiv nightclub fire and the subsequent protests that led to the resignation of the socialist Victor Ponta's cabinet. No member of the Cioloş cabinet was politically affiliated,

making it the first entirely politically independent cabinet in Romanian history, composed only of technocrats. Yet expected risks, such as selective parliamentary support or the government's failure to adopt projects and policies endorsed by parliament were real. Furthermore, the timeframe proved to be beneficial for the Socialists & Democrats, who had enough time to re-form and win the 2016 parliamentary elections (Sebe, 2016).

*A specificity of Romania's political system is the absence of mainstream Eurosceptic parties.*

Another specificity of Romania's political system is the absence of mainstream Eurosceptic parties. Neither the members of the national Parliament, nor the representatives elected for the European Parliament were declared Eurosceptics:

the good thing as regards the Romanian attitude towards the European Parliament elections is just the lack of interest for populist themes with a European impact. We are still dealing with a very parochial debate, where the accent is put mainly on domestic and local issues that don't have a European impact. (Sebe, 2014).

This observation also stands for the 2019 European Parliament elections as the lessons of Brexit debate show that any such stance (e.g., a RO-Exit political platform) is a recipe for political failure. What has changed in the meantime is that, unlike the 2014 campaign, political discourse is more critical of the EU, notably on issues such as rule of law; Brussels' 'interference' with the national judicial system; the accusation of 'double standards', and so on. Yet despite these issues, we can say that the above-mentioned observation still stands: no mainstream party promotes itself as having an openly Eurosceptic agenda.

## 15.2 The EU dimension of the national parliament

As with any democratic system, the European Union in its post-Lisbon form promotes formal equality among citizens regardless of their country of origin, benefiting from the same rights and equal treatment by EU institutions and specialised bodies. National parliaments, which are the ultimate expression of the national sovereignty of European citizens (a notion introduced by the Treaty on European Union) are now more actively engaged in defining and

running the Union than ever before, through their enhanced role in the decision-making process, especially when it comes to legislation where the EU does not have exclusive competence and the principle of subsidiarity applies. This marks an increase in the representativeness of national parliaments in the Union's activities and of the democratic control of its citizens (Treaty on European Union, 1992).

### ***15.2.1 Overview of the legal provisions***

*Law no. 373/2013, the Act on cooperation between the Parliament and the Government in the field of European affairs* sets out the obligation of the government to notify the Parliament on all matters concerning legislative acts, as follows:

The Government shall forward without delay to the two Chambers of the Parliament the draft legislative acts of the European Union featuring on the Council's agenda, along with accompanying documents. (Article 5)

At the beginning of every rotating Presidency of the Council, the Government shall submit the following documents to the two Chambers of Parliament: a) the programme and priorities of the respective Presidency; b) the list of general mandates to be defined, for remarks and proposals. (Article 7)

The Government shall regularly submit the following documents to the two Chambers of Parliament: a) information note on the results of participation in the European Council; b) regular reports on activities carried out and the results of Romania's participation in the decision-making process of the European Union, at Council level; c) bi-annual reports on the fulfilment of obligations to transpose EU legislation into national law. (Article 8).

Therefore, while the Parliament must be notified on a regular basis, it also has the right to request any relevant document on EU affairs, if needed. Moreover, "within 10 working days prior to the meeting of the European Council, the Government shall present to the two Chambers of Parliament the proposal for mandate which the delegation of Romania aims to put forward." (Article 18). The Parliament also plays an important role with regards to the persons

appointed or named by the government to hold offices in the European Union institutions:

- (1) The Government shall notify the Parliament of Romania about the appointment of persons to hold offices in the European Union institutions. (2) The responsible standing committees of the Parliament shall hear the person appointed by the Government to hold the office of member of the European Commission. (Article 19)

### ***15.2.2 The parliamentary debate***

Just by looking at the legal provisions, we can see that EU affairs have their own place on the parliamentary agenda. However, sometimes the political discourse does not reflect this well enough. There are differences in how EU affairs are promoted and the actual work in plenary sessions, parliamentary committees and all the related structures. For the average citizen watching the news, only information about national legislation gets prime-time coverage, while European issues are of second or even third order.

As an indication of the nature of parliamentary debate about European issues, a data search using the keyword 'European' on the official website of the Chamber of Deputies (2019) returned 301 records corresponding to 93 plenary debates from 2016 to present. A statement delivered in the sittings of the Chamber of Deputies on 6 February 2019 addresses the close cooperation that should be pursued with the high representatives of the European institutions so that Romania might promote its vision on the future of Europe. Another three statements delivered in the sittings of the Chamber of Deputies on 19 December 2018 focused on solidarity and equal treatment for Romanians and Romania in the European Union; agriculture in the Netherlands is cited as an example for the European Union; and there is the European Parliament's recommendation in favour of Romania's and Bulgaria's accession to the Schengen area.

### ***15.2.3 How EU issues are mobilised***

To see how EU issues are deployed in a formal framework, we analysed the Annex to the 27<sup>th</sup> Bi-annual Report of COSAC,

showcasing official written positions on the topic and how EU related-work is 'mobilised' in the domestic arena, namely the two chambers of the Romanian Parliament.

First, we will look how the Chamber of Deputies proceeds in this specific field:

- The EU proposals selected for parliamentary examination by the European Affairs Committee are submitted to the European Affairs Committee and the relevant sectoral committees. Then, sectoral committees pass on their opinion/reasoned opinion to the European Affairs Committee. The Committee is then charged with adopting its own opinion by taking or not taking into consideration the opinions of the sectoral committees. The latter is then subject to debate and adopted by MPs in the Chamber's sittings;
- In terms of the relationship between the Chamber and the national government regarding the scrutiny of EU proposals, the latter sends explanatory memoranda outlining its position on selected EU proposals to the Chamber;
- Scrutiny of the government's position on EU proposals by the European Affairs Committee or any other relevant sectoral committee happens on a weekly basis;
- As for the tools the Chamber uses to monitor or scrutinise the government on the implementation of EU law, members may table a debate in the plenary or in the relevant committee;
- Answers to the question "*How could national parliaments further promote the European project?*" focused on: a more effective scrutiny process throughout the legislative process; developing a set of instruments to support the Union, such as issue political documents in favour of the EU or react to actions against EU, engage in related debates at national and EU level, ensure access to information for citizens and swiftly counter fake news or anti-EU actions, collect citizens' requests regarding EU politics/policies and transpose them into legislation or political action, combat anti-EU trends in the country and especially populist movements.

Second, if we look at the answers related to the Romanian Senate, a couple of things are worth mentioning:

- As regards the relationship between the Senate and the national government with regard to scrutiny of EU proposals, the government needs a parliamentary mandate before taking a position in the Council. Moreover, it should brief the Parliament before taking any step;
- Answers to the question “*How could national Parliaments further promote the European project?*” focused on: discussing the impact of the four freedoms on national economies; running impact assessments on legislative packages, specifically keeping in mind the four freedoms; proposing ways in which the European Commission and other European institutions ensure the observance of the four freedoms; discuss how national parliaments could secure and promote the development of the four freedoms during COSAC meetings.

#### ***15.2.4 How scrutiny works in the Chamber of Deputies and in the Romanian Senate***

According to the Act on Cooperation between the Parliament and the Government in the field of European affairs, both the Romanian Chamber of Deputies and the Romanian Senate scrutinise the annual work programme of the European Commission with the purpose of identifying a list of draft European acts that will be subject to parliamentary scrutiny procedure during that year.

According to the above-mentioned pieces of legislation, the EU Division delivers the necessary expertise to all bodies of the Chamber involved in the process. Since its creation, back in 2009, through its subdivisions it provides professional expertise (i.e. background notes, documentation, syntheses, analyses and studies) in the field of European policies and legislation. Starting in April 2011, the main recipients became the selected Committees, and the European Affairs Committee of the Chamber, involved with either the scrutiny process of the EU acts taking place within the Chamber, or the domestic legislative procedure on the European directives to be implemented in the national legal framework, as well as the parliamentary delegations attending parliamentary events on EU matters. All in all, the Division offers support and information to the MPs exercising their participatory rights in the parliamentary deliberations on EU matters.

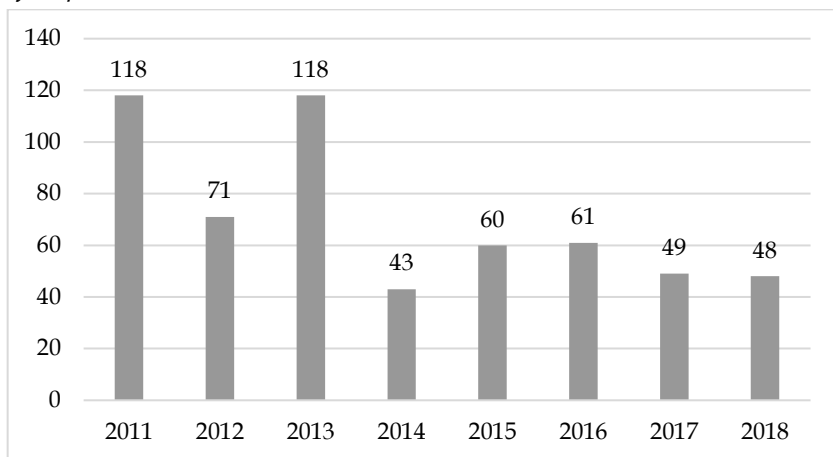
In order to analyse the scrutiny process, we searched the Chamber of Deputies' website to see which topics were scrutinised and assessed in the past year.

The official website presents 48 EU official documents on various subjects corresponding to the work programme of the Commission.

Among these, we can mention: circular economy, working conditions in the EU, impact of EU research and innovation, completion of the Capital Markets Union, access to social protection for workers and the self-employed, FinTech Action Plan, European Agenda on Migration, digital transformation of healthcare in the Digital Single Market, Multiannual Financial Framework for 2021-2027, artificial intelligence, EU Enlargement Policy, role of youth, education and cultural policies.

Almost all documents (43 out of 48) were completed by the beginning of February 2019 (Figure 15.1), leaving five other non-legislative documents open for scrutiny. The remaining topics refer to the principles of subsidiarity and proportionality, the European Union framework on endocrine disruptors, the single market and the European strategic long-term vision for a climate neutral economy, and the EU Common Foreign and Security Policy.

*Figure 15.1 Number of EU documents submitted to scrutiny – Chamber of Deputies, Romanian Parliament*



Source: Own calculus, based upon the data publicly available on the Chamber of Deputies website.

A similar process takes place in the Senate to scrutinise documents from the European Union and monitor compliance with the principle of subsidiarity (Table 15.1).

*Table 15.1 Scrutiny applied by the Romanian Senate*

Stage	Time frame	Type of action
1	President of the Romanian Senate	
	After the Standing Bureau's session	The President informs the competent committees in order to scrutinise the legislative acts
2	Competent committee	
	Within approx. 4 weeks	Discusses and adopts a decision regarding the compliance of the draft legislative act with the principle of subsidiarity The Committee on European Affairs is always asked for an opinion on legislative acts
3	Senate Assembly in plenary meeting	
	End of the procedure (within one to two weeks depending on plenary sessions)	If the decision complies with the principle of subsidiarity, the competent committee forwards it to the Senate Assembly for tacit adoption. The decision shall be placed on the first next agenda of the Senate Assembly.
4	Transmission by the Commission or the Council to Romanian Senate Received by the European Affairs Division of the Romanian Senate	
	Day 1	Transmission of the legislative proposal by the Commission or the Council with "lettre de saisine"
5	European Affairs Division	
	Within approx. one week	The EU documents (legislative acts pursuant to Article 4 of Protocol N° 2 of the Treaty on the Functioning of the EU) are proposed for referral to one or more committees. The proposal sets out which



		committees should be involved and the deadlines for each committee's deliberation.
6	Standing Bureau	
	The first next meeting after "direct transmission" of the EU legislative proposal	The proposal for referral drawn up by the European Affairs Division is approved by the Standing Bureau
7	Senate Assembly in plenary meeting	
		<p>If the decision is an Opinion or a Reasoned Opinion, the committee forwards it to the Senate Assembly for debates and votes on the proposal and eventual amendments.</p> <p>If the decision complies with the principle of subsidiarity but there are some remarks made by the competent committee, the committee adopts an Opinion.</p> <p>If an infringement of the principle of subsidiarity is established (by the competent committee), the committee adopts a Reasoned Opinion.</p>
8	President of the Romanian Senate	
	End of the procedure (within one or two weeks, depending on the plenary)	<p>The President of the Romanian Senate sends the Opinion of the Senate to the European Institutions (European Commission, European Parliament, Council of the European Union)</p> <p>The President of the Romanian Senate sends the Reasoned Opinion to the European Institutions (European Commission, European Parliament, Council of the European Union)</p>

Source: Own table based upon the data publicly available on the IPEX website.

## 15.3 Relationship between EU politics and national representatives

### 15.3.1 *Influence of EU politics on political realities at national level*

Currently, Romania is represented by 32 MEPs, the majority of them being members of the Progressive Alliance of Socialists and Democrats (S&D, 14) and the European People's Party (EPP, 13) groups in the European Parliament. In terms of national parties, the best represented are the Social Democratic Party (PSD, left-wing, 13) and the National Liberal Party (PNL, right-wing, 8), while eight MEPs are independent or non-affiliated. The turnout for Romania in the 2014 European elections was 32.44% (an increase from the 27.67% which went to the ballot box in 2009).

All PSD MEPs are part of S&D and all PNL MEPs are members of EPP, which shows that on a European level the proverbial left-right divide across the Romanian political spectrum is driven by seemingly common interests and converging political ideas. Nevertheless, it should be noted that, although the left-right divide may be described as a division between social identities based on race, class, gender or region, it is far from being a fierce struggle between contrasting political creeds, either inside the EP or in Romania.

As a symbol of how European and national politics are intertwined, in March 2019 Manfred Weber, the EPP's lead candidate for the President of the European Commission, was in Bucharest to publicly express his support for PNL's list of candidates and to launch his bid as head of the next EC (Calea Europeană, 2019).

It is worth mentioning that the May 2014 EU election saw the lowest voter turnout (42.61%) since 1979, when such elections were held for the first time. Turnout is seen as a litmus test for the Parliament's democratic legitimacy, but it has constantly fallen, from 62% in 1979 to 43% in the 2009 election (European Parliament, 2014). And, with recent developments hinting at broader trends of political fragmentation and volatility across the continent, disinformation campaigns both from within and outside the EU, and an overall inward-looking sentiment present in most member

states, there seems to be little chance of reducing the 'democratic deficit'.

According to a snap assessment of the situation at the beginning of the 2017 autumn season, Ioan Mircea Paşcu (PSD), member of the S&D, was the most influential Romanian MEP at the time (Vote Watch, 2017). However, in a move that sparked controversy, Paşcu, who at the time of writing is one of the Vice-Presidents of the European Parliament, was excluded from his party's list for the 2019 EP elections. Referring to the VoteWatch assessment, he was followed by Adina-Ioana Vălean (PNL) and Siegfried Mureşan (PNL), both members of EPP. Siegfried Mureşan, Vice-Chair of the Parliament's Budgets Committee, also features high in Politico's list of 19 "key Romanians you need to know from Brussels", in the context of Romania's EU Council Presidency, published in January 2019 (Politico, 2019). The fellow MEPs Marian Jean-Marinescu (PNL/EPP) and Cristian-Silviu Buşoi (PNL/EPP), joined him in the first batch of MEPs Romania sent to Brussels after its accession to the EU in 2007.

An interesting fact about the dynamics of alliances among national parties at the European level and the increased importance of transnational political networks may be observed in the debate on the rule of law in EU countries. Mainstream political groups have a strong incentive to protect their political family members from

Brussels' criticism, and a track record of doing so (Verfassungsblog, 2019). For example, while the S&D has been very vocal in criticising the Hungarian (EPP, Fidesz) and the Polish (ECR, PiS) government's actions, it adopted a softer tone when it came to the Romanian and Maltese

*The Romanian ruling party, the PSD has been subject to criticism from Brussels for its reforms of the Romanian legal system and its anti-corruption legislation.*

governments (Social Democratic) faced with similar accusations. The Romanian ruling party, the PSD has been subject to various forms of criticism from Brussels for its reforms of the Romanian legal system and its anti-corruption legislation, prompting MEPs to urge the Romanian government to do more to promote European values by being more consistent. As such, in November 2018, no pro-PSD alliance seemed to matter when the European Parliament

passed a non-legislative resolution on the rule of law in Romania, declaring itself

deeply concerned with the revision of the judicial and criminal legislation in Romania, especially because of the possibility that it could lead to the structural undermining of the independence of the judicial system and the latter's capacity to efficiently fight corruption in Romania, as well as to the weakening of the rule of law. (European Parliament, 2018)

In a common statement earlier that year, Commission President Jean-Claude Juncker and First Vice-President Frans Timmermans voiced their concern about developments in Romania “regarding the independence of Romania’s judicial system and its capacity to fight corruption” (European Commission, 2018). On a similar note, the Council of Europe’s Venice Commission, in an opinion adopted in October 2018, expressed its grave concern about draft amendments to the Criminal Code and the Criminal Procedure Code in Romania, which it felt had the potential to seriously weaken the effectiveness of the country’s criminal justice system to fight corruption offences (Venice Commission, 2018).

*In February 2017, nearly half a million citizens took to the streets to express their discontent at the passage of an emergency decree to decriminalise several low-level corruption offences.*

For this reason, in recent years, civic movements have focused on the perceived threats concerning the fight against corruption. In February 2017, nearly half a million citizens took to the streets, all over the country, to express their discontent at the passage of an emergency decree to decriminalise several low-level corruption offences. It is worth noting that, unlike in other member states plagued by populism and anti-systemic Euroscepticism, Romania’s protest movements have so far not challenged the very foundations of the political system, including the basic principles of representative democracy. Nevertheless, they did challenge the alleged attempts of the governing majority to modify the criminal legislation without an open dialogue with all relevant stakeholders. There, it was not about protests against the institutional framework *per se*, but against specific parties and politicians.

### ***15.3.2 Influence of national parliamentary work on EU political realities***

Within the Early Warning System procedure, we observed that the Romanian Parliament has used and politicised the public debate concerning the ‘yellow card’ procedure in 2016, namely in the case of the Posted Workers Proposal on the grounds of conflict with the right to subsidiarity. The main focus of criticism the proposal’s principle of equal pay for equal work, which would apply to posted and local workers. Romania and other opposing member states believed this impinged on national jurisdiction in setting wage levels, and wanted the text to be withdrawn (Eurofound, 2016).

The proposed directive was one of the most debated in the recent years within the Romanian Parliament, the European Affairs Committee within the Chamber of Deputies, which made it its ‘flagship’ case throughout 2016, a year that was also marked by national parliamentary elections.

It was also a high-level media case that gained traction not only in the political sphere but also among an ad hoc coalition of trade unions and other interest groups that ran intensive advocacy campaigns both at the national and European level, either being for or against the directive.

A rare unanimous vote was also registered in the Chamber of Deputies on this occasion, on 13 April 2016, in favour of the negative Opinion issued, which was later sent to the Romanian government (Chamber of Deputies, 2016). Following the feedback of the European Commission, which disregarded this position, the then head of the European Affairs Committee of the Chamber of Deputies, Ms Ana Birchall, put forward an even more proactive proposal on this issue than before; namely, to sign a common letter (by the parliaments that were opposing) to send to the European Commission.

This was coupled with an active campaign by the Romanian Parliament along with other member states to secure a blocking minority. In the words of Ms Birchall, “we, in the Parliament, we have done our duty as we were supposed to do and drawn attention to the dangers concerning the EU’s fundamental principles” (Birchall, 2016).

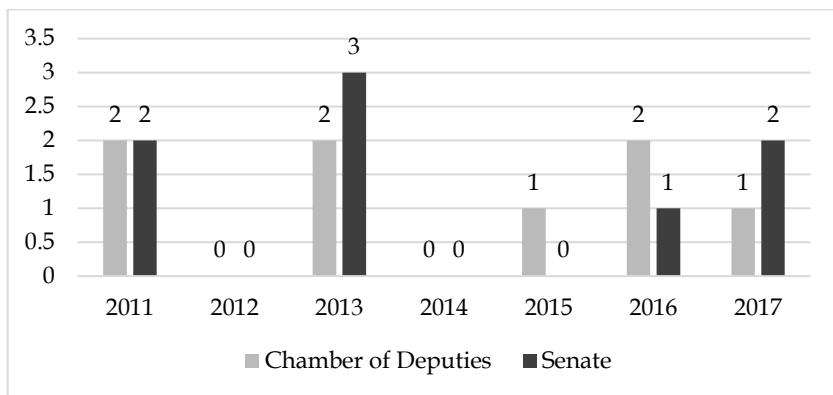
Another, earlier use of the yellow card procedure was in 2013 when the Chamber of Deputies used it against the European Commission's proposal on the establishment of the European Public Prosecutor's Office ('EPPO proposal'). The Reasoned Opinion argued that criminal investigations and prosecutions are a matter of national sovereignty and EPPO would limit the national competence,

...believes that, as a fraud is committed at national or local level, fighting appropriately against this fraud depends mainly on measures taken at these levels; in this framework, the exclusive competence of the European Public Prosecutor's Office in investigating, prosecuting, and bringing to judgment the perpetrators of offences against the Union's financial interests and ancillary competence of prosecuting linked offences rise uncertainties concerning the compliance with the principle of legal certainty as this competence is not subject to any review. (Chamber of Deputies, 2013)

This is not a common procedure for Romania as the general perception issued from national reports was that "the European Union integration led to the relativization of the national sovereignty". The same study recommended in 2016 the creation of a 'late card' through

which national parliaments would keep control even after the closure of the European legislative procedure, as currently they only control the European Commission's proposal and not the result of the negotiations. The rationale of such a card resides in that, following negotiations, a new modified text is born, compared to that examined by national parliaments, and the latter is no longer presented to them in its final form. (Chamber of Deputies, 2016)

*Figure 15.2 Reasoned opinions regarding compliance with the subsidiarity principle sent to the European Commission by the Romanian Parliament*

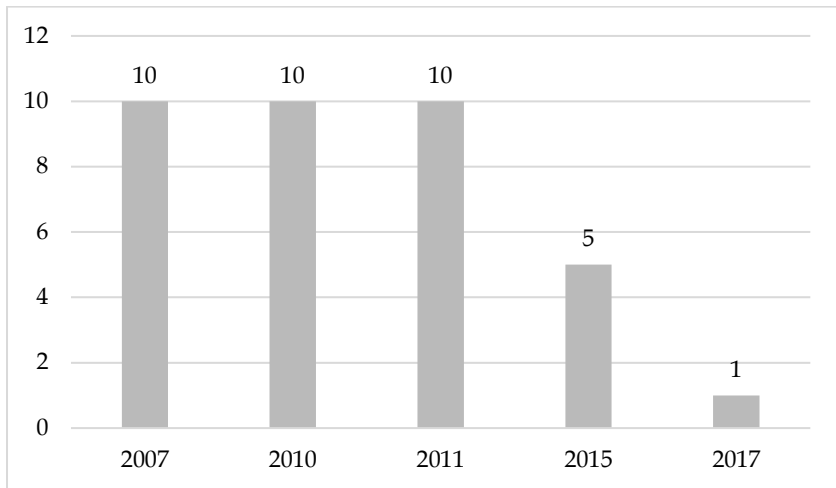


*Source:* Own calculus based upon Subsidiarity and Proportionality - Annual reports on Better law-making (European Commission, 2017).

The Romanian Senate also proved to be an active stakeholder in this process. Although this might not seem obvious from just looking at the official website, the Romanian Senate ranked among the top ten of the 41 parliamentary chambers that submitted the highest number of opinions in 2016 and was also considered to be one of the most active in 2017.

Ms Gabriela Crețu, Chair of the European Affairs Committee, stressed in this context that "the record does not consist of the number of opinions sent, but in the constant effort to define our interest here in the country for each field. Transmitting to the European institutions is only the final step. Sometimes we like to cultivate our frustrations and complain that we have no voice in the Union. The work of the European Affairs Commission - together with the specialized committees involved - wants to say something else. To be heard, you have to talk! We will do this further, especially since the parliamentary dimension of the Romanian Presidency also offers us the microphone to talk to and to make us heard. " (Crețu, 2018)

Figure 15.3 Projects of EU legislation under subsidiarity control at the Romanian Senate



Source: Own calculus, based upon the data publicly available on the Romanian Senate website.

## Conclusions

The chapter offers an overview of how the Romanian representative democracy model was Europeanised after 2007. We structured our research along three main areas: the changes in the national context after 2007; the EU dimension of the national parliament; and the relationship between EU politics and the national representatives (Brussels and Bucharest-based).

First, we considered the legal provisions that govern the systems of EU affairs in Romania from a parliamentary point of view and concluded that although the parliamentary agenda often focuses on debating EU subjects, they are mostly seen as second-order issues and are not framed in a national perspective.

Second, we looked at concrete political realities and analysed the influence of EU politics on the national representatives based in Brussels and on the Bucharest-based MPs. One conclusion deriving from the analysis is that in Romania we did not have any Eurosceptic party currently winning elections and, while being in office, challenging the core values of the EU and the democratic



foundation of our state. And, as the latest Standard Eurobarometer confirms, Romanians are among the most Europhile citizens in the EU.

With all this in mind, there are still important challenges characterising the political spectrum that define Romania as a

*There are still important challenges characterising the political spectrum that define Romania as a flawed democracy.*

flawed democracy (The Economist Intelligence Unit Limited, 2019). The passing in Parliament of acts decriminalising low-level corruption offences is a case in point and has attracted much public ire. Romania's score for civil liberties also fell as a

result of the implementation of several laws that have a negative impact on the judiciary system. Therefore, considering the improvements that have characterised the parliamentary dimension (e.g. the professionalisation of the parliamentary committees and subsequent structures), there is room for improvement when it comes to transparency, civic consultations and democratic accountability.

## References

- Bărbulescu, I. Gh., O. A. Ion, N. Toderaş (2012), *Coordonarea afacerilor europene la nivel național. Mecanisme de colaborare între Guvern și Parlament în domeniul afacerilor europene. Studiu comparativ în statele membre UE* [„Coordination of European Affairs at national level. Cooperation mechanisms between Government and Parliament on European Affairs. Comparative study in EU Member States”], European Institute of Romania ([http://ier.gov.ro/wp-content/uploads/publicatii/spos\\_2\\_2012.pdf](http://ier.gov.ro/wp-content/uploads/publicatii/spos_2_2012.pdf)).
- Broughton, A. (2016), „EU-Level: Posted workers proposal gets 'yellow card' from Member States”, *Eurofound*, 10 June ([www.eurofound.europa.eu/publications/article/2016/eu-level-posted-workers-proposal-gets-yellow-card-from-member-states](http://www.eurofound.europa.eu/publications/article/2016/eu-level-posted-workers-proposal-gets-yellow-card-from-member-states)).
- Chamber of Deputies, Romanian Parliament (2013), Reasoned opinion of 28 October 2013 finding the lack of conformity of the Proposal for a Council Regulation on the establishment of the European Public Prosecutor's Office with the principle of subsidiarity – COM(2013)534 ([www.ipex.eu/IPEXL-WEB/scrutiny/APP20130255/rocam.do](http://www.ipex.eu/IPEXL-WEB/scrutiny/APP20130255/rocam.do)).
- Consolidated version of the Treaty on European Union, *Official Journal C* 326, 26 October 2012. ([https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF)).
- Crețu, G. (2018), *Senatul României laudat de Comisia Europeană pentru activitatea de legiferare europeană* [Press Statement: the Senate of Romania praised by the European Commission for the European law-making activity] 28 October ([www.senat.ro/StiriSenat/Detaliu.aspx?ID=85A8D2EF-6CCF-42CE-921F-86AB1C248035#](http://www.senat.ro/StiriSenat/Detaliu.aspx?ID=85A8D2EF-6CCF-42CE-921F-86AB1C248035#)).
- Democracy Index 2018: Me too? Political participation, protest and democracy, *The Economist Intelligence Unit* ([www.eiu.com/Handlers/WhitepaperHandler.ashx?fi=Democracy\\_Index\\_2018.pdf&mode=wp&campaignid=Democracy2018](http://www.eiu.com/Handlers/WhitepaperHandler.ashx?fi=Democracy_Index_2018.pdf&mode=wp&campaignid=Democracy2018)).
- European Affairs Committee, Romanian Senate (2016), *ActivRaport Activitate Comisia pentru Afaceri Europene din Senatul Romaniei 2012 – 2016* [Activity Report Commission for European Affairs Committee of the Senate of Romania 2012 -- 2016] ([www.scribd.com/document/332757837/Raport-Activitate-Comisia-pentru-Afaceri-Europene-din-Senatul-Romaniei-2012-2016](http://www.scribd.com/document/332757837/Raport-Activitate-Comisia-pentru-Afaceri-Europene-din-Senatul-Romaniei-2012-2016)).
- European Commission (2018), *Joint Statement of European Commission President Juncker and First Vice-President Timmermans on the latest*

- developments in Romania*, Brussels, 24 January ([http://europa.eu/rapid/press-release STATEMENT-18-423\\_en.htm](http://europa.eu/rapid/press-release_STATEMENT-18-423_en.htm)).
- European Commission, *Subsidiarity and proportionality - Annual reports on Bbetter lawmaking (2001 - 2017)*, ([http://ec.europa.eu/dgs/secretariat\\_general/relations/relations\\_other/np0/subsidiarity\\_reports\\_en.htm](http://ec.europa.eu/dgs/secretariat_general/relations/relations_other/np0/subsidiarity_reports_en.htm)).
- European Parliament (2014), *Results of the 2014 European elections* ([www.europarl.europa.eu/elections2014-results/en/turnout.html](http://www.europarl.europa.eu/elections2014-results/en/turnout.html)).
- European Parliament (2018), *MOTION FOR A RESOLUTION to wind up the debate on the statements by the Council and the Commission pursuant to Rule 123(2) of the Rules of Procedure on the rule of law in Romania (2018/2844(RSP))*, 7 November 2018, ([www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+MOTION+B8-2018-0522+0+DOC+XML+V0//EN](http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+MOTION+B8-2018-0522+0+DOC+XML+V0//EN)).
- IPEX - The Platform for EU Interparliamentary Exchange (2012), *Scrutiny of documents in Romanian Senate*, 31 October 2012 ( [www.ipex.eu/IPEXL-WEB/parliaments/institution/rosen.do](http://www.ipex.eu/IPEXL-WEB/parliaments/institution/rosen.do)).
- IPEX (2019), *Brief description of the Romanian Chamber of Deputies*, ([www.ipex.eu/IPEXL-WEB/parliaments/institution/rocam.do](http://www.ipex.eu/IPEXL-WEB/parliaments/institution/rocam.do)).
- Lupițu, R. (2019), "Interview Manfred Weber launched in Bucharest his bid as head of the next European Commission: "We have to reconnect Europe, the Brussels level to the citizens", *Calea Europeană*, 16 March, ([www.caleaeuropeana.ro/interview-manfred-weber-launched-in-bucharest-his-bid-as-head-of-the-next-european-commission-we-have-to-reconnect-europe-the-brussels-level-to-the-citizens/](http://www.caleaeuropeana.ro/interview-manfred-weber-launched-in-bucharest-his-bid-as-head-of-the-next-european-commission-we-have-to-reconnect-europe-the-brussels-level-to-the-citizens/)).
- Morijn, J., I. Butler (2019), "Tracking Anti-Values MEPs: EP Seat Projections and Rule of Law Protection", *Verfassungsblog on Matters Constitutional*, 20 February (<https://verfassungsblog.de/tracking-anti-values-meps-ep-seat-projections-and-rule-of-law-protection/>).
- O'Toole, S. (editor) *et al.* (2018), *Freedom House, Freedom in the World 2018, Romania's profile*, Freedom House, (<https://freedomhouse.org/report/freedom-world/2018/romania>).
- Politico (2019), "19 Romanians to watch as Bucharest bosses Europe", *Politico*, 19 April, ([www.politico.eu/article/19-romanians-to-watch-brussels-bucharest-eu-council-presidency/](http://www.politico.eu/article/19-romanians-to-watch-brussels-bucharest-eu-council-presidency/)).
- Regulation of the Chamber of Deputies (2015), *Extras din Regulamentul Camerei Deputaților* [Extract from the Regulation of the Chamber of Deputies], republished, *Official Gazette*, Part I, no. 326 of 13.05.2015, ([www.cdep.ro/pdfs/tab\\_acte/Extras\\_RegCD\\_mai.pdf](http://www.cdep.ro/pdfs/tab_acte/Extras_RegCD_mai.pdf)).

- Romanian Parliament (2003), Major provisions of the Law No. 429/2003 on for the revision of the Constitution of Romania, *Official Gazette of Romania*, Part I, No. 758 of 29 October 2003, ([www.cdep.ro/pls/dic/site.page?id=336](http://www.cdep.ro/pls/dic/site.page?id=336)).
- Romanian Parliament (2013), Act No. 373 of 18 December 2013 on cooperation between the Parliament and the Government in the field of European affairs ([www.cdep.ro/pdfs/LG\\_373\\_2013.pdf](http://www.cdep.ro/pdfs/LG_373_2013.pdf)).
- Sebe, M. (2014), "2014 European elections. History repeats itself? A brief overview of the Romanian case", Institute of European Democrats, Brussels, July, ([www.iedonline.eu/download/2014/bratislava/IED-2014-European-Elections-Romanian-Case.pdf](http://www.iedonline.eu/download/2014/bratislava/IED-2014-European-Elections-Romanian-Case.pdf)).
- Sebe, M. (2015), "A Collective driven change - Romania's 2015 autumn protests and their implications", *Ukraine - Romania International Experts' Consortium - Newsletter* URIEC, Newsletter No. 5, November ([www.gsbs.org.ua/wp-content/uploads/Newsletter-5- eng.pdf](http://www.gsbs.org.ua/wp-content/uploads/Newsletter-5- eng.pdf)).
- Senate of Romania (2019), *Control parlamentar* [Scrutiny] ([www.senat.ro/index.aspx?Sel=1BE5DF19-4AC3-45FE-A2B8-661A96D260F3](http://www.senat.ro/index.aspx?Sel=1BE5DF19-4AC3-45FE-A2B8-661A96D260F3)).
- Venice Commission Opinion (2018), Romania criminal justice reform proposal weakens fight against corruption and serious crime, 19 October, ([www.coe.int/en/web/portal/-/proposed-reform-of-criminal-justice-legislation-in-romania-weakens-the-fight-against-corruption-and-other-serious-crimes-according-to-venice-commission](http://www.coe.int/en/web/portal/-/proposed-reform-of-criminal-justice-legislation-in-romania-weakens-the-fight-against-corruption-and-other-serious-crimes-according-to-venice-commission)).
- Vida, I. C. (2016), "Evoluții recente privind controlul parlamentar în domeniul afacerilor europene" [Recent developments on parliamentary scrutiny in the field of European affairs], Chamber of Deputies, Romanian Parliament, Bucharest, January, ([www.cdep.ro/secretariat\\_general/dsppee/20160121/prezentare\\_2.pdf](http://www.cdep.ro/secretariat_general/dsppee/20160121/prezentare_2.pdf)).
- VoteWatch Europe (2017), Update: Top 10 Most Influential Romanian MEPs (September 2017), ([www.votewatch.eu/blog/update-top-10-most-influential-romanian-meps-september-2017/](http://www.votewatch.eu/blog/update-top-10-most-influential-romanian-meps-september-2017/)).



# 16. REPRESENTATIVE DEMOCRACY IN SLOVAKIA: PARTY POLITICS DOMINATES

ANETA VILÁGI & PAVOL BABOŠ

---

*This chapter looks at Slovakia and assesses how its representative model functions and if it interferes with EU dynamics. Formal institutions, such as the constitution and other legal norms regulating democratic processes in Slovakia, give the parliament supremacy in the system. When it comes to EU matters, parliament can direct and legally bind the government and its members to certain positions. However, political dynamics and informal institutions and practices favour the dominance of political parties, and especially the party leadership, over the independence of MPs and the parliament in the exercise of their functions. We use multiple sources of data, including primary documents, statistical data, and semi-structured interviews with representatives from political parties and parliament administrative personnel responsible for EU affairs, to develop and support our argument. First, we look at the characteristics of political parties in Slovakia and institutional arrangements shaping the model of representative democracy. Second, we focus on EU affairs and the interplay between the national model and the supranational policymaking system.*

## **Introduction**

Legal institutional arrangements in Slovakia have established a representative model of democracy that assumes the dominant position of the Slovak parliament within the political system. However, whether it effectively enjoys this prerogative depends on two factors: (1) parliamentary capabilities to conduct supervision (a structural condition) and (2) the distribution of political power within parties (a political condition). The latter is particularly important as the centralisation of political parties and disciplines of party caucuses reduce accountability in practice, because it is the

party leadership that controls members of parliament (MPs) both in parliament as well as in the government.

*The representative model in Slovakia favours political parties over people in the sense that individual MPs are more accountable to their respective political party than to their constituency.*

We argue that, due to the electoral system and party centralisation, the representative model in Slovakia favours political parties over people in the sense that individual MPs are more accountable to their respective political party than to their constituency as elected

representatives. This has consequences for the dynamics of the EU.<sup>1</sup>

## 16.1 Democratic representation: the political landscape

Slovakia is a parliamentary democracy with a proportional electoral system and a single district encompassing the whole country. In practice, this means that citizens vote for political parties in parliamentary elections which usually result in coalition governments (except for a single-party government between 2012 and 2016). However, it is not always the electoral winner who can form a government. After the elections of 1998, 2002, and 2010, the winning party was not a part of the government coalition due to its lack of coalition potential.

Since the formation of an independent Slovakia in 1993, several *cleavages and issues* have shaped political competition. The fact that there is a considerable minority of ethnic Hungarians (over 8% of the population and mostly living in southern Slovakia) has led to a stable *ethnic cleavage* producing several political parties representing the Hungarian minority. These parties have even been part of numerous government coalitions: Dzurinda I and II (1998–2006), Radičová I (2010–2012), Fico III (2016–2018), and Pellegrini I (since 2018). There have also been rather nationalistic parties claiming to represent the national interest and those of ethnic Slovaks. Probably the second most influential cleavage was the

---

<sup>1</sup> For the purpose of this study, we conducted interviews with representatives of political parties responsible for EU affairs as well as with the administrative personnel of the Slovak parliament responsible for the corresponding agenda.

*urban-rural divide* (Krivý, 2005; Gyárfášova and Krivý, 2007). In the 1990s, Prime Minister Vladimir Mečiar's party, the Movement for a Democratic Slovakia, drew its support from rural areas. More recently, it has been the main coalition party, Direction-Social Democracy (Smer-SD), that relies on support from the rural electorate.

In addition to the ethnic and urban-rural divides, there are *religious and socio-economic cleavages* at play in Slovak politics. However, they overlap to a considerable extent. Put simply, the rural electorate has more religious values and left-leaning economic positions, while urban voters are generally more socially liberal and economically right-leaning (Hloušek and Kopeček, 2008; Krivý, 2012; Baboš and Malová, 2015a).

Structural cleavages have not been the only dominant factors shaping the political scene in Slovakia; other issues have been crucial both during and between elections. The *anti-corruption fight and state capture* are present in daily politics and have become an important part of both parliamentary and presidential elections. Some argue that unresolved problems with corruption have led to the emergence of a dominant dividing line in Slovak politics that relates to "justice in all possible meanings" (Baboš and Malová, 2018, p. 5). Governments led by Smer-SD have been labelled as "corrupt" and responsible for the ruining of public trust in the courts and the police, the embezzlement of European structural funds, and effective political control of the judicial system.

In the 1990s, the prospects of European Union membership played a role, contributing to the defeat of Vladimir Mečiar in 1998. Political parties and society were heavily polarised, with pro-democratic and *pro-European* forces on one side and anti-democrats and *anti-Europeans* on the other. After Slovakia was invited to join the EU under Dzurinda's government, EU-related matters became much less present in public discourse, giving way to domestic issues such as economic reforms, healthcare, and the pension system.

*Since the global financial crisis, the issue of European integration has been slowly returning to the national political arena.*

However, since the global financial crisis, the issue of European integration has been slowly returning to the national political arena, mostly thanks to members



of the government highlighting the importance of the EU for Slovakia. Following the 2016 parliamentary elections, the Fico III government promoted Slovakia's deeper EU integration with the prime minister's statement that Slovakia needed to be "in the core" of the Union. For the opposition, and especially for populist and anti-system political parties, taking a different stance on the EU from mainstream parties has become a tempting way to mobilise voters.

## 16.2 The institutional perspective

Constitutional rules give the National Council of the Slovak Republic (NRSR), the supreme legislative body, considerable powers to control the government. The

*Constitutional rules give the National Council of the Slovak Republic considerable powers to control the government.*

strongest tool the parliament has at its disposal is the procedure of a 'no confidence vote' against either individual ministers or the prime minister. It takes only one fifth of MPs (30 out of 150) to trigger the procedure,

and a parliamentary session debating the matter must begin within seven days. This power makes government members accountable to the parliament. However, even in the case of a successful vote of no confidence, the actual end of a (prime) minister's term in office depends on the president's decision whether to keep that government member in office temporarily, especially if this is agreed to by the prime minister.

In addition to the possibility of removing government members from office, MPs have two other options to control the executive. Firstly, they have the right to send a formal request for answers to members of the government, who must reply within thirty days. The constitution affords the possibility to debate the answer in the parliament and connect this debate with a no confidence vote in the government. Secondly, MPs have the right to conduct a parliamentary investigation: for instance, by personally visiting a ministry or other governmental body and seeking documents as well as answers from representatives of the inspected bodies.

In regard to European affairs, the relationship between the parliament and government is regulated by Constitutional Act

397/2004 Coll. The European Affairs Committee (EAC) was established as a standing committee of the NRSR. The EAC has the power to control the government in two ways. The government has an obligation to submit drafts of legally binding documents that are discussed in European Union bodies. More importantly, the EAC has the power to control the government's positions and bind the government (or its members) to a position. This procedure obliges the government to submit proposals of positions to the EAC, which can either approve the proposal, reject it, or not discuss it at all. In the case of approval or no discussion, a member of government is bound by his or her original proposal. In the case of rejection, the EAC can adopt a different position, which the member of government then has to present as the official position. In theory the EAC could thus assume the executive role in determining the government's positions and how it votes in the European Council. However, in practice, the EAC almost never uses its power to do so. During the European Parliament's eighth term, the EAC exercised this power pre-emptively twice, both times in relation to refugee relocation quotas.

Officially, the parliament has rather strong powers to control and even steer government positions and policies in European affairs. However, given the fact that it is usually a coalition government with a majority of MPs in both the parliament and the EAC, the powers of parliament remain mostly on paper, whereas active policymaking is in the hands of the government.

### **16.3 EU affairs in the Slovak Parliament**

As mentioned above, the NRSR has authorised the EAC to execute the full scope of competencies related to EU matters (Act 350/1996 Coll., para. 58a). Besides approvals of binding mandates for government members representing the Slovakia in an EU body, the committee is also entrusted with additional powers, including assessment of the compliance of draft EU legislative acts with the principle of subsidiarity and the approval of reasoned positions (EWS mechanisms).

However, in the case of the Slovak parliament, such instruments have so far been more theoretical than real. Since the beginning of the eighth legislative term (2014 to 2019), the European Parliament (EP) has received 370 draft legislative acts, 178 reasoned

opinions, and 1,176 contributions (European Parliament, 2018). The Slovak parliament has issued three reasoned opinions and eleven contributions, out of which two were initiated by the Slovak parliament and nine were issued in cooperation with parliaments of other member states, mainly as joint contributions by the Visegrad Four (Hungary, Poland, the Czech Republic, and Slovakia).

Our research shows that the relatively low intensity of parliamentary initiatives in EU affairs (EWS) might be explained by institutional factors. As the parliament has stronger formal tools to

*If the Slovak Parliament joins EWS initiatives, it is to show solidarity with the parliaments of other member states rather than to push its own interests forward.*

control the government in EU affairs, the NRSR has not perceived the necessity to raise concerns using EWS mechanisms. Constitutionally vested powers provide parliamentarians with sufficient control over the decision-making process in EU affairs. If the Slovak Parliament joins

EWS initiatives, it is to show solidarity with the parliaments of other member states rather than to push its own interests forward (Interview No. 1).

Of the three reasoned opinions, two of them raised concerns about violation of the principles of subsidiarity and proportionality regarding migration issues (COM 2015/0286 and COM 2016/270),<sup>2</sup> and one concerned the issue of the posting of workers (COM 2016/0128).<sup>3</sup> These positions were adopted by the parliament only after the official positions of the government were announced, and thus they served as the parliamentary legitimisation of government positions rather than initiatives determining government policy. Looking at the substance of the reasoned opinions, MPs supported

---

<sup>2</sup> COM 2015/0286: Proposal for a council decision establishing provisional measures in the area of international protection for the benefit of Italy and Greece. COM 2016/270: Proposal for a regulation of European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.

<sup>3</sup> COM 2016/0128: Proposal for a directive of the European Parliament and of the Council amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services.

the stances of the Slovak government that went against the EU mainstream. As the government had a majority in the parliament and EAC, the parliament's positions were consistent with that of the government and provided legal arguments with which government representatives could persuade their European partners.

Another way for national parliaments to influence the EU political landscape is to debate and decide on issues of common interest in the Conference of Parliamentary Committees for Union Affairs (COSAC). EAC members have been active participants at COSAC meetings since 2004. However, this has not drawn any serious attention in the media or the public sphere. Due to the Slovak presidency of the EU Council, involvement in COSAC became more intense and visible in the second half of 2016. Within the parliamentary dimension of the presidency of the EU Council, the NRSR organised seven (COSAC-related) inter-parliamentary conferences and meetings. Most of the political parties we interviewed saw little added value in such meetings in terms of their influence. Instead, they perceived them as a way for "national MPs to experience European politics" (*Interview No. 6*). After the Slovak presidency, COSAC engagement returned to the previous level of activity. The EAC members maintained active participation in COSAC, but this had a rather low salience among the public or even in the Slovak parliament. The official web page of the NRSR is rather illustrative of this as the last mention of COSAC refers to the April 2017 Conference of Speakers of EU Parliaments.<sup>4</sup>

## 16.4 The EU's influence on national politics

Slovak national politics has been relatively detached from EU matters for several years since Slovakia's accession. EU affairs were considered to be international affairs and were at the "periphery of interest" of political parties (Gyárfášová, 2014). The only exception worth considering was the Christian Democrats' negative position on the possibility of Turkey's accession. Slovakia voted in line with the mainstream in the EU Council. Despite Slovakia having once been a somewhat problematic EU candidate, it soon became a loyal EU member (Malová, Láštic and Rybář, 2005).

---

<sup>4</sup> Checked on 11 March 2019, available at <https://www.nrsr.sk/web/?sid=skpres&lang=en>.

The declining interest in *EU issues at parliamentary level* draws attention to two aspects. First, institutional arrangements vest power to adopt positions on EU affairs solely in the EAC (except for

***Unlike other standing committees, the EAC has the prerogative to adopt the position directly on behalf of the NRSR.***

national legislative proposals linked to EU membership). Unlike other standing committees that submit their stances for approval at plenary sessions, the EAC has the prerogative to adopt the position directly on behalf of the NRSR.

Parliamentary debate on governmental positions towards EU affairs or NRSR positions towards EU legislative proposals thus takes place in the EAC itself. Second, based on our thematic analysis of the parliamentary agenda during the current electoral term, legislative proposals linked to EU policies constituted 8.4% of all legislative proposals (see Table 16.1). National politics therefore predominate in plenary sessions and parliamentary debates. Even if parliamentarians occasionally take up EU issues, they do so as national matters with an EU dimension rather than in their own right.

*Table 16.1 Legislative proposals in the NRSR from 2016 to 2018*

Legislative proposals	2016	2017	2018	TOTAL
Domestic issues	275	451	301	1027
EU-related issues	8	56	35	99
Other issues (international but not EU-related)	5	21	7	33
TOTAL	288	533	352	1173

*Note:* The data for 2018 are current up to October of that year.

*Source:* Authors.

Looking at the *public debate on EU affairs*, two distinctive features are present in Slovakia: there is a concentration on the national perspective and a predominance of politicians in shaping the discourse.

A specific national angle on EU matters was clearly visible during the last EU migration crisis. Discussion on the EU agenda related to migration was reduced to a re-allocation mechanism and rejected by Slovak politicians on account of three main concerns. First, migrants were seen as a security threat; second, the integration of immigrants was not seen as feasible because of significant cultural diversity, and, even if immigrants were incorporated into society, this posed a threat to Slovak culture and values; and third, the majority of immigrants were economic immigrants not in need of international protection. The concerns themselves became the centre of discussion rather than the re-allocation mechanism itself and its necessity from the EU perspective or other aspects of the EC migration agenda. Similarly, in the 2011 parliamentary debate on the European Stabilisation Mechanism (ESM) connected to the Eurozone crisis, the prevailing arguments had focused on the internal policy consequences of ESM support or refusal by Slovakia rather than the international consequences or subject-related arguments (Javorek, 2013). The process of ratification for the European Financial Stability Facility (EFSF) marked the shift of EU matters into national politics. The government linked the EFSF ratification with a confidence vote in parliament. Freedom and Solidarity (SaS), a Eurosceptic party and part of the coalition government, voted down the EFSF and caused the government's downfall. This was the first time an EU-related issue had dominated public discourse for a considerable time, but the specifically national point of view on this issue was unquestionable.

Additionally, politicians, and government members in particular, are key influencers of EU-related public discourse. The largest coalition party usually appoints the minister for foreign and European affairs and acts as a successful agenda-setter. This is particularly the case when it comes to EU matters that are traditionally perceived as the government's responsibility. Another reason is the fact that media attention on the EU is triggered by important decisions made by the Council of Ministers or the European Council. Executive officials are also responsible for the preparation of national positions and their negotiations at the EU level. The state administration clearly dominates over the parliament in regard to both expertise and personnel in dealing with EU affairs (as a consequence of path dependency). As soon as

accession negotiations began in 2000, the EC twinning programme aimed at strengthening administrative capacity to adopt the *acquis* helped Slovakia build up the EU affairs expertise and capability of government bodies. European structural funds targeting the increase of public administration efficiency were allocated even after the accession of the country to the EU. EU departments were established at each ministry, and an EU affairs unit consisting of five people was set up in the parliament. They provide administrative support and expertise for the parliamentary EAC, which consists of fifteen MPs with various professional backgrounds. In terms of the expertise and capabilities of personnel, the executive branch and civil service clearly overshadow elected representatives and parliamentary staff.

Looking at *governmental performance on the EU level*, Slovakia can be considered to be a loyal member of the Union. According to VoteWatch.eu, there were 384 votes in the Council of Ministers between July 2014 and December 2018, and Slovakia dissented with the majority in only nine of these votes.

***Looking at governmental performance on the EU level, Slovakia can be considered to be a loyal member of the Union.***

Whether as a single-party government (2012 to 2016) or in a coalition (2016 to 2018), the Slovak governments led by social democrats have been rather pro-European. The Brexit referendum happened just days before Slovakia assumed the presidency of the Council, which most likely contributed to the fact that Robert Fico as prime minister became a promoter of deeper integration with his statement that Slovakia had “to be in the core of Europe”. When it came to voting behaviour in the Council, the government was never against the mainstream European position in any key areas except regarding the asylum seeker relocation system.

On the other hand, Fico and some other members of the government were happy to criticise the EU when given the opportunity, particularly for applying double standards in various areas. In 2017, double standards in food quality became a subject of heated national debate. Various producers of food, cosmetics, and cleaning products were accused of supplying lower quality products for higher prices to Eastern European markets. This issue

became politically sensitive after the Visegrad Four focused on it and turned to the European Commission to demand action.

While the double standards of food quality issue disappeared from public discourse in 2018, migration and the future of Europe remained regularly debated political topics. The murder of journalist Jan Kuciak brought another EU-related topic to wide public attention. One of the articles Kuciak was working on just before the murder was the abuse of European structural funds by various mafia-style organised groups in the agricultural sector. Subsequently, several EP delegations visited, expressing concern over the misuse of these funds.

Several times the issue of double standards was connected to allegations of the division of EU members into two categories of first and second-class members. The importance of this issue was highlighted by the fact that it made its way into the 2017 State of the Union speech by Commission President Juncker.

Government members have repeatedly suggested that countries like Slovakia are treated as second-class members because of their lack of representation in terms of the EU in Slovakia and Slovakia in EU structures. The Slovak government had a prominent interest in having the European Medicines Agency (EMA) relocate to Bratislava from London following Brexit. The government argued that Slovakia was one of the last member states without an EU agency. After the decision was made that the EMA would move to Amsterdam instead, with Bratislava ending up fourth on the list, Tomáš Drucker, the Slovak Minister of Health, said to a public broadcaster: “Big countries want to send the signal that their individual interests are more important than delivering on promises and commitments” (SME, 2017). Two days later, Fico criticised the EU for its decision. In his opinion, a geographical balance should have been maintained. “The criteria were set clearly on how to resettle agencies from the UK to Europe. They ignored it totally. Big players made fools out of the little ones. Now it is clear that these practices will keep dividing Europe” (ibid.).

*Government members have repeatedly suggested that countries like Slovakia are treated as second-class members because of their lack of representation.*



The lack of representation of small countries from Eastern Europe in EU structures was also raised after the selection of the Eurogroup president. The Slovak candidate was Peter Kažimír, who was the minister of finance; he was defeated by Mário Centeno from Portugal. After the vote, he told the press: “If you look at the map of Europe you find that the representation of new member states is very small” (Topky, 2017). A similar divide appeared to be present in selecting the social democrats’ leading candidate in the 2019 EP elections. Slovakia’s Maroš Šefčovič announced his intention to run as the *Spitzenkandidat* for the social democratic grouping and gathered support from nine national parties. However, all of them were from Central and Eastern Europe. Frans Timmermans secured support from twelve parties, mostly west European ones. We do not claim that this is the only reason behind the final selection of Frans Timmermans. However, we argue that such outcomes contribute to the perception of the relatively low representation of small east European states in the EU.

Latent feelings of second-class membership and the lack of representation in the EU is present in society and were expected to play a crucial role in the 2019 EP elections. Since accession in 2004, Slovakia has seen the lowest electoral turnout in the entire EU (16.97% in 2004, 19.64% in 2009, and 13.05% in 2014). Ahead of the 2019 EP elections, various surveys have shown very similar intentions among voters to (not) participate as five years earlier (in 2014, several polls showed around 25% of voters intending to cast a vote, but the real turnout was only slightly more than a half of the measured intent).

*Since accession in 2004, Slovakia has seen the lowest electoral turnout in the entire EU.*

The process of leading candidates intended to add personality to the EP elections and make them more attractive is not widely supported by political parties in Slovakia. The majority of parties doubt that leading candidates from other nation states could attract more voters in Slovakia. Some of the parties use legal arguments when opposing the *Spitzenkandidat* system. They point out that, according to the rules, commissioners should be nominated by member states and the President appointed by the European Council, a *principle* they support. All parties in our research rejected the idea of transnational lists in EP elections. Some parties argued

that transnational lists would decrease the accountability of MEPs towards voters. Others argue that transnational lists would harm national sovereignty and interests and particularly those of smaller EU members.

According to various opinion polls, there are ten political parties with a strong chance of obtaining at least one seat in the EP. Currently, there are seven national political parties represented in three party groups in the EP.

MEPs representing Slovakia are relatively well aligned with their national parties. From 2014 to 2018, there was only one indication of disagreement between MEPs and their national party. After numerous scandals mostly concerning corruption, MEPs Monika Beňová and Boris Zala openly criticised the leadership of their home party, Smer-SD led by Fico. While still prime minister, Fico responded by repeatedly criticising MEPs for receiving too much money and being detached from reality. However, the main point of disagreement was the style of governance and not EU-related issues.

*MEPs representing Slovakia are relatively well aligned with their national parties.*

Table 16.2 shows the loyalty of MEPs to their political group in the EP based on voting behaviour. Except for three ECR members, the rest of the MEPs voted in line with their political group in more than 90% of the votes, with some reaching almost 97% vote loyalty. The least aligned MEPs are the ECR members. As there are MEPs considerably above and below the average of political group loyalty, we conclude that the Slovak EP representation as a whole is not an exception in this regard.

Table 16.2 *The loyalty of MEPs to their political group*

Member of Parliament	Loyalty to Political Group	Party Group / National Party	National Party
Beňová, Monika	91.82% (499 <sup>th</sup> )	S&P	Direction-Social Democracy / Smer-Sociálna Demokracia
Csáky, Pál	94.00% (389 <sup>th</sup> )	EPP	Hungarian Coalition Party / Strana maďarskej koalície
Kukan, Eduard	97.14% (117 <sup>th</sup> )	EPP, Independent	Slovak Christian Democratic Party, Independent / Slovenská demokratická a kresťanská únia, nezávislý
Maňka, Vladimír	96.99% (127 <sup>th</sup> )	S&P	Direction-Social Democracy / Smer-Sociálna Demokracia
Mikolášik, Miroslav	94.31% (360 <sup>th</sup> )	EPP	Christian Democratic Movement / Kresťanskodemokratické hnutie
Nagy, József	96.76% (161 <sup>st</sup> )	EPP	Bridge / Most- Híd
Škripek, Branislav	85.23% (611 <sup>th</sup> )	ECR	Ordinary People and Independent Personalities / Obyčajní Ľudia a nezávislé osobnosti
Smolková, Monika	96.08% (238 <sup>th</sup> )	S&P	Direction-Social Democracy / Smer-Sociálna Demokracia
Štefanec, Ivan	96.42% (192 <sup>nd</sup> )	EPP	Christian Democratic Movement / Kresťanskodemokratické hnutie

Sulík, Richard	88.20% (581 <sup>st</sup> )	ECR	Freedom and Solidarity / Sloboda a Solidarita
Záborská, Anna	92.94% (457 <sup>th</sup> )	EPP	Christian Democratic Movement / Kresťanskodemokratické hnutie
Zala, Boris	96.94% (140 <sup>th</sup> )	S&P	Direction–Social Democracy / Smer- Sociálna Demokracia
Žitňanská, Jana	89.01% (568 <sup>th</sup> )	ECR	New Majority / Nová Väčšina

*Note:* The data presented include all votes in all policy areas since the eighth electoral term started up to 11 June 2018 (the latest update). On average, this represents more than seven thousand votes.

*Source:* VoteWatch.eu

Although the vote alignment of Slovak MEPs with EP party groups is relatively high (measured as a share of individual votes that were in line with the majority of votes of the corresponding European party group), this cannot be taken for granted. The rise of populist and extremist parties may increase electoral turnout, but may also increase fragmentation in the EP and negatively affect the alignment of MEPs.

## Conclusion

Formal institutions regulating democratic processes in Slovakia, as they are embodied in the constitution, constitutional laws, and other legal norms, give the parliament supremacy in the system. The parliament's approval is necessary for the government to stay in power, it can monitor the government's activities, and it can demand answers to any question. When it comes to EU matters, the parliament can effectively direct and legally bind the government and its members to certain positions.

However, the political dynamics and informal institutions (i.e., patterns of government formation and governance) are not exactly in line with the written rules. Parties forming coalition

governments usually form a coalition council, an informal body with no legal background, where the main government- and governance-related issues are decided. As it is possible to become a member of parliament only by being on a party list of candidates, a coalition government can usually rely on a majority of relatively disciplined MPs. In practice, the parliament has thus become a tool for legitimising government action decided by the coalition parties.

This also has consequences for the dynamics of the EU. Positions on various EU policies and issues are not always dependent on established long-term national interests, strategic documents, or the capacities of the corresponding ministry. In general, it is the strength and political power of the largest coalition party that ultimately defines the dynamics among coalition leaders, which subsequently shapes Slovakia's positions and actions in EU matters.

## References

- Act 350/1996 Coll, *Rules of Procedure of National Council of the Slovak Republic* ([https://www.nrsr.sk/web/Static/en-US/NRSR/Dokumenty/rules\\_of\\_procedure.pdf](https://www.nrsr.sk/web/Static/en-US/NRSR/Dokumenty/rules_of_procedure.pdf)).
- Baboš, P. and D. Malová (2018), "Slovakia: Political development and data for 2017", *European Journal of Political Research Political Data Yearbook*, Vol. 57, No. 1, pp. 255–261.
- Baboš, P. and D. Malová (2015a), "Ekologická analýza výsledkov parlamentných volieb v roku 2012 a prezidentských volieb v roku 2014: možnosti a limity štrukturálnych vysvetlení" [An ecological analysis of the 2012 parliamentary and 2014 presidential elections: the potentials and limits of structural explanation], *Sociologia*, Vol. 47, No. 4, pp. 340–364.
- Baboš, P. and D. Malová (2015b), "Fiscal responsibility in times of crisis: a strategic management perspective", in R. Wiszniewski and K. Glinka (eds), *New Public Governance in the Visegrad Group*, Torun: Wyd. Adam Marszałek.
- European Parliament (2018), "State of Play on Reasoned Opinions and Contributions Submitted by National Parliaments Under Protocol 2 of The Lisbon Treaty", note by the Directorate for Relations with National Parliaments, 5 September 2018 ([http://www.epgencms.europarl.europa.eu/cmsdata/upload/70b963af-981c-43ab-8b16-d79f95c5cbb8/State\\_of\\_play\\_-\\_Sept\\_2018.pdf](http://www.epgencms.europarl.europa.eu/cmsdata/upload/70b963af-981c-43ab-8b16-d79f95c5cbb8/State_of_play_-_Sept_2018.pdf)).
- Gyárfášová, O. (2014), "Európanstvo na slovenský spôsob" [Europeanness in a Slovakian way], in Z. Bútorová, M. Kollár and G. Mesežnikov (eds), *Desať rokov v Únii: Slovenská a česká cesta* [Ten years in the Union: the Slovak and Czech Path], IVO and Heinrich Böll Stiftung, Bratislava.
- Gyárfášová, O. and V. Krivý (2007), "Electoral Behaviour - Persistent Volatility or Clear Sign of Consolidation? The Case of Slovakia", in V. Hloušek and R. Chytílek (eds), *Parliamentary Elections and Party Landscape in the Visegrad Group Countries*, Democracy and Culture Study Centre, Brno.
- Haughton, T. (2014), "Exit, choice, and legacy: explaining the patterns of party politics in post-communist Slovakia", *East European Politics*, Vol. 30, No. 2, pp. 210–229.
- Hloušek, V. and L. Kopeček (2008), "Cleavages in contemporary Czech and Slovak politics between persistence and change", *East European Politics and Societies*, Vol. 22, No. 3, pp. 518–552.
- Javorek, T. (2013), *Euroval v diskurze parlamentných politicých strán v rokoch 2010 - 2012* [The European bailout fund in the discourse of

parliamentary political parties from 2010 to 2012], thesis, Comenius University, Bratislava, pp. 30–44.

*Interview No. 1*, Interview with a high-ranking official from the Slovak parliament's unit on European Affairs. Conducted on 11 December 2018.

*Interview No. 6*, Interview with a representative of a parliamentary political party. Conducted on 10 January 2019.

Krivý, V. (ed.) (2012), *Slovenské voľby '12: čo im predchádzalo, postoje a výsledky* [The 2012 Slovak elections: antecedents, attitudes, and results], Institute of Sociology, Slovak Academy of Sciences, Bratislava.

SME (2017), "Fico kritizoval členov Únie za prístup pri sťahovaní európskych agentúr" [Fico criticised EU members for their approach to the resettling of EU agencies], 22 November 2017 (<https://domov.sme.sk/c/20701546/fico-kritizoval-clenov-unie-za-pristup-pri-stahovani-europskych-agentur.html>).

Topky (2017), "Kažimírzmír nezískal post šéfa Euroskupiny: Stal sa ním portugalský socialista Mario Centeno" [Kazimir did not get the Eurogroup's top job: the new president will be Mario Centeno, a socialist from Portugal], 4 December 2017 (<https://www.topky.sk/cl/100535/1674433/Kazimir-neziskal-post-sefa-Euroskupiny--Stal-sa-nim-portugalsky-socialista-Mario-Centeno>).

# 17. SPAIN'S WEAK PARLIAMENT, GROWING FRAGMENTATION AND PRO-EU CONSENSUS

IGNACIO MOLINA & ILKE TOYGÜR

---

*The bicameral Spanish parliament (Cortes Generales) has never been significantly involved in the initiation and control of the national EU policy process, even if a series of legal developments have somewhat improved its participation. The reasons for this limited profile are twofold: first, the relative consensus among Spanish parties with respect to the European integration process (one of the few issues of agreement in a rather confrontational democracy) and, secondly, the weakness of the Cortes in relation to the executive. This weakness is not only the result of a number of institutional arrangements aimed at providing stability to the executive (such as the strong agenda-setting power of the Prime Minister, the irrelevance of the Senate as a second chamber and other rules curtailing the parliament's capabilities), but also the political consequence of the dominant majoritarian style of policy making that characterised Spain until 2015. Since then, the executive has no longer enjoyed the same privileged position and the party system has evolved from a two-party system to a fragmented one, after the emergence of various new successful political forces. This chapter goes through the Spanish model of representation, the role the Cortes plays in EU policy and the ongoing transformation of the political system.*

## 17.1 Introduction: The Cortes Generales and Spanish democracy

The Cortes Generales is an asymmetrical bicameral parliament, constituted by the Congreso de los Diputados (Congress, the lower house) and the Senado (Senate, the upper house). Even if they share legislative power, the Congress holds the power to ultimately override any decision of the Senate by a majority. The Spanish 1978



constitution, on the other hand, entrusts the executive with the leading role in policy making while other institutional rules and implicit political practices provide several tools available to the Prime Minister to settle and control the legislative agenda (Ajenjo and Molina, 2011). This decisively contributed to the notable stability of politics and policy style in Spain from the early 1980s until at least 2015. During this long period, the majoritarian bias of the electoral system and the strength of the left-right cleavage has led to a political landscape dominated by two large moderate and pro-European parties: the conservative Partido Popular (PP) and the social democratic Partido Socialista Obrero Español (PSOE).

The Spanish executive employs several ordinary procedures (for instance, decree power, emergency procedures, the call of extraordinary sessions, etc.), leading to a dominance of the agenda. To be sure, the limited role of the *Cortes* during the law-making process does not mean that it plays a minor political role. The Congress, in particular, performs several functions: appointment of the Prime Minister, holding the entire government to account (ministers are regularly summoned by the committees overseeing their policy areas), recruitment of politicians and the general legitimization of the system through deliberation, control and formal approval of legislation.

However, these relevant political functions are not matched with adequate administrative and human resources (Molina et al. 2018), which demonstrates how limited is the actual policy power of the *Cortes*. For example, even if every parliamentary group is assigned funds to hire personnel, with the size of budgets dependent on the party's electoral results, the parties prefer to save a portion of this money, using it for other purposes and hiring unexperienced staffers with low salaries instead. Individual legislators even lack a single exclusive assistant, as the small number of staff members is shared across the parliamentary group (typically with an assistant for every two deputies or senators). Economic resources for policy analysis, whether performed internally or externally, are also very scarce and there are no real parliamentary research units or think tanks.

There are also limitations to the capacity of the *Cortes* to obtain documents or summon experts. Although information and documentation requested from the executive must be made

available to the parliament within a period not exceeding 30 days and in the manner most suitable to the applicant, there are “legally justified reasons preventing the supply of such information” that allow the government to avoid delivering some important documents (for example, on the grounds of secrecy), or enable it to deliver the documents incompletely or late. Furthermore, the limited staffing and financial resources prevent systematic involvement in the policymaking process by university scholars, think-tank analysts and other experts. According to the Congress website, fewer than 100 experts are summoned in an average year by the almost 30 standing committees and the several sub-committees.

*Regardless of the size of the governing party, Spanish executives have tended to behave as if they hold absolute majorities.*

The truth is that, regardless of the size of the governing party in Parliament, Spanish executives have tended to behave as if they hold absolute majorities, even if this has only been the case during four terms since 1982 (see Table 17.1). This permanent pattern of behaviour also reveals that, even without an absolute majority and without need to form coalitions, minority governments are able to set and control the agenda with the use of procedural rules, high internal party discipline and several other advantages.

Notwithstanding this, since the mid-2010s the political landscape has profoundly changed with the emergence of new parties (the anti-austerity Podemos, the liberal Ciudadanos or the right-wing nationalist Vox) and the subsequent electoral volatility, fierce competition and higher levels of polarisation. The effective number of parliamentary parties in the Congress (a common way of measuring fragmentation created by political scientists Markku Laakso and Rein Taagepera) has grown from 2.6 in the 2011-2015 term to 4.9 after 2019 election.

*The political landscape has profoundly changed with the emergence of new parties, electoral volatility, fierce competition and higher levels of polarisation.*

These developments are also transforming many of the well-established attributes of the national representative model, such as the patterns of straightforward government formation and its

capacity to control law-making or to protect itself from the opposition.

*Table 17.1 Majorities in the Spanish Congress, 1982-2019*

Term	Government party (seats)	Main opposition party (seats)	Effective number of parliamentary parties	% votes two main parties	% seats two main parties
1982-1986	PSOE (202)*	PP (107)	2.3	74.8	88.3
1986-1989	PSOE (184)*	PP (105)	2.7	70.5	82.6
1989-1993	PSOE (175)	PP (107)	2.8	65.8	80.6
1993-1996	PSOE (159)	PP (141)	2.7	74.1	85.7
1996-2000	PP (156)	PSOE (141)	2.7	77.2	84.9
2000-2004	PP (183)*	PSOE (125)	2.5	79.9	88.0
2004-2008	PSOE (164)	PP (148)	2.5	81.6	89.1
2008-2011	PSOE (169)	PP (154)	2.3	84.7	92.3
2011-2015	PP (186)*	PSOE (110)	2.6	74.4	84.6
2015-2016	PP (123)	PSOE (90)	4.1	51.1	60.9
2016-2019**	PP (137) PSOE (85)	PSOE (85) PP (137)	3.8	56.1	63.4
2019-	PSOE (123)	PP (66)	4.9	45.4	54.0

*Notes:*

\* Highlighted cells show when the government enjoyed an absolute majority in the Congress (> 175 seats).

\*\* Mariano Rajoy (PP) lost a no-confidence vote in 2018. Pedro Sánchez (PSOE) became prime minister.

*Source:* own elaboration with data from the Spanish Ministry of Interior and Rama and Santana (2019).

Both the share of seats held by the governing party and the two main traditional parties combined have dropped sharply. More than 90% of deputies in Congress were members of the PSOE or PP in 2011, but that figure is now reduced to only 54 percent. It is still too early to assess the impact of these changes in legislative-executive relations and the role of the parliament in EU affairs but it will be difficult for the government to maintain its privileged position in European policy.

## 17.2 Reasons behind the (limited) participation of the Spanish *Cortes* in Spanish EU policy

According to the 1978 Constitution, the *Cortes Generales* has an important formal role in ratifying all international treaties (with special requirements for EU primary law) and in the development and control of all EU secondary law. But, even if the legislature has transposed hundreds of EU directives into domestic legislation since 1986, neither the Congress nor the Senate have been significantly involved in Spain's relations with the EU. There are two main reasons to explain this low profile.

The first, and most important, is the aforementioned low institutional strength of the *Cortes* in the overall political system, in particular regarding policy-making capacity. The second factor is the relative consensus among parties with respect to Europe; one of the few issues of agreement in a rather confrontational democracy. For historical reasons, EU membership has generally been perceived in Spain as an anchor for democracy at home, a fundamental factor for economic prosperity and the most effective tool for gaining international influence as a mid-sized power. A positive narrative about European integration is widely shared by all political and social actors in the country. Despite the recent economic crisis (2008-2014) and some related developments (erosion of trust in political institutions or the Catalan crisis), the country remains one of the most pro-EU member states. But this consensus has had consequences for the role of the *Cortes* on EU affairs, making parliamentary debate on the issues fairly uncontroversial and, therefore, not politically interesting.

*Relative consensus among parties with respect to Europe; one of the few issues of agreement in a rather confrontational democracy.*

Lacking strong power, the Spanish parliament seeks to have a certain influence through plenary and committee debates which primarily provide domestic support for the government's negotiation position at the EU level. Nonetheless, a Joint Congress-Senate Committee on European Affairs (*Comisión Mixta para la Unión Europea*), which facilitates coordination to avoid the duplication of work in both houses, was created at the time of accession. This European Affairs Committee (EAC) is the principal body in charge of coordination and all parliamentary groups are represented. In addition, plenary debates after European Council meetings are held, thus gradually making the executive accountable to the *Cortes* (Closa, 1996). Specialised scrutiny of EU legislation has also been reinforced thanks to the gradual Europeanisation of all the other parliamentary standing committees. After a series of legal reforms in 2009/2010 (see below), the *Cortes* gained some policy-shaping capacity as well, notably through the early warning system (EWS) to monitor subsidiarity (Piedrafita, 2012).

The EAC has clearly improved procedures and engagement yet without adopting a confrontational pattern of operation. Its main role is to reinforce consensus behind a national common position to be defended in Brussels. Actually, the Spanish Parliament lacks political power to impose binding mandates against the opinion of the government. It also lacks the administrative resources necessary to process alternative sources of information, to follow the activity of all the sectoral EU Councils, to produce authoritative reports or even to make its political views fully known under a truly comprehensive EWS subsidiarity control.<sup>1</sup> Furthermore, the involvement of the *Cortes* in inter-

---

<sup>1</sup> The scrutiny of European policymaking is a good illustration of the lack of resources of the Spanish Parliament: the joint European Affairs Committee (EAC) of the Congress and the Senate has only two legal clerks at its disposal, a librarian and three administrative personnel. And despite growing demands for greater parliamentary involvement in EU affairs since the entry into force of the Lisbon Treaty, budgetary restrictions have prevented any change with regard to human and financial resources. This means that Spanish deputies and senators in charge of monitoring EU activities can draw on a set of resources that, while adequate for some selected government activities in Brussels, are insufficient for effective oversight of all dimensions of Spain's EU policy (Molina et al. 2018).

parliamentary dialogue (such as the COSAC mechanism) or with the EU institutions is quite modest and it was actually the last national parliament to open an office in Brussels.

A comparison of all national legislatures allows to define five not mutually exclusive ideal types of parliamentary participation in EU decision-making (Heffttler et al. 2015): a *public forum* focusing on communication with the voters, a *government watchdog* dedicated to hold the executive accountable, a *policy shaper* trying to influence national government positions, an *expert* that produces proper expertise on EU projects, or a *European player* who acts directly at the EU level. The typology derives from the analysis of six elements: the timing of the input (early in the process, during or after the decision is taken in Brussels), the sources of information (independent, the EU or the national executive), the instruments used (mandates, opinions, reports), the parliamentary body in charge (specialised committees, plenary), the level of transparency and the audience (decision makers or rather citizens).

As Table 17.2 shows, the Spanish Parliament has been – and still it is – a public forum aimed to influence the general public and tends to intervene *ex post*, with information provided by the government, through mainly open door oral debates on the floor of the Congress and, to a lesser extent, within the EAC. Yet, the only feature in which Spain has traditionally failed to meet the expectations of the public forum model (holding debates *ex ante*) has increasingly been fulfilled in recent years. The transformation of the Spanish party system leading to a more fragmented parliament may encourage the opposition to act increasingly as a government watchdog on European affairs. However, again, the consensus on EU matters and the lack of resources limit both the potential of real politicisation and the capacity for effective policy scrutiny.

Table 17.2 Assessing the Spanish Cortes Generales according to the five ideal-types for parliamentary activities in EU affairs

	Public forum	Government watchdog	Policy shaper	Expert	European player

Overall assessment	Yes	Limited	Not much	No	Definitely not
<b>Meets expectations</b>	Plenary debates <i>ex post</i> (European Council) significantly institutionalised. Much less activity on sectoral EU Council meetings		EWS has increased the role of the European Affairs Committee		
<b>Fails to meet expectations</b>	In principle no <i>ex ante</i> debates on the floor but this is changing with minority governments and a higher salience of EU issues	Limited capacity of the opposition for effective scrutiny due to lack of information	No binding opinions of the European Affairs Committee	Reports are unusual. Lack of resources. Experts are not summoned. No alternative information to government	Last national parliament to open an office in Brussels. Limited involvement in the EWS and COSAC
<b>Some selected EU member state national parliaments</b>	France Italy UK	Denmark Germany Italy, NL Poland UK	Denmark Germany NL Poland	France UK	Denmark Italy NL Poland

Source: Kölling and Molina (2015) and Hefftlar et al. (2015).

### 17.3 The evolution of the Spanish Parliament's involvement in EU affairs (1986-2019)<sup>2</sup>

Until 1994, control of the government in EU affairs mainly consisted of the voluntary appearance of the Prime Minister before the *Congreso* or irregular hearings of members of the government before the EAC on the conclusions of the European Council or Councils of Ministers meetings. In fact the Prime Minister's address was initiated as an informal custom by Felipe Gonzalez after accession and became institutionalised at the beginning of the 1990s. Nevertheless, the government had to inform both houses only on the main lines of its European policy and only on legislative proposals that would explicitly affect fundamental rights and freedoms. However, the EAC also had certain *ex ante* functions and could revise legislative projects for regulations, directives and decisions. Nevertheless, the parliament limited its activities to sporadic questions to the government - in particular about the transposition of EU law - and the follow-up and elaboration of reports on issues related to Spain's membership (Delgado-Iribarren, 2011). During this time period, the rest of the parliament hardly gave indications of any activity at all and only the EAC played a minimal role in the *ex ante* scrutiny process. The reports elaborated by the EAC had only very limited added value for the government's EU policy and EU affairs were mainly handled behind closed doors.

The second step forward to improve the scrutiny process took place within the ratification process of the Maastricht Treaty. Act 8/1994 strengthened the EAC and extended its competences to request hearings, to collect information regarding specific legislative proposals and the subsequent negotiations in the Council. The EAC was also empowered to set up sub-committees for the elaboration and adoption of specific reports. These ad hoc sub-committees have been working on specific topics with increasing intensity. Nevertheless, the operations of the sub-committees underline the consensual nature of the Spanish EU policy (e.g. the reports mainly supported the government's position), as well as involving only a tight network of people among

---

<sup>2</sup> For a further explanation, see Kölling and Molina (2015).



a small group of officials and politicians (Closa and Heywood, 2004).

Since 1994, the government was obliged to send all EU legislative proposals at an early stage of the negotiation process to the EAC and to specify this information if requested. Act 8/1994 also institutionalised the hearings with the Prime Minister before the plenary of the *Congreso* following European Council meetings and the obligation for the executive to send in advance reports about the progress of each of the rotating presidencies of the Council. While the control function was still focused on *ex post* scrutiny of the decisions of European Council meetings, from 1994 important steps in the direction of an improved *ex ante* control were in evidence.

Act 8/1994 regulating the European Affairs Committee was modified by Act 24/2009 of 22 December to reinforce the capacity of the EAC to check and influence government actions in the Council. Although the initial proposal was to render the hearings with government members before and after EU Council meetings obligatory, the final law was less ambitious. The fact that Spanish deputies and senators are quite pro-European and usually believe in the benefits of giving more leeway to the national government in negotiations might have influenced the resolution of the 'collective dilemma' in favour of more 'efficiency' (Piedrafita, 2014). Finally, Act 38/2010 improved both *ex ante* and *ex post* control. The most substantial improvement related to *ex ante* control of government actions in the EU Council through the introduction of hearings with the relevant ministers before Council meetings. But the *ex post* control was also improved.

Usually, the government is interrogated orally on legislative acts under negotiation at a plenary or committee session, whereas queries about the implementation of EU law are in written form. Written questions are mainly submitted by opposition parties. Besides the reform of the scrutiny system, the establishment in 2010 of a representative in Brussels for the Spanish Parliament was a further effort to adapt the Cortes to the new requirements. The representative facilitates independent information related to legislative proposals to both houses.

The most important modification of the scrutiny system is related to the monitoring of compliance with the principle of subsidiarity through the EWS. According to Act 24/2009, the EAC

is the competent body to elaborate and adopt reasoned opinions on behalf of the *Cortes Generales*. Nevertheless, both chambers retain the possibility to take over the debate and make the final adoption of any resolution related to the compliance of the draft legislative acts with the subsidiarity principle. According to the procedure, as soon as the draft legislative act is received, the Secretariat of the EAC sends it via email, together with accompanying documents, to the Parliamentary Assemblies in the Autonomous Communities. Moreover, an electronic index, listing all the received draft legislative acts, is sent at the beginning of a sitting week to the bureau of the EAC and the spokespersons of the political groups. In addition, the permanent representative of the Spanish Parliament to the European Union elaborates a weekly report on the subsidiarity alerts from other national parliaments, this report is also sent to the bureau and spokespersons of the EAC in order to inform them beforehand of the decisions on initiatives that will be scrutinised.

If the EAC's bureau decides to hold a debate, a representative of the executive is invited to explain the basic content of the proposal and debate it with the different parliamentary groups in the EAC. Afterwards, the parliamentary groups have two days to table draft resolutions, which will be examined and put to a vote before the EAC. The draft resolution may include a request for a debate in the Plenary or for the Committee to draw up a report. The rapporteur is appointed by the bureau. The criteria to allocate the rapporteurs between the different parliamentary groups is not regulated, the bureau and the spokespersons are thus allowed to decide freely on this issue. In practice, the two main parliamentary groups (Popular Group and Socialist Group) appoint their members as rapporteurs in more initiatives than members of smaller parliamentary groups. This may change after 2019 since the PP and PSOE together only comprise 54% of deputies in the Congress.

After the proposal of a report or reasoned opinion by the rapporteur has been tabled, a debate and vote of the proposed report or opinion is scheduled in the EAC. Finally, the proposal, with any agreed amendments, is voted. A simple majority is required for the proposal to be accepted. After its approval, the report or reasoned opinion is published in the Official Parliamentary Bulletin as well as being sent to the European institutions and the Spanish government.

Although the workload of the EAC has increased considerably because of the introduction of EWS, the number of meetings has not increased very significantly, which could indicate EAC's focus on very specific proposals and a continuing consensual approach on EU affairs despite the growing fragmentation of the Spanish party system. On a few occasions, the rapporteur submitted a reasoned opinion stating that the draft in question did not comply with the principle of subsidiarity. In these cases, the government had previously sent a negative opinion concerning a breach of the subsidiarity principle. In this sense opinions on compliance with the subsidiarity principle of the draft legislative acts reflected the government's position (Piedrafita, 2012). Thus, it does not seem that the structurally weak position of the Spanish Parliament in EU affairs is really changing as a consequence of this growing participation via EWS.

The Treaty of Lisbon not only reinforced the role of national parliaments in EU affairs through the control of subsidiarity, but it also introduced new information exchange channels between the national parliaments and the European institutions. The most visible is the political dialogue with the European Commission. This dialogue, however, is managed bilaterally between the Commission and each national parliament. The involvement of the Spanish Parliament in the political dialogue with the Commission is still very limited. The total number of opinions sent by the Spanish *Cortes Generales* to the political dialogue with the European Commission demonstrates that the parliament is still very reluctant to engage with EU institutions and top officials, even if several Commissioners, the president of the ECB or the negotiator of the Brexit talks have been invited by the EAC to provide an update about their portfolios and tasks.

Similarly, the Spanish Parliament has not been very active in inter-parliamentary cooperation within the EU. Direct contact with the European Parliament is still very little and on several occasions concentrated on inter-party contacts. With regard to the interactions of the *Cortes* with other national parliaments, through the COSAC or bilaterally, there has been some improvement in recent years, but formal inter-parliamentary cooperation is still very restricted. This could be explained by the lack of administrative and financial resources.

## 17.4 The complex transition to a fragmented multi-party system and its impact on the EU

Like other countries in southern Europe, the long 2008-2013 economic recession and the social unrest as a consequence of austerity measures entirely reshaped Spanish politics. As mentioned above, an imperfect two-party system, consisting of the PP and PSOE has recently been converted into a multiparty system. The 2019 general election (the second snap election in three years) has produced the most fragmented and polarised Spanish Parliament ever. Nevertheless, a high turnout (75.8% – well up from 66.5% in 2016) has allowed the PSOE to end up winning the election (123 seats out of 350), followed by the centre-right PP (66) and Ciudadanos (57). All three parties are clearly pro-European and represent more than 60% of the votes. The left-wing coalition between Podemos and the post-communist United Left came fourth with 42 seats (down from 71) and 14.3%. It may be considered as ‘soft Eurosceptic’, but it does not have an anti-EU stance and it will probably become the junior partner of the PSOE in the future.

Despite the economic crisis, high immigration figures and dissatisfaction with the political elite, no significant populist radical right parties emerged in Spain up until 2018 (Alonso and Rovira Kaltwasser, 2015).<sup>3</sup> However, the intensification of the Catalan dispute and the bid for unilateral secession provided the necessary environment for the rise of Vox, Spain’s first contender for a populist radical right party. Vox is not explicitly Eurosceptic, but it promotes Spanish nationalism, is against multiculturalism, irregular migration and what they term “radical feminism”. Vox obtained 10.3% of the vote in the 2019 election and 24 seats in Congress, thus becoming the fifth Spanish party. While, with its media visibility, it will have some capacity to exert an impact on the agenda, the effect is expected to be marginal for now.

Even if domestic issues dominate political discussion and the national parliament does not play a significant role in EU matters, Spanish political parties are readying themselves to play an important role at the EU level. As shown in Table 17.3, PSOE may

---

<sup>3</sup> According to Mudde (2007), this kind of party rails against immigration and opposes the process of European integration.

become the largest national party of the Socialists and Democrats (S&D) group in the European Parliament. This observation can also be made for the role of Unidas Podemos in the Group of the European United Left/Nordic Green Left (GUE/NGL). For its part, the liberal Ciudadanos will become one of the three most powerful political parties of the Alliance of Liberals and Democrats for Europe (ALDE) group. The Spanish Popular Party might also end up as one of the top three political forces in the European People's Party (EPP).

Table 17.3 Spanish parties and the European Parliament (2019-2024)

National party	Group affiliation in the European Parliament	Predictions for 2019 EP election	
		Poll <sup>4</sup>	Projection from April general election results
Socialist Party (PSOE)	S&D	18	16
Partido Popular	EPP	13	10
Ciudadanos	ALDE	7	9
Unidas Podemos	GUE/NGL and Greens	8	8
Vox	None	6	6
Left-wing Catalan and Basque nationalists (ERC + EH Bildu)	EFA and GUE/NGL	2	3
Basque Nationalist Party (PNV)	ALDE	0	1
Right-wing Catalan nationalists (JxCAT)	None	0	1

Source: Own elaboration.

---

<sup>4</sup> The report of the European Parliament titled "European Elections 2019" is available at <https://www.europarl.europa.eu/at-your-service/files/be-heard/eurobarometer/2019/political-landscape-developments/en-ee19-national-report-18-april-2019.pdf>

## Conclusion

Spain has been one of the most pro-European member states since its accession to the EU in 1986. Even if the Spanish Parliament has not played a significant role in EU policy making so far (as a combined result of the consensus on European affairs and the strong role of the executive regarding the policy process), it has been able to increase its involvement in recent years. The ongoing transformation of Spanish democracy from an imperfect two-party system into a fragmented one, the subsequent erosion of power of the executive and the emergence of soft Eurosceptic parties (both left-wing populist and radical right) may reinforce the role the Cortes currently plays on EU matters. In parallel, Spanish parties are expected to play an important role in their respective groups in the European Parliament following the May 2019 election.

After Brexit, Spain will be the fourth largest member state and this might be an opportunity for their pro-European parties and other actors (including the national parliament) to increase their impact on European politics. Notwithstanding this, the relative level of domestic agreement on the European integration process, the lack of electoral interest among voters about EU issues, and the limited political or administrative resources of the parliament and parties reduce the potential of real politicisation and the capacity for effective involvement of actors other than the executive.

## References

- Ajenjo, N. and I. Molina (2011), "Spain: Majoritarian Choices, Disciplined Party Government and Compliant Legislature", in B.E. Rasch, B.E. and G. Tsebelis, *The Role of Governments in Legislative Agenda Setting*, London: Routledge.
- Alonso, S. and C. Rovira Kaltwasser (2015), "Spain: No Country for the Populist Radical Right?", *South European Society and Politics*, Vol. 20, No. 1, pp. 21-45.
- Closa, C. (1996), "Spain: The Cortes and the EU - A Growing Together", in P. Norton, *National Parliaments and the European Union*, London: Frank Cass, pp. 136-150.
- Closa, C. and P. Heywood (2004), *Spain and the European Union*, New York: Palgrave Macmillan.
- Delgado-Iribarren, M. (2011), "Veinticinco años de funcionamiento de la Comisión Mixta para la Unión Europea", Manuscript.
- Heffttler, C., C. Neuhold, O. Rozenberg and J. Smith (2015), *The Palgrave Handbook of National Parliaments and the European Union*, London: Palgrave.
- Kölling, M. and I. Molina (2015), "The Spanish National Parliament and the European Union: Slow Adaptation to New Responsibilities in Times of Crisis", in C. Heffttler, C. Neuhold, O. Rozenberg and J. Smith, *The Palgrave Handbook of National Parliaments and the European Union*, London: Palgrave.
- Molina, I., M. Kölling, O. Homs and C. Colino (2018), "Spain Report. Sustainable Governance Indicators 2018", Bertelsmann Stiftung, Güterlosh.
- Mudde, C. (2007), *Populist radical right parties in Europe*, Cambridge: Cambridge University Press.
- Piedrafita, S. (2012), "The impact of the Lisbon Treaty on the parliamentary scrutiny of EU affairs in Spain", paper presented at the García Pelayo Seminar on 25/10/2011, Madrid.
- Rama, J. and A. Santana (2019), "The electoral fragmentation on the right side: 2019 Spanish general elections", Party Systems and Governments Observatory, The University of Nottingham.

# 18. NOT SUCH A CLEAN BREAK: WESTMINSTER'S CONTINUOUS OVERSIGHT OF EU AFFAIRS POST-BREXIT

AGATA GOSTYŃSKA-JAKUBOWSKA\*

---

*This chapter assesses the state of representative democracy in the UK and how British parliamentarians have dealt with EU affairs in the course of the UK's membership of the European Union. First, it briefly analyses the flaws of the British representative democracy as revealed by the 2016 referendum on the UK's membership in the EU. Second, it looks at Westminster's past scrutiny of the government's European policy and asks whether parliamentarians' increased interest in the future EU-UK relationship could translate into more effective parliamentary oversight of European matters post-Brexit. Third, the chapter makes a series of recommendations for improving cooperation between parliament and government in the next phases of the Brexit talks, and looks at how Westminster might remain plugged into EU decision-making.*

---

\* An earlier version of this piece was published by the Centre for European Reform on 12 April 2019, see: <https://www.cer.eu/publications/archive/policy-brief/2019/not-so-fast-westminsters-continuous-oversight-european>; this publication is the product of teamwork and the author is grateful to Beth Oppenheim for her research assistance. The author is also grateful to all the officials who offered their time to talk off-the-record to the CER and share their views on Westminster's scrutiny of Brexit and on plugging the UK Parliament into EU decision-making after Brexit.



## 18.1 Brexit: a stress test for the UK's representative democracy

In 2018, Britain was one of the 20 countries in the world ranked as a 'full democracy' in which there is an effective system of democratic checks and balances (Economist Intelligence Unit, 2019). The Brexit process has since exposed the flaws in the UK's democratic system, however. The UK is one of the very few parliamentary democracies in the world that still uses a 'first-past-the-post' voting system in general elections and that treats elections "as the sum of individual contests" (Gamble, 2018). The system translates a small percentage of lead in terms of votes into a majority in seats, and rewards

*The UK still uses a 'first-past-the-post' voting system that favours two big parties and discriminates against smaller political movements whose votes are spread across many constituencies.*

geographic concentration of support (Institute for Public Policy Research, 2015). As a result, the first-past-the-post system favours two big parties and discriminates against smaller political movements whose votes are spread across many constituencies. In the 2015 general election, UKIP won 12.6% of the vote (The House of

Commons Library, 2017), but obtained just one seat. A year earlier UKIP sent the largest delegation to the European Parliament after it had won the European elections which, unlike general elections, are held in accordance with the proportional representation system. First-past-the-post also creates two types of seats: 'safe' and 'swing'. Parties focus their energy, time and funds almost exclusively on swing seats, making voters living elsewhere feel ignored.

Proponents of the current voting system would argue that it was designed for the two-party system and aimed to deliver stable majorities in parliament. In 2017, the government argued that the current system provides a clear link between the constituents and their MPs and that voters had already rejected the idea of ditching first-past-the-post in the 2011 referendum on altering the voting system to an 'alternative voting' one (Johnston, Uberoi, 2019). But 'alternative voting' can lead to even more unrepresentative results than the current system. Voters were thus given a choice between two systems that have serious flaws (Full Fact, 2011).

The first-past-the-post system does not take into account the fact that British society has changed and people no longer vote for only the Conservative or Labour parties. Post-industrial society is more disparate and its voting intentions are less determined by class or occupation than they were in the past (Gostyńska-Jakubowska, Schuette, 2019). The first-past-the-post system adds to voters' sense of alienation because it does not always give them the opportunity to send to Westminster a candidate whom they really like and produces governments that have not gathered majority of the popular vote.

This is perhaps one of the reasons why the 2016 referendum on the UK's membership in the EU attracted the attention of people disillusioned with politics. The referendum, in which almost 52% of the votes were cast in favour of the UK's departure from the EU, put the 'will of the people' on a collision course with their elected representatives (Gostyńska-Jakubowska, Oppenheim, 2018).

For the first time in the history of British parliamentary democracy, citizens voted in a nationwide referendum for an outcome that the majority of MPs disagreed with. The referendum was advisory but MPs decided to honour the outcome of the vote and authorised the prime minister to notify the UK's intention to leave the EU. However, this did not prevent tabloid media from accusing the Commons of ignoring the 'will of the people' whenever MPs attempted to seize greater parliamentary control over the government's Brexit strategy.

The hostile tabloids and the demographic makeup of Parliament does not help MPs to make the case that they have acted in accordance with UK's national interest during the Brexit process. The Commons largely consists of middle-aged MPs who went to university (Runciman, 2019). This is in stark contrast with the demographic of the general public: according to the Office for National Statistics only 42% of the

*Tabloid media accused the Commons of ignoring the 'will of the people' whenever MPs attempted to seize greater parliamentary control over the government's Brexit strategy.*

*The Commons largely consists of middle-aged MPs who went to university, in stark contrast with the demographic of the general public.*

British population aged 21-64 had higher education in 2017 (Office for National Statistics, 2017). This rift only adds to the public disillusionment with the political elites and the way they have handled Brexit. According to the latest Hansard Society audit of political engagement in the UK “72% of the respondents say that the system of governing needs ‘quite a lot’ or ‘a great deal’ of improvement (...) and 50% think that the main parties and politicians don’t care about them” (Hansard Society, 2019).

This growing tension between the outcome of the 2016 referendum and the current nature of the UK’s representative democracy creates momentum for rethinking the way the British have elected their representatives. On April 23<sup>rd</sup> the Commons held a debate on proportional representation for general elections, sponsored by MP Angela Smith (who used to oppose proportional representation but changed her mind in 2017 after the general elections produced a hung parliament (House of Commons Hansard, 2019)). The debate, together with other seismic shifts in the tribal British political system could be a harbinger of change towards a more representative Westminster and a more honest parliamentary debate about European matters, which until recently was dominated by Tory and Labour Eurosceptics.

It may be anathema to many Brexiters but leaving the EU will not mean a clean break from the EU and its laws; EU legislation will continue to have an important impact on the UK regardless of whether it leaves with a withdrawal agreement. Westminster will want to assess EU legislation but will have to adapt its current scrutiny structures to an as yet unknown post-Brexit reality.

## 18.2 Looking back: Westminster’s scrutiny of EU affairs

Ironically, given the strength of many Brexiter views, EU affairs have generally had a low profile in the House of Commons. Unless the

*Ironically, given the strength of many Brexiter views, EU affairs have generally had a low profile in the House of Commons.*

government of the day was focused on a specific EU matter, such as a new treaty, British MPs tended to pay little heed to European affairs. Members of Parliament have tended to take the view that the key to re-

election was a good track record of working on domestic issues rather than on the EU. They were reluctant to sit on the 16-member European scrutiny committee (ESC), which examines the government's EU policy and considers EU documents, or even to take part in debates when the ESC decided an EU document needed more discussion (Gostyńska, 2015). In his oral evidence to the House of Lords' constitution committee in January 2019 David Lidington, Prime Minister Theresa May's de facto deputy, complained that when he was Europe Minister he found it difficult to get departmental select committees (which shadow the work of individual government departments) to focus on the European dimension of their business (House of Lords, 2019). The ESC can ask departmental select committees for an opinion on an EU document, but the committees are not legally obliged to provide one.

This limited interest in European matters among neutral or even pro-EU MPs allowed staunch Eurosceptics such as the Conservative Sir William Cash or Labour's Kate Hoey, who used their membership of the ESC to express their distaste for European integration, to dominate the debate. Ten out of the 16 current members of the ESC are reported to have voted to leave the EU in 2016 (calculation from TheyWorkForYou, 2019). Unlike most chairs of select committees in the Commons, the chair of the ESC is not elected by the whole House of Commons but by the committee members; Cash has held the position since 2010.

But this inadequate interest in EU affairs is not entirely down to MPs' apathy. In British

parliamentary practice it is the government – not parliament – that determines what is debated in Westminster.<sup>1</sup> And, the government has often deprived pro-EU MPs of the chance to confront Eurosceptics by refusing to allocate time for EU-related debates in the Commons.

*In British parliamentary practice it is the government – not parliament – that determines what is debated in Westminster.*

---

<sup>1</sup> According to the Commons Standing Orders government business has precedence at every parliamentary sitting (The House of Commons, 2018), Standing Orders, UK Parliament).

The approach of MPs to EU affairs contrasts sharply with the attitude of the House of Lords. They tend to have more time to delve into EU matters than MPs, who also have constituency responsibilities. The Lords EU select committee is renowned for its expertise and high quality reports (Smith, 2015). To a certain extent this is because, unlike MPs who are directly elected, peers are appointed or are hereditary members of the UK Parliament, or senior members of the clergy. Yet no matter how knowledgeable the Lords may be they enjoy no democratic legitimacy. As a result, MPs stand a greater chance of influencing the public debate about European affairs and also the government's actions. For this reason this chapter mainly focuses on parliamentary oversight of EU matters in the House of Commons.

### **18.3 Westminster's interest in the UK-EU relationship: late to the party?**

The UK's referendum in 2016 has forced pro-European MPs to engage in the public debate about European matters, even if that means going head-to-head with Eurosceptics. Two thirds of the MPs on the Commons exiting the European Union committee voted to remain in the Union in 2016 (calculation from TheyWorkForYou, 2019). While many of them accept the vote to leave the EU, they

have argued for a softer Brexit than their Eurosceptic colleagues.

*Two thirds of the MPs on the Commons exiting the European Union committee voted to remain in the Union in 2016.*

The referendum has also resulted in an increase in select committee inquiries into European matters. Written evidence

submitted on March 14<sup>th</sup> to the Commons Liaison Committee, which is composed of the chairs of the various select committees and takes evidence from the prime minister, showed that select committees have conducted 67 inquiries and produced 58 Brexit-related reports (24% of the total) during this parliament. That compares with just 22 reports (3% of the total) between 2010 and the 2016 referendum (Lynch, Whitaker and Cygan, 2019). The referendum has led to a broader distribution of EU business across the House. Today, the ESC is just one of many Commons committees scrutinising aspects of the UK's relationship with the EU.

However, Westminster's interest in Brexit should not be seen as increased interest in the day-to-day business of the EU, rather in all things Brexit. The overall attendance of ESC members has never been very impressive – reaching 66.9% in the 2015-16 session. But the latest attendance statistics published by the ESC show that in the 2017-19 session the turnout was even lower at 58.6% (House of Commons, 2019). The spike in Brexit-related activity has not yet translated into a greater understanding in the Commons of how the EU operates.<sup>2</sup> Because public interest in the EU has surged as a result of Brexit, MPs' pronouncements on Europe have had a higher profile in the media, regardless of whether they have done their homework on the implications of leaving the EU.

But it would be unfair to say that Brexit has not brought any change to Westminster.

Since the referendum Westminster has become increasingly assertive about its role in holding the government to account for its Brexit strategy. It has been helped in this process by a series of legal challenges by various individuals, perhaps the most famous being Gina Miller's case to force the government to seek parliament's authorisation before triggering Article 50 – the legal process for exiting the EU. May's efforts to control the Brexit process have seen MPs resort to all sorts of arcane parliamentary conventions to influence the government's negotiating position.

There are two reasons behind parliament's increased assertiveness over the Brexit process. First, since the 2016 referendum, many MPs have been acting contrary to their own previously stated beliefs. Most MPs backed remain in the referendum, but the Commons, fearing a public backlash if it seemed to be resisting the referendum result, voted by an overwhelming majority in 2017 to authorise the prime minister to notify the UK's intention to leave the EU. Nevertheless, since then numerous MPs – including Conservatives – have tried to obstruct the government when they thought its plans for exiting the EU would harm the national interest – or their preferred version of Brexit.

---

<sup>2</sup> Author's interviews with Westminster officials.

This is rare in British politics. MPs almost always represent a specific party, support its manifesto and obey its leaders. But the EU issue has always transcended party lines and loyalty. The outcome of the referendum has only deepened these divisions and made the government's job harder. The cracks in Westminster's tribal political system have been highlighted by a number of MPs quitting the two

*The EU issue has always transcended party lines and loyalty.*

main parties to form a new party called Change UK – The Independent Group, and by many others rebelling repeatedly against their party's instructions on Brexit-related votes.

Second, this change in relations between parliament and government has been facilitated by May's ill-advised decision to hold a snap general election in 2017. May lost her majority and was forced to form a minority government propped up by the Northern Irish Democratic Unionist Party (DUP). With no reliable majority, she has found it incredibly difficult to push through her Brexit plans, with the Northern Ireland backstop being a particular problem (Springford, 2018). One of May's biggest mistakes has been her failure to appreciate the need for cross-party consultations over Brexit.

## **18.4 Westminster in the Brexit talks: bystander or veto player?**

Under the Constitutional Reform and Governance Act (CRAG), the British government needs to lay the final text of any international treaty before the Commons and the Lords 21 days before it intends to ratify it (Constitutional Reform and Governance Act, 2010). It has, however, no formal obligation to inform the UK Parliament about progress in international negotiations. But the Brexit talks are like no other international negotiations that the UK has carried out before; their outcome will have far-reaching implications for the British economy and UK citizens. Under pressure from MPs, the then-Secretary of State for Exiting the European Union, David Davis, pledged that the UK Parliament would get a so-called 'meaningful vote' on the withdrawal agreement and the political declaration on future relations. He also promised that Westminster would be able to scrutinise the exit talks to the same degree as the European Parliament. But to meet that commitment, the

government would not only have had to share its negotiating objectives with MPs, but also to provide them with confidential information about progress in the talks, and take their recommendations on board (Gostyńska-Jakubowska, 2017).

The government failed to deliver on this promise. It repeatedly misled MPs on whether it had made assessments of the impact of Brexit on different sectors, and refused to share its full legal advice. As a result, for the first time in modern history, in December 2018 the Commons found the government in contempt of parliament. The prime minister also withdrew a parliamentary vote on the withdrawal agreement in December 2018 after many MPs had already spoken out in a debate against the agreement.

*For the first time in modern history, the Commons found the government in contempt of parliament.*

When the prime minister finally decided to put the agreement to a vote in January, parliamentarians showed their teeth. May lost by 230 votes, the largest ever defeat suffered by a British government. MPs also instructed the government to replace the current Irish backstop with alternative solutions – another rare move by the parliament.<sup>3</sup> When May put the withdrawal agreement to a vote for a second time, with additional reassurances from the EU-27 that they did not intend to keep the UK trapped in the backstop forever, MPs still remained unconvinced. The government was defeated again for the second time on March 12<sup>th</sup>, albeit by a reduced margin of 149 votes. On March 14<sup>th</sup> the Commons agreed that the prime minister should ask the EU-27 to extend the Article 50 deadline from the original exit date of March 29<sup>th</sup>. In response the European Council agreed to postpone the UK's departure until May 22<sup>nd</sup> if the Commons voted in favour of the withdrawal agreement by March 29<sup>th</sup>, or until April 12<sup>th</sup> if the Commons failed to approve the agreement by March 29<sup>th</sup> (European Council, 2019a). The government held another vote on its withdrawal agreement on

---

<sup>3</sup> The Irish backstop was the biggest bone of contention in the divorce talks between the EU and the UK. It serves as an all-weather insurance policy for Dublin and provides that, unless both parties conclude the agreement on future relations that would obviate the need for a hard border on the island of Ireland, the UK will remain in a customs union with the EU, and Northern Ireland will remain part of the EU's regulatory area.



March 29<sup>th</sup> but it was defeated again, this time by a margin of 58 votes. Fearing a no-deal exit, MPs also passed a law giving parliament the legal ability to compel the prime minister to seek an extension of the Article 50 talks. This law (which began life as the so-called 'Cooper-Letwin Bill') reduces the risk of the UK crashing out of the EU. The Commons also held two series of indicative votes to see if there was a majority for any other method of avoiding a no-deal Brexit. None of the options secured a parliamentary majority. Theresa May then started consultations with the Labour opposition and asked the EU for a further extension.

Parliament's repeated rejection of the withdrawal agreement complicated the UK's orderly withdrawal from the EU. It also irked European institutions and capitals who had long wanted to turn the page in the EU's relationship with the UK. EU leaders worried that extending talks would only prolong uncertainty about the UK's direction of travel and complicate the EU's decision-making process. But the EU-27 did not want a no-deal Brexit either, and so on April 10<sup>th</sup> they gave the UK another extension, this time until October 31<sup>st</sup> (European Council, 2019b). The 'flexible' extension allowed the UK to leave before that date if it ratified the withdrawal agreement earlier.<sup>4</sup> If, however, the UK failed to hold European Parliament elections in May, then it needed to leave the EU with no deal on May 31<sup>st</sup> (though the EU left itself some room to offer a further extension).

## **18.5 Learning lessons from the past: parliamentary oversight of EU affairs in the future**

Something positive can still come out of parliament's confrontation with the government over Brexit, if those in power now and in the future learn lessons from it. May argued for a long time that thorough parliamentary oversight of the government's stance would weaken its negotiating hand. But this approach has damaged May's chances of success. Parliamentarians are more likely to give their consent to an agreement that they have helped to shape rather

---

<sup>4</sup> At the time of writing the chances of the UK ratifying the withdrawal agreement before the European Parliament's elections were rather slim and UK political parties were gearing up for the European elections planned in the UK for May 23<sup>rd</sup>.

than one they get to see at the last minute. A government with parliamentary backing for its negotiating objectives would have represented a much more formidable and persuasive force in the eyes of the EU-27 and might have found it easier to achieve its aims. May realised this too late and engaged in cross-party consultations only after the Commons voted against the withdrawal agreement three times.

There are several ways that cooperation between parliament and the government on EU matters might be organised in future. Irrespective of whether the UK leaves the EU with or without a deal, the EU and its laws will continue to have an impact on the UK. The UK's legislature and executive should work together to ensure the EU-UK relationship is as effective as possible. At the time of writing the next steps in the Brexit process remain unclear. The UK was set to hold European Parliamentary elections, which are seen by many as a way to express public frustration with the government's Brexit policy. The outcome of the elections could influence the discussion on how to break the current Brexit deadlock in the British Parliament. This chapter assumes, however, that the most likely outcome is that the UK leaves the EU at some stage on the basis of the present withdrawal agreement. Leaving the EU on the basis of the renegotiated withdrawal agreement is not an option because the EU has refused to re-open the text and it is very unlikely that it will change its mind. But the EU has argued on many occasions that it is willing to work together with the UK on a more ambitious political declaration concerning the future EU-UK relations if some of London's red lines shifted. However, other possible outcomes such as a no-deal Brexit or no Brexit are also worth looking at in terms of what they might mean for parliamentary scrutiny of EU affairs.

*Irrespective of whether the UK leaves the EU with or without a deal, the EU and its laws will continue to have an impact on the UK.*

### **18.5.1 Exiting with an agreement**

MPs and peers will soon discover that leaving the EU is just the beginning of the Brexit process (Lowe, 2019). Parliamentarians will need to oversee the implementation of the withdrawal agreement, negotiations on the future relationship with the EU-27 and the

application of EU law in the UK in the transition period and afterwards.

### **Parliamentary scrutiny of the implementation of the withdrawal agreement**

The withdrawal agreement establishes a joint committee, comprising representatives of both the EU and the UK, which will decide, among other things, on whether the transition period should be extended or whether the backstop is still needed. These decisions will have implications for the UK, and parliament will want to hold the government to account for them. The Exiting the European Union Committee argued in a report in March 2018 that a decision by the EU-UK withdrawal agreement joint committee to extend the transition period should be subject to parliamentary approval (House of Commons, 2018). In order to take an informed view, however, Westminster would have to know what the UK and EU positions were. According to the withdrawal agreement, the meetings of the joint committee will be confidential (unless the committee chairs decide otherwise), so the government will probably resist providing MPs and peers with detailed information about the talks. In the past, Westminster could put pressure on the government to compromise by refusing to clear an EU document from scrutiny (House of Commons, 1998; House of Lords, 2010). With some exceptions, the government cannot agree to a proposal in the Council of the EU while parliament is still considering the EU document concerned (the so-called 'scrutiny reserve'). But post-Brexit, parliamentarians will no longer be able to use that leverage over the government because the UK will no longer be a member of the Council of the EU or the European Council. Rather than abolishing the scrutiny reserve completely, parliamentarians should try to retain it in a modified form by amending the procedure to reflect the new post-Brexit institutional architecture. Ministers might be more inclined to engage in dialogue with parliament before joint committee meetings if Westminster could potentially delay its decisions.

### **Parliamentary oversight of the future EU-UK negotiations**

After May lost her first vote on the withdrawal agreement on January 15<sup>th</sup>, she promised that if the Commons gave her another

chance and approved the deal, she would consult parliament on the government's negotiating mandate for the future talks. She promised that she would give MPs a progress report before each biannual high level EU-UK stocktaking conference which is envisaged in the political declaration attached to the withdrawal agreement (Government UK, 2019a). MPs should push the government to enshrine that framework in law – perhaps in the 'Withdrawal Agreement and Implementation Bill' which will give force to the provisions of the withdrawal agreement in British law. Parliament could also insist that the scrutiny reserve should apply to any decisions taken at the EU-UK stocktaking conference. The government might want to oppose this idea. It will argue that the talks will require quick decisions, so parliament should not tie the government's hands with a scrutiny reserve. But ministers need to understand that scrutiny is not a zero sum game and parliament is not necessarily the enemy: it can often improve on the government's policy proposals. Besides, the scrutiny reserve always offered room for manoeuvre; ministers could override it if rapid EU action was needed, but had to justify this to parliamentarians. A similar system could apply after Brexit, as long as the government does not abuse it to circumvent scrutiny.

### **Parliamentary monitoring of the application of EU law in the transition period and beyond**

If the UK leaves the European Union with a withdrawal agreement it will also be bound by existing and new EU laws at least until the end of December 2020. The longer it takes Westminster to approve the divorce deal the shorter the initial transition period. And, if the backstop kicks in after the transition period is over, the UK would have to apply new rules concerning goods in Northern Ireland. The British government has committed itself, therefore, when EU rules apply to Northern Ireland, to voluntarily apply them also across the whole of the UK, so as to avoid intra-UK regulatory divergence. EU law would also have a continued impact on the UK if it decided to pursue a softer Brexit, either in the form of customs union or in the form of European Economic Area membership.

The UK would not be able to take part in shaping new EU legislation under any of these scenarios, because it will be a third country. Parliament should, therefore, ensure that the government

continues to present draft EU legislation in both houses, together with thorough impact assessments. UK parliamentarians should also monitor the success of any government attempts to influence EU law-making. London should follow the example of Norway, which does not participate in EU decision-making but implements new *acquis* pertaining to the single market of the EU. To maximise its influence on EU decision-making, Oslo has intensified bilateral contacts with individual member-states (Haugevik, 2017).

Ministers in the May government have tried to downplay the need for thorough parliamentary oversight of EU law post-Brexit. They argued that very few new EU legal acts would be applied to the UK in the transition period (Raab, 2018). It takes the EU at least 17 months to approve legislative acts at the first reading, and 39 months at the second reading (European Parliamentary Research Service Blog, 2018). Dominic Raab, the then Brexit secretary, argued in September 2018 that due to the lengthy EU legislative process, new laws taking effect during the transition would almost certainly have been scrutinised by the UK when it was still a member state. But Westminster should not be fooled. Brexit has shown that the EU can rapidly adopt legislation when it is confronted with serious challenges. On 25 March 2019 the European Commission argued that, since 2017, the EU had adopted or agreed 17 out of 19 draft laws designed to mitigate the negative consequences of a no-deal Brexit (European Commission, 2019b).

### ***18.5.2 No-deal Brexit or no Brexit***

The European Council decision to extend the deadline for the UK to leave the EU does not formally take no-deal off the table. If the UK

***EU legislation has constituted the legal basis for the last four decades and the UK could not afford to abandon all EU laws at once.***

leaves without an agreement there will be no transition period and the UK will no longer be bound to apply EU law. But it will still not be able to make a clean break. EU legislation has constituted the legal basis for the functioning of the UK's own

businesses for the last four decades and the UK could not afford to abandon all EU laws at once. The EU is a regulatory superpower – it regulates global markets, setting rules in areas such as food safety, chemicals, competition and data protection. In order to mitigate no-

deal uncertainty in various UK sectors, the government would have to maintain continued alignment with EU law, at least in the short term.<sup>5</sup>

The disruptive nature of a no-deal Brexit would probably force the British government to seek bilateral agreements in areas such as social security coordination with individual member states and – in parallel – London would probably be back at the EU negotiating table, albeit on the opposite side, trying to get back to something very similar to the existing withdrawal agreement. In such a scenario Westminster would no doubt like to ask for the same access to information as it would have if the UK departed with a withdrawal agreement.

In the event that the UK does not leave the EU by October 31<sup>st</sup> and secures an even longer extension, or withdraws its notification to leave the EU altogether, MPs and the government will be tempted to maintain the current model of parliamentary oversight of EU affairs. But this would be a mistake. The referendum did not end divisions over the UK's relationship with the EU. European issues would continue to be as divisive as ever if the UK remained in the EU. Parliamentarians should push for a departure from old scrutiny procedures based on the work of the ESC, which failed to provide a balanced debate about the EU and the UK's place within it.

### **Post-Brexit parliamentary scrutiny structures: a new EU affairs committee?**

The structures created to deal with European matters and with the Brexit talks have many flaws. MPs and peers have rarely discussed Brexit with each other, which has led to duplication in the work of individual committees. Such an overlap at times results in committees making contradictory recommendations on the same issues, despite the hard work of officials in both houses to coordinate Brexit-related work.<sup>6</sup> This parliamentary cacophony

---

<sup>5</sup> The government is for example reported to have decided that the UK would align with EU food safety and animal health regulations for at least nine months in the event of an unmanaged Brexit (Foster, 2019).

<sup>6</sup> The House of Lords established an informal group in November 2016 that oversees committees' Brexit activities and liaises with the House of

makes it easier for the government to cherry-pick the committee recommendations it likes and ignore the rest.

Assuming the UK leaves the EU with a withdrawal agreement, parliamentary oversight of European issues after Brexit will be more difficult than when the UK was a member of the Union. In the short term at least, MPs will have more on their plate. Whereas before they sifted EU documents and at times recommended further parliamentary debate on EU proposals, after Brexit MPs will have to oversee all three key EU-facing areas: the application of the withdrawal agreement, monitoring of the application of new EU legislation in the UK, and oversight of the negotiations on future EU-UK relations, not to mention the evolution of the relationship itself. Parliamentarians will need to develop new dynamic structures that would enable them to shift the balance of their work between these three elements of parliamentary oversight, depending on how the UK-EU relationship develops.

So far, parliament has paid little attention to its role in the future, focusing instead on day-to-day Brexit developments.<sup>7</sup> But MPs and peers need to start thinking about this. After the snap elections in June 2017 it took the Commons three months to reconstitute the exiting the EU committee, and as a result two rounds of the Brexit negotiations went by without any parliamentary scrutiny (Lynch, Whitaker and Cygan, 2019).

The Commons and Lords should jointly devise constructive recommendations on adjusting scrutiny procedures for this new post-Brexit reality. The Commons Liaison Committee has launched an inquiry into the effectiveness of departmental select committees, and the House of Lords is reviewing its own committee system. MPs and peers could exchange insights from these ongoing inquiries.

---

Commons, which created its own post of Brexit liaison manager only in December 2017.

<sup>7</sup> The Exiting the EU Committee has recently launched an inquiry into the role of UK Parliament in the transition period, in the EU-UK negotiations and in the event of no deal, but most evidence so far has focused on issues such as the Irish backstop or the extension of Article 50 (House of Commons, 2019).

Parliamentarians could consider creating a joint committee on European affairs. A number of such joint committees already exist.<sup>8</sup>

This, however, may be easier said than done (Gostyńska, 2015). MPs and peers have rarely exchanged views on EU legislative proposals or coordinated their objections to draft legislation from the European Commission (making use of the right of national parliaments to send so-called ‘reasoned opinions’ to the Commission). There is little reason to think that MPs and peers would be willing to change this approach for the sake of developing new parliamentary oversight structures.

If MPs and peers disagree on creating a joint committee, the Commons should nevertheless push for a change to the way it has scrutinised EU affairs. MPs should abolish the European scrutiny committee, which has demonstrated Eurosceptic bias, and put all post-Brexit scrutiny functions in the hands of one committee. This would reduce possible duplication in the committees’ work and give MPs a stronger voice vis-à-vis the government. Initially, these scrutiny functions would have to be performed by the Exiting the EU Committee. As long as the government’s department for exiting the EU exists (DExEU), the committee, currently chaired by Labour MP Hilary Benn, would have to shadow its work. Once DExEU is abolished the exiting the EU committee would evolve into a new European affairs committee.<sup>9</sup>

This committee, like other select committees, would have the power to create ad hoc sub-committees. If the committee members thought that juggling the three main scrutiny tasks was too much, they could delegate some of these roles to sub-committees. That

*MPs should abolish the European scrutiny committee, which has demonstrated Eurosceptic bias, and put all post-Brexit scrutiny functions in the hands of one committee.*

---

<sup>8</sup> The Joint Committee on the National Security Strategy was established in the 2005-10 Parliament and includes members from the House of Commons and the Lords.

<sup>9</sup> The official name of the new Commons committee should avoid referring to the ‘European Union’. This would play into the hands of the Eurosceptics who would claim that the UK has left the EU in name only.



would also give the committee the flexibility to respond quickly to any new, possibly sudden, developments in EU-UK relations without getting in the way of any of its regular tasks. If the future talks between the EU and the UK stalled – say over arrangements to replace the free movement of EU workers – the committee could create a sub-committee to investigate this problem. Because of the scope of its responsibilities, the new committee would have to be bigger than an average 11-member Commons select committee, and would also need more staff and research resources.

The new European affairs committee would be useful even if the UK found itself temporarily outside the EU without a deal or if it remained in the club. In the first scenario, it would oversee government negotiations with the EU and its member states to mitigate the consequences of no-deal. And in the second, it would scrutinise EU draft legislation and the government's position in the EU decision-making bodies – the role that is currently carried out by the European scrutiny committee.

There are limits to what lawmakers can do, however, without the support of the government of the day. The government might be reluctant to abolish the European scrutiny committee, which has so far provided oversight of EU documents, and set up a new and potentially influential European affairs committee. Instead, it might want to parcel out responsibility to departmental select committees with plenty of other work to do and with less access to specific EU expertise. But given the make-up of the European scrutiny committee, if it was retained it would probably focus on making the government's job difficult and seek to block any new EU laws during the transition period on the grounds that they are undemocratic. An effective European affairs committee, with a chair elected by the entire house (as with other select committees) rather than by the committee's members, would encourage moderate and pro-European MPs to join and facilitate a more balanced approach to European matters – an objective that the government should support.

### **Assuring Westminster's role in EU decision-shaping**

It is also important for the UK Parliament to develop and nurture its own network of contacts in Brussels and EU capitals. The British government pledged that it would cooperate closely with the

Parliament in the next Brexit phases, but it has often backtracked on its own promises, and Westminster needs a back-up plan.

After Brexit, the UK Parliament will be unable to exert direct influence on EU decision-making, either by raising objections or by offering positive feedback on Commission legislative proposals.<sup>10</sup> It will also cease to be a full member of all the inter-parliamentary conferences that have provided a platform for parliaments of individual EU member-states to interact with each other and with the European Parliament.

Westminster should devise its own cooperation structures with national legislatures and with the European Parliament. Any agreement on the future EU-UK relationship will be put to the European Parliament, and the Commission is also likely to consult MEPs during the talks. The European Parliament also decides, along with the Council of the EU, on the majority of new EU laws, including those which would apply to the UK post-Brexit. The political declaration that establishes the framework for the future EU-UK relationship provides for an EU-UK parliamentary cooperation forum. Westminster should press the government (by means of modified scrutiny reserve as described in the previous section of this chapter) to take account of parliamentarians' views when it negotiates this aspect of the future relationship with the EU.

In 2017, the majority of committees responsible for European affairs in the EU member-states indicated their willingness to continue to invite Westminster representatives to inter-parliamentary conferences post-Brexit (COSAC, 2017). The UK Parliament should exploit this support to request participation in these inter-parliamentary forums. It could follow the example of Norway's Parliament, which has attended the Conference of Parliamentary Committees for Union Affairs of Parliaments of the EU (COSAC). Norway is not a member of the EU but its Parliament expresses its interest to incoming COSAC presidencies to participate in inter-parliamentary meetings.

---

<sup>10</sup> National parliaments can object to Commission's legislative proposals on the basis of the subsidiarity principle (a so-called 'reasoned opinion'). They can also submit opinions within the framework of the so-called political dialogue with the Commission.

But the various inter-parliamentary conferences usually take place only a couple of times per year. That is not frequent enough for Westminster to remain up to date with developments in the EU and its member states. The work of the UK national parliament office, which until recently was staffed by two officials who represent the Commons and Lords at the EU level, will therefore be even more important after Brexit. The UK Parliament should maintain the two officials to act as Westminster's eyes and ears in Brussels. While the UK government was doing its best to keep parliamentarians in the dark about the progress of the withdrawal talks, these officials provided useful insights into the EU's negotiating position.

Westminster's engagement in Brussels should go beyond inter-parliamentary cooperation. British parliamentarians have occasionally conducted evidence sessions with EU commissioners in Brussels, to better understand the EU's rationale for its legislative actions. Westminster should keep this practice up, and use those trips to flag up the findings of its own inquiries in policy areas in which the UK will continue to align itself with the EU. The European Commission could make good use of these findings when it opts to review relevant EU legislation.

## **Conclusion**

The outcome of the EU referendum has revealed serious flaws in British representative democracy. The makeup of the Commons, which is elected on the basis of the first-past-the-post system, does not reflect the current demographic of the British public and adds to the public's frustration with Westminster. This growing divide between the public and its representatives also made it difficult for MPs to decide whether they should act in accordance with their own previously stated beliefs or whether they should honour the outcome of the 2016 referendum. MPs' unease about pushing for Brexit has also put the Commons on a collision course with the government – a rare thing in British politics.

But this is not the only change the referendum has brought to Westminster. Whereas before the 2016 referendum MPs were occasionally drawn into dealing with European affairs, leaving the

EU has become an all-consuming affair. Since the 2016 vote, one-sixth of the time on the floor of the House has been spent on matters related to Brexit (Lloyd, 2018). This increased interest, combined with Westminster's greater assertiveness in holding the government to account, presents an excellent opportunity to improve parliamentary scrutiny of European matters.

Whether MPs like it or not, leaving the EU is just the beginning of a long process of redefining the UK's place in Europe. Westminster will find it easier to navigate these uncharted waters if it revamps its current scrutiny procedures and maintains close ties with the national chambers of EU member states and with the EU institutions.

## References

- Constitutional Reform and Governance Act (2010), <https://www.legislation.gov.uk/ukpga/2010/25/contents>.
- COSAC (2017), "Twenty-seventh Bi-annual Report: Developments in European Union procedures and practices relevant to parliamentary scrutiny", 3 May ([https://parl.eu2017.mt/en/Events/Documents/3.%2027th%20Bi-annual%20Report%20of%20COSAC%20\\_EN.pdf](https://parl.eu2017.mt/en/Events/Documents/3.%2027th%20Bi-annual%20Report%20of%20COSAC%20_EN.pdf)).
- Economist Intelligence Unit (2019), "Democracy Index 2018:Me too? Political participation, protest and democracy" ([http://www.eiu.com/public/thankyou\\_download.aspx?activity=download&campaignid=Democracy2018](http://www.eiu.com/public/thankyou_download.aspx?activity=download&campaignid=Democracy2018)).
- European Commission (2019a), "Communication to the Commission", C(2019) 3000 final, 11 March ([https://ec.europa.eu/commission/sites/beta-political/files/commission\\_communication.pdf](https://ec.europa.eu/commission/sites/beta-political/files/commission_communication.pdf)).
- European Commission (2019b), "Brexit preparedness: EU completes preparations for possible "no-deal" scenario on 12 April", 25 March ([http://europa.eu/rapid/press-release\\_IP-19-1813\\_en.htm](http://europa.eu/rapid/press-release_IP-19-1813_en.htm)).
- European Council (2019a), "Special meeting of the European Council (Article 50) - Conclusions", 21 March (<https://www.consilium.europa.eu/en/meetings/european-council/2019/03/21/art50/>).
- European Council (2019b), "Special meeting of the European Council (Article 50) - Conclusions", 10 April (<https://www.consilium.europa.eu/en/meetings/european-council/2019/04/10/>).
- European Parliamentary Research Service Blog (2018), "Number and average length of co-decision procedures", 13 April (<https://epthinktank.eu/2014/11/26/european-parliament-facts-and-figures/19-length-of-codecision-2/>).
- Foster, P. (2019), "Exclusive: Britain will follow all EU food and farming regulations for nine months in a "no deal" Brexit", *Telegraph*, 1 March ([www.telegraph.co.uk/politics/2019/03/01/exclusive-britain-will-follow-eu-food-agriculture-regulations/](http://www.telegraph.co.uk/politics/2019/03/01/exclusive-britain-will-follow-eu-food-agriculture-regulations/)).
- Full Fact (2011), "Does AV lead to more representative governments?", 5 April, (<https://fullfact.org/news/does-av-lead-more-representative-governments/>).
- Gamble, A. (2019), "A hundred years of British democracy", in A. Gamble and T. Wright (eds), *Rethinking Democracy*, Wiley in association with The Political Quarterly, January.

- Gostyńska, A. (2015), "A ten-point plan to strengthen Westminster's oversight of EU policy", Centre for European Reform, May.
- Gostyńska-Jakubowska, A. (2017), "Parliamentarians in Brexit talks: Bulls in a china shop?", Centre for European Reform, February.
- Gostyńska-Jakubowska, A. and B. Oppenheim (2018), "Does direct democracy work in the UK?", in S. Blockmans and S. Russack, (eds), *Direct democracy in the EU: The myth of a Citizens' Union*, London: Rowman & Littlefield International.
- Gostyńska-Jakubowska, A. and L. Schuette (2019), "The European Parliament's elections: Different this time?", *CER bulletin*, issue 124, 22 March (<https://www.cer.eu/publications/bulletin-issue/125>).
- Government UK (2019a), "Prime Minister's statement to the House of Commons on Brexit", 21 January (<https://www.gov.uk/government/speeches/pm-statement-to-the-house-of-commons-on-brex-it-21-january-2019>).
- Hansard Society (2019), "Audit of political engagement 16" (<https://www.hansardsociety.org.uk/publications/reports/audit-of-political-engagement-16>).
- Haugevik, K. (2017), "Diplomacy through the back door: Norway and the bilateral route to EU decision-making", *Global Affairs*, Vol. 3, No. 3, pp. 277-291.
- House of Commons (1998), "Scrutiny reserve resolution", 17 November.
- House of Commons (2005), Select Committee on the Modernisation of the House of Commons, "Second report", Parliament UK, 16 March (<https://publications.parliament.uk/pa/cm200405/cmselect/cmmodern/465/46504.htm#a8>).
- House of Commons (2015), European Scrutiny Committee, "Fifteenth Report", Session 2015-2016, p. 16 (<https://publications.parliament.uk/pa/cm201516/cmselect/cmeuleg/342-xiv/34202.htm>).
- House of Commons Library (2017), "General elections 2017: turning votes into seats", 11 July (<https://commonslibrary.parliament.uk/insights/general-election-2017-turning-votes-into-seats/>).
- House of Commons (2018), Exiting the European Union Committee, "The progress of the UK's negotiations on EU withdrawal: December 2017 to March 2018", Parliament UK, March (<https://publications.parliament.uk/pa/cm201719/cmselect/cmexeu/884/884.pdf>).
- House of Commons (2018), "Standing orders –Public business", Parliament UK ([https://publications.parliament.uk/pa/cm201719/cmstords/1020/body.html#\\_idTextAnchor076](https://publications.parliament.uk/pa/cm201719/cmstords/1020/body.html#_idTextAnchor076)).

- House of Commons (2019), Exiting the European Union Committee, "The progress of the UK's negotiations on EU withdrawal: Role of Parliament inquiry", Parliament UK ([www.parliament.uk/business/committees/committees-a-z/commons-select/exiting-the-european-union-committee/inquiries/parliament-2017/role-of-parliament-uk-eu-negotiations-inquiry-17-19/](http://www.parliament.uk/business/committees/committees-a-z/commons-select/exiting-the-european-union-committee/inquiries/parliament-2017/role-of-parliament-uk-eu-negotiations-inquiry-17-19/)).
- House of Commons (2019), European scrutiny committee, Formal minutes and attendance (<https://www.parliament.uk/business/committees/committees-a-z/commons-select/european-scrutiny-committee/formal-minutes/>)
- House of Commons Hansard (2019), "Proportional representation: House of Commons", Vol. 658, 23 April (<https://hansard.parliament.uk/commons/2019-04-23/debates/D3B823DB-CB97-4508-8398-7ABD7E9F1609/ProportionalRepresentationHouseOfCommons>).
- House of Lords (2010), "Scrutiny reserve resolution", 16 March (<https://www.parliament.uk/documents/lords-committees/eu-select/scrutiny-reserve-resolution.pdf>).
- House of Lords (2019), Select Committee on the Constitution, "Uncorrected oral evidence: Parliamentary scrutiny of treaties", 30 January (<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/constitution-committee/parliamentary-scrutiny-of-treaties/oral/96154.html>).
- Institute for Public Policy Research, (2015), "Political inequality. Why British democracy must be reformed and revitalised", 6 April (<https://www.ippr.org/publications/political-inequality-why-british-democracy-must-be-reformed-and-revitalised>).
- Johnston N. and E. Uberoi (2019), "Proportional representation", House of Commons Library, 18 April (<https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CDP-2019-0094#fullreport>).
- Lloyd, L. (2018), "The Brexit effect. How government has changed since the EU referendum", Institute for Government, March.
- Lowe, S. (2019), "Dreaming of life after Brexit", Centre for European Reform, 22 March.
- Lynch, P., R. Whitaker and A. Cygan (2019), "Brexit and the UK Parliament: challenges and opportunities", in T. Christiansen and D. Fromage (eds), *Brexit and democracy: the role of parliaments in the UK and the European Union*, Springer International Publishing.
- Office for National Statistics (2017), "Graduates in the UK labour market: 2017", 24 November (<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandem>

[poyeetypes/articles/graduatesintheuklabourmarket/2017#steady-increase-in-the-number-of-graduates-in-the-uk-over-the-past-decade](#)).

Raab, D. (2018), letter to Sir William Cash and Lord Boswell, Parliament UK, 5 September ([www.parliament.uk/documents/lords-committees/eu-select/scrutiny%20work/dominic-raab-scrutiny-letter.pdf](http://www.parliament.uk/documents/lords-committees/eu-select/scrutiny%20work/dominic-raab-scrutiny-letter.pdf)).

Runciman, D. (2019), "Brexit has shown up the key flaw in our representative democracy – MPs don't represent the people", *Prospect*, 29 March (<https://www.prospectmagazine.co.uk/politics/what-challenges-does-brexit-pose-to-parliamentary-democracy>).

Smith, J. (2015), "MPs are from Mars, peers are from Venus: Westminster and the EU", *UK in a Changing Europe*, 11 September.

Springford, J. (2018), "Theresa May's Irish trilemma", *Centre for European Reform*, 7 March.

TheyWorkForYou (2019), [www.theyworkforyou.com/](http://www.theyworkforyou.com/).

Wells, A. (2019), "Deal, no deal or delay: What the public thinks", *YouGov*, 12 March (<https://yougov.co.uk/topics/politics/articles-reports/2019/03/12/deal-no-deal-or-delay-what-public-thinks>).



**PART IV.**  
**CONCLUSIONS**

# 19. CONCLUSIONS

STEVEN BLOCKMANS

---

## 19.1 Challenges to representative democracy

Citizens' political participation in regular voting on decisions that affect them is a core element of democratic processes. Robert Dahl (1989) defined representative democratic processes as

the most reliable means for protecting and advancing the good and interests of all the persons subject to collective decisions.

Systems of representative democracy are supposed to safeguard pluralism, the fundamental rights and freedoms of individuals and minorities alike, and to empower citizens to remove governments that fail to fulfil their expectations or needs. Yet, there is something rotten in the state of representative democracy in Europe. A poll by the Pew Research Center (2017) shows that, despite the strong commitment to representative democracy in the EU (37%), 42% of the population is less committed to democracy than it used to be and 10% support non-democratic forms of government. Our research supports findings that this is not an East-West or a North-South divide. It is a divide between those systems in which citizens feel represented and those in which they do not.

In their contribution to this book, Dídac Gutiérrez-Peris and Héctor Sánchez Margalef have identified four challenges to the notion of representative democracy in Europe:

- *external drivers*, namely a fear of losing economic status due to technological change and growing inequality, and the alleged loss of traditional forms of identity due to increasing migration flows into (and out of) member states. Whether real or perceived, the internet and social media are amplifying these drivers;
- *external actors* who question the association between representative democracy and economic success, and/or

offer an alternative model of government. China and Russia have always seen the promotion of democracy as defended by the US and the EU as a way to interfere in the domestic affairs of third countries and expand their own influence and geopolitical goals;

- *internal actors* in the form of political parties or civil society movements that subvert representative democracy while using the rules that underpin it. Radical right parties in government are attempting to dismantle constitutional checks and balances, curtail the freedoms of press and association, control judiciary power, and demolish the opposition. This brand of political force has always existed in EU member states. What has changed is that anti-EU forces do not want to openly ‘destroy’ or ‘end’ the EU any more. In fact, the uncertainty created by Brexit is a powerful deterrent and a boost for EU support (Grabbe and Lehne, 2018). Instead, these forces will continue to take advantage of the system to gain more funds, more visibility and, in due course, more political power. Their ultimate goal is to ‘take back control’, by repatriating decisions now taken at EU level, and reclaim sovereignty for the nation state so as to make it easier to implement an illiberal agenda;
- the increasing number of *users of democracy* who do not see living under a democratic regime as indispensable: the ‘middle class’ blame both the elites – for the loss of their former economic status (or that of their children in the future) – and the disadvantaged, whom they see as benefitting from special attention. Millennials are also “more likely to express hostile views of democracy, [and] vote for anti-establishment parties and candidates that disregard long-standing democratic norms in ever greater numbers” (Foa and Mounk, 2016).

As a result, representative democracy is being eroded in ways that go beyond mere citizen dissatisfaction with their governments (Pew, 2017; Eurobarometer, 2018).

## 19.2 Symptoms of democracy fatigue

Our research shows that this phenomenon is partly the result of the weaknesses in the governance system itself:

- Coalition negotiations are taking longer than ever, not just in countries whose constitutional set-up requires complex arrangements (e.g. across the geopolitical and ethnic divides of Latvia's political landscape), but even in member states such as Germany, the Netherlands and Sweden that once prided themselves on the speed of new government formation.
- Parliaments often require months to take long-term strategic decisions, for instance on investment in emerging technologies or choosing the right energy mix to combat climate change.
- Governments appear powerless in the face of acute crises and in the implementation of policy. The loss of economic sovereignty in the eurozone explains why even a radical left-wing party buoyed by a popular mandate was unable to define Greece's course without defaulting on debt. And the lack of solidarity in the Schengen area over the redistribution of refugees explains why Italy was unable to deal with 2015-16 migration crisis on its own.
- Basic values, principles and procedures of constitutional democracy are often undermined or openly violated by powerful political and oligarchic actors. In their chapter on Romania, Mihai Sebe, Bogdan Muresan and Eliza Vas make the point that this phenomenon is not related to there being a nationalist, populist or Eurosceptic party in power. Unfortunately, it is habitual, not accidental. The deficiencies and loopholes in legislation or institutional performance are often intended and purposeful, not a side-effect of a rapid top-down Europeanisation process. As the Czech Constitution does not set precise time limits for the steps to follow a failed vote of confidence, dubious politicians, in particular the president, have been experimenting with keeping alive a government without parliamentary backing. Worse, more than a decade after their EU accession, Bulgaria, Hungary and

Romania remain defective and semi-consolidated constitutional democracies (Freedom House, 2019).

Wojciech Białożył, Jacek Kucharczyk, Romain Le Quiniou and Filip Pazderski examine the tension between continuing public support for EU membership and the Law and Justice (PiS) party, despite its sniping at the democratic checks and balances (press, judiciary) that have been the bedrock of Poland's 'return to Europe' since 1989. They find that these systemic changes and the ruthlessly majoritarian way of legislating them has engendered deep social and political polarisation. These cleavages are successfully exploited by the ruling party, which has used them to maintain its public support in the face of growing domestic and international criticism. The authors argue that, if not turned around in the 2019 general elections, this trend in Polish political life could threaten its representative democracy and the country's EU membership.

*Representative democracy in Europe is suffering from a crisis of efficiency that further affects its legitimacy.*

In short, representative democracy in Europe is suffering from a crisis of efficiency that further affects its legitimacy. As intolerance for due process and deliberative rationality grows, political patience wanes. If left unaddressed, bigger problems will arise.

### **19.3 Instruments to mobilise EU affairs**

In this book, we investigate how the relationship between the democratic institutions of the member states and the EU has changed as a result of a decade of crisis. Rather than assessing the state of collective government (Van Middelaar, 2019), we focus on the role of parliaments. We zoom in on the constitutional and institutional frameworks, practical procedures and mundane interfaces that citizens and politicians use to make democracy happen. The underlying assumption for this approach is that instruments can shape results.

Politicians submit their claims to authority to voters in the public ritual of elections, but this ritual must be transparent. (O'Neill, 2002; Raz, 1986). Recent examples of instruments geared

towards increasing transparency in Europe's systems of representative democracy include:

- in political parties: introduction of full transparency of funding and advanced forms of internal democracy, such as primaries and online consultations with members on all major topics;
- in parliaments: a move towards 'open parliaments' that promote legislative openness through efforts to increase access to public information and promote citizen participation in decision-making;
- in expert bodies: online coverage of the meetings and setting up of consultative 'citizen councils', and monitoring their performance.

In their chapter, Daniel Smilov and Antoinette Primatarova subject four transnational Voting Aid Applications (VAAs) designed for the 2014 EP elections to critical assessment, particularly of their purpose and the informative value of the questionnaires that constitute the core element of their design. They find that VAAs create a perception that the voter is in the driving seat of politics: that political parties are turned into transparent menus of policy options from which the rational voter makes an informed choice. This perception may be misleading, however. VAAs cannot function as a remedy for the 'representative deficit', i.e. the mismatch between the issue preferences of voters and the offers of parties. Nor can they affect the major trends in contemporary European politics such as low trust in political parties and politicians, and poor turnout for elections. The potential for their success, according to Smilov and Primatarova, lies primarily in their use as tools to address the 'information deficit' regarding European policies and EP elections.

*The potential for success of Voting Aid Applications lies primarily in their use as tools to address the 'information deficit' regarding European policies and EP elections.*

While recognising that the European Parliament is a *sui generis* assembly – one established in parallel and supranational to the (federal) parliaments of member states – with its own peculiar kind of instruments, the tendency is nevertheless to base any assessment of the representativeness of the EP on the same criteria

applied to national assemblies. The European Parliament is composed of representatives of EU citizens (Article 14 TEU) who are, of course, also citizens of their respective member states. Despite the growing importance of the Parliament as a co-legislator of European laws addressed to natural or legal persons and institutions of the member states, Sophia Russack reminds us that EP elections continue to suffer from the traditional ‘second order’ election syndrome, characterised by notoriously little interest on the part of citizens in European issues, little name recognition of EU-level politicians, and thus low turnout. Despite the usual drama preceding any type of vote, the 2019 EP elections were not expected to be any different, for two reasons. More salient issues (such as government corruption) than the crisis topics of yesteryear (sovereign debt, migration) were not advocated by populist parties on the far right in Central and Eastern Europe (Krastev, 2019), and the *Spitzenkandidaten* (lead candidate) procedure has failed to create waves beyond the Brussels bubble.

Above all, the disconnect between first, national parties and Europarties; second, the EU’s legislative and executive; and third, MEPs and their constituencies opens up a schism between the EP and EU citizens. Russack finds that this division is so wide that it prevents the EP from properly representing the European

*The Spitzenkandidaten system has largely remained without effect.*

electorate. The *Spitzenkandidaten* system was introduced to improve the representative character of the EP but has largely remained without effect as it has not increased the visibility of EP elections or created a greater electoral connection. A mechanism which remains largely untested is that of transitional lists.

The dual weakness from which the EP suffers is its distance from the voter and the absence of substantive opposition. This may change though, with the rise in support for parties that reflect an anti-EU sentiment. In the absence of suitable instruments, it is thanks to the injection of conflicting passions into the debate that the European Parliament can develop into a more visible political arena and thus – perhaps counter-intuitively – gain more public authority as an EU-level democratic institution.

Yet there remains a significant misalignment of national and Europarties. Party groupings in the European Parliament show a high degree of cohesion (Hix, et al., 2007). MEPs constitute autonomous units in their national political parties, being heavily influenced by the EU's context and, conversely,

*There remains a significant misalignment of national and Europarties.*

having limited impact on national policymaking. Jan Kovář, Petr Kratochvíl, Zdeněk Sychra make the point that Czech MEPs are sometimes even seen as dissidents within their own parties when they disagree with their parties' critical attitudes towards the EU. This is aggravated if the value orientation of the national party differs considerably from the values of the European group to which it belongs, as is the case with the governing ANO party, a member of ALDE. But European political families are broad churches, seemingly only interested in the numbers game to keep a hold on power. Cynically, the Hungarian Prime Minister Victor Orbán's semi-authoritarian political agenda only led to the suspension of his *Fidesz* party by the EPP party leadership after its vitriolic campaign against European Commission President Jean-Claude Juncker, *éminence grise* of the EPP.<sup>1</sup> Notwithstanding comparable policies undermining the EU's fundamental principles and values, Bulgaria's governing GERB party rather opportunistically supported Manfred Weber as the lead candidate of the EPP in the 2019 European Parliament elections and has thus avoided strongly worded criticism, and suspension.

The 'Europeanisation' of national debates is rather uneven across the continent. For most national parties, EU issues remain of a second order. If they become relevant, they are discussed mostly in terms of their impact on the national political agenda and are removed from the wider European context. While EU issues are rarely debated in the plenary of member states' lower houses, the upper houses tend to focus more on the EU agenda. This can be explained by several factors:

---

<sup>1</sup> At the same time, the EPP didn't have the courage to expel *Fidesz* for its "illiberal democracy" (a contradiction in terms). But Orbán may leave it anyway to join the far-right grouping that is being set up by Italy's Minister of the Interior, Matteo Salvini.



- First, there is limited interest in EU affairs on the part of the general public and media. This means that debating EU matters does not bring electoral benefits.
- Second, the chairs of EU affairs committees often argue that the most urgent action is required on the EU agenda, which leaves insufficient time for the plenary to discuss them, especially when the committee can speak for the entire chamber.
- Third, there is generally a lack of deeper EU expertise, which is, as said, often provided only by the parties' MEPs whose positions and influence are limited at home.
- Fourth, majority politics in the lower houses tend to reflect the executive's positions, while the upper houses act more autonomously (even in Italy's 'perfect' bicameral system, according to Eleonora Poli).
- Finally, while EU affairs are more politicised at the plenary, this is usually not related to the specifics of the given dossier but rather to the clash between government and opposition. When ownership is claimed for the implementation of popular EU proposals while unpopular ones are vilified and blamed on 'Brussels', national politicians widen the gap by stoking Euroscepticism.

The result is a paradox: while national politicians continuously call for a greater involvement in EU policy, the above-mentioned shortcomings stymie these efforts from the very beginning.

*National differences do not split along East-West or Europhile-Eurosceptic lines; rather the division is between systems that cater for deliberation on EU affairs and those that do not.*

Even if, in recent years, EU issues have increasingly permeated national public discourse, this has largely been due to burning crises (Greece, Italy) or member states holding the rotating Presidency of the Council (Bulgaria, Finland, Romania). Besides these moments of

increased political intensity, EU issues and EP elections are, generally speaking, of a second order. Yet national differences do not split along East-West or Europhile-Eurosceptic lines; rather the

division is between systems that cater for deliberation on EU affairs and those that do not.

In their chapter on Slovakia, Aneta Vilagi and Pavol Babos show that formal institutions, such as the constitution and other legal norms regulating democratic processes render its parliament supreme in the system. When it comes to EU matters, parliament can form and legally bind government and its members to certain positions. However, political dynamics and informal institutions and practices favour the dominance of political parties, and especially the party leadership, over the independent performance of MPs and the Slovak Parliament.

Erik Brandes, Nicolai von Ondarza and Felix Schenuit argue that, in legal terms, the German Bundestag is one of the most powerful legislatures in the EU. The instruments at its disposal to control the government, obtain information and participate in decision-making are vigorous, particularly in EU affairs. Since the Treaty of Lisbon, rights have been strengthened even further, notably through a series of legal challenges against the German government and the decisions it took during the eurozone debt crisis. This Bundestag role has been accompanied by an increasing integration between German national parties and their European counterparts. The robust legal mechanisms to control the German government have, however, translated into a more limited political control in practice, partly because the series of 'grand coalitions' had very big majorities, at least until 2017. Apart from political power, expertise also still lies with the German government, particularly the Chancellery and the ministries of foreign affairs, finance and the economy. While the politicisation of European politics has increased the interest and participation of the parliament, EU-level crisis politics have empowered the European Council. Despite the *Bundestag's* improved stance, EU affairs in Germany thus remain *Chefsache*.

The Danish Parliament is often perceived as keeping a tight rein on the government, especially where EU affairs are concerned. In spite of its opt-outs and ostensibly Eurosceptic population, Denmark tops the chart when it comes to its implementation record of EU directives and its mandate-based (*ex ante*) EU scrutiny system. As Maja Kluger Dionigi notes in her contribution to this volume, the country's tradition of minority governments has increased the role

of the *Folketing* (parliament), because the government is obliged to seek support from opposition parties to establish parliamentary majorities for its EU positions. In practice, however, Denmark might not be the textbook example of parliamentary control, as its parliament often gets involved too late in the process, suffers from the low number of parliamentarians who are active on EU matters, and a European Affairs Committee (EAC) that does not take advantage of the substantial expertise to be found in the sectoral committees. As a result, EU politics are not mainstreamed in the Danish Parliament, but confined to the pro-integrationist EAC. What is more, the government sometimes forgets to come back to secure a new mandate later in the process. The increasing tendency to reach early agreements and the lack of transparency surrounding discussions in the Council's preparatory bodies and trilogue meetings both put the Danish model under strain.

In view of these practices it is paradoxical, perhaps, that the *Bundestag* or the *Folketing* have only made sparse use of the EU-level

instruments at the disposal of national parliaments, such as the early warning mechanism. Yet, as Brandes, von Ondarza and Schenuit suggest, the strength of parliamentary control over the government and thus its negotiation position in the Council seems inversely related to the use of EU-level procedures. This

*The strength of parliamentary control over the government and thus its negotiation position in the Council seems inversely related to the use of EU-level procedures.*

notwithstanding, the Danish European Affairs Committees and its counterparts in assemblies of Poland, Sweden, the UK and other member states have long promoted the introduction of a green card for national parliaments, with which they can suggest ideas for new legislation to the Commission.

In Austria, the two chambers of parliament also have a strong say in EU matters in principle, but only make partial use of it. As in Germany and elsewhere, it is foremost the governmental majority that defines the country's EU agenda. In recent years, the Austrian Parliament has nevertheless positioned itself as a bridge between the national and the EU levels by strengthening inter-parliamentary cooperation (for instance through the Conference of Parliamentary Committees for Union Affairs – COSAC) or granting MEPs the right

to speak in dedicated sessions. Stefan Schaller, Paul Schmidt and Susan Milford-Faber point out that there is still untapped potential to boost the deliberation of EU affairs in the Austrian Parliament: more resources could be mobilised to raise its level of involvement and more effort could be made to demonstrate to citizens the impact an active national parliament can have in shaping the European integration process. In fact, the EU Committee of the Federal Council has been an active proponent of more efficiency in the functioning of the EU, a stronger application of the principle of subsidiarity across Europe, and an intensified dialogue between the European Commission and the parliamentary chambers of the member states. Alongside representatives from Belgium, Bulgaria, Estonia, France and Germany, the Chairman of the Permanent Subcommittee on EU affairs of the National Council of the Austrian Parliament played a prominent part in the European Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently”, which presented its final report to the European Commission in July 2018. The Task Force concluded that a new way of working on subsidiarity and proportionality is needed for local and regional authorities and national parliaments to make a more effective contribution to EU policymaking and to the design of new legislation. Among the proposed changes are: design and introduction of a specific subsidiarity and proportionality checklist as part of the legislative procedures, as well as, in the future, an increase in the time available for national parliaments to contribute their opinions on draft EU legislation from 8 weeks to 12 weeks (European Union, 2018).

*A new way of working on subsidiarity and proportionality is needed for local and regional authorities and national parliaments to make a more effective contribution to EU policymaking.*

The Finnish Parliament too is deeply involved in decision-making on EU matters. This is due to its constitutional right to determine Finland’s position on EU issues falling within the parliament’s competence. While parliament’s significant role provides a context favouring the ‘domestication’ of EU affairs, the politicisation of this trend remains rather weak in Finland, according to Juha Jokela. The main reason for this has been a relatively strong national consensus on EU matters. While the

consensus broke down at the height of the eurozone crisis, a new consensus seems to be forming despite the emergence of a major, openly populist and Eurosceptic party in the country. This is largely due to the worsening security climate in Europe and concerns about the EU's future amid Brexit.

The United Kingdom is facing the most acute and potentially most devastating crisis of representative democracy in Europe. The root causes are multiple and by now all too well known to observers elsewhere in Europe – even if, it seems, they still elude swathes of the British electorate. They include constant EU-bashing by political leaders, the unchecked power of the Eurosceptic media, fears of splits in the two parties that have dominated UK politics for centuries,<sup>2</sup> among other causes. Not the least of which is the absence of a written constitution. This might have provided the subtle checks to hedge against the monumental failure of British politics to deal with the consequences of a non-legally binding referendum, and to protect the strategic and socio-economic interests of UK/European citizens. It may be anathema to many Brexiters but, as Agata Gostyńska-Jakubowska points out, leaving the EU will not mean a clean break from the EU and its laws. EU legislation will continue to have an important impact on the UK irrespective of whether the UK leaves with a withdrawal agreement or not. Westminster will want to assess EU legislation and will have to adapt its current scrutiny structures to an as yet unknown post-Brexit reality.

## 19.4 Final observations

Perhaps Britain (and the rest of Europe) has something to learn from the southern periphery. Economic recession and a spike in irregular migration have blown politics apart in Mediterranean Europe. They have transformed the polite depoliticisation of post-dictatorial Greece and Spain into major crises of legitimacy and devastated traditional centrist parties in Italy and France.

---

<sup>2</sup> Note the curious narrow rectangular shape of the House of Commons when compared to the architecture of parliaments elsewhere in the EU: the location of seats for political parties other than the two biggest ones is irrelevant in the architecture of the hall, lumped together as they are with 'the opposition'.

As noted in the chapter by Filippa Chatzistavrou, Greece achieved in two decades what other democracies achieved in half a century: the triumph and the decline of the idea of representative democracy. The loss of economic sovereignty and supranational 'diktat' gave rise to dramatic shifts in parliamentary representativeness and partisan identity, thus weakening national representative democracy. It has led the so-called ultra-left *Syriza* party of Prime Minister Tsipras to float a proposal for constitutional reform intended to, inter alia, introduce proportional representation electoral rules for the parliament, reinvigorate the assembly's control of government, limit parliamentary immunity and office to three consecutive terms, and create a citizens' right to propose laws.

In Spain, the bursting of the real estate bubble shattered a political consensus based on the alternation of power between two majority parties whose programmes were basically the same on essentials such as the deregulation of the labour market and the limitation of redistributive policies.

As in Greece and Spain, high-level corruption cases in Italy and France were viewed by the electorate as the symptom of a deep institutional crisis induced by connivance between political and economic elites. The migration crisis did the rest, and brought about a surge of the radical right.

Also, the emergence of movements that have managed to channel discontent and indignation into a claim to deepen democracy has transformed the traditional discourse of the left to reach out to a social majority. The spectacular rise of the *Five Star Movement* in Italy is a case in point. Ignacio Molina and Ilke Toygür reflect on the recent elections in Spain, where we have not only seen the collapse of support for the corruption-riven *Partido Popular* but also a tentative normalisation of positions that until recently were only on the periphery of social movements such as 15M (the *indignados*) and *Podemos*. Today, social economics, feminism and participative democracy have much greater public visibility than before the polycrisis. The ideas and dynamism of these movements have caught on in other member states too (cf. Czechia, Slovakia), with Emmanuel Macron's unabashedly pro-European *En Marche* reshaping the political landscape in France and lifting the EU out of its existential crisis after the UK's devastating 2016 Brexit referendum.

Given global economic, political and security trends, the choices for our European societies are becoming starker, more momentous. As noted by Van Middelaar (2019), we can no longer pass them on to the rest of the world, nor push them forward: the future no longer comes to the rescue. The weaknesses of our representative democratic systems cannot just be attributed to the polarising breathlessness of social media. Tougher choices have to be made in shorter timeframes and on a smaller playing field. We cannot simply wish greater powers of persuasion on our politicians. We must decide *how* to improve the way we *do* democracy. Our research shows that procedures and instruments differ considerably between member states, and that there is very little momentum towards greater convergence. Finding ways to change this will be the gambit for the last volume of our triptych *Towards a Citizens' Union*.

## References

- Dahl, R.A. (1989), *Democracy and Its Critics*, New Heaven: Yale University Press.
- European Union (2018), "Active Subsidiarity. A new way of working. Report of the Task Force on Subsidiarity, Proportionality and 'Doing Less More Efficiently'" ([https://ec.europa.eu/commission/sites/beta-political/files/report-task-force-subsidiarity-proportionality-and-doing-less-more-efficiently\\_en.pdf](https://ec.europa.eu/commission/sites/beta-political/files/report-task-force-subsidiarity-proportionality-and-doing-less-more-efficiently_en.pdf)).
- Foa, R.S. and Y. Mounk (2016), "The Democratic Disconnect", *Journal of Democracy*, Vol. 27, No. 3, pp. 5-17.
- Foa, R.S. and Y. Mounk (2017), "The Signs of Deconsolidation", *Journal of Democracy*, Vol. 28, No. 1, pp. 5-15.
- Freedom House (2019), "Democracy in Retreat: Freedom in the World 2019".
- Grabbe, H. and S. Lehne (2018), "Could an illiberal Europe work?", Carnegie Europe, 11 October.
- Hix, S., A. Noury and G. Roland (2007), *Democratic Politics in the European Parliament*, Cambridge: Cambridge University Press.
- Krastev, I. (2019), "Why Viktor Orbán and his allies won't win the EU elections", *The Guardian*, 20 March.
- O'Neill, O. (2002), *A Quest of Trust: The BBC Reith Lectures*, Cambridge: Cambridge University Press.
- Pew Research Center (2017), "Globally, Broad Support for Representative and Direct Democracy", 16 October.
- Raz, J. (1986), *The Morality of Freedom*, Clarendon: Oxford University Press.
- Van Middelaar, L. (2019), *Alarums and Excursions: Improvising Politics on the European Stage*, Newcastle upon Tyne: Agenda Publishing.



## ABOUT THE CONTRIBUTORS

---

- Baboš, Pavol**, Assistant Professor, FiF UK, Faculty of Arts,  
Comenius University in Bratislava
- Białozyt, Wojciech**, Managing Director, WiseEuropa
- Blockmans, Steven**, Head of Unit, CEPS, Professor of EU External  
Relations Law and Governance, University of Amsterdam
- Brandes, Erik**, Research Assistant to the Executive Board, SWP,  
German Institute for International and Security Affairs
- Bukovskis, Karlis**, Deputy Director, LIIA, Latvian Institute of  
International Affairs
- Chatzistavrou, Filippa**, Research Fellow, ELIAMEP, Hellenic  
Foundation for European and Foreign Policy
- Geks, Rasmuss Filips**, Policy Analyst, Centre for Public Policy  
PROVIDUS
- Gostyńska-Jakubowska, Agata**, Senior Research Fellow, CER,  
Centre for European Reform
- Gutiérrez-Peris, Dídac**, Associate Researcher, CIDOB, Barcelona  
Centre for International Affairs; Lecturer at Sciences Po Paris
- Jokela, Juha**, Programme Director, FIIA, Finnish Institute of  
International Affairs
- Kazoka, Iveta**, Director, Centre for Public Policy PROVIDUS
- Kluger Dionigi, Maja**, Senior Researcher, Think Tank Europa
- Kovář, Jan**, Senior Researcher, IIR, Institute of International  
Relations Prague
- Kratochvíl, Petr**, Senior Researcher, IIR, Institute of International  
Relations Prague
- Kucharczyk, Jacek**, President of the Executive Board, ISP, Institute  
of Public Affairs
- Le Quiniou, Romain**, Foreign Policy Junior Analyst, WiseEuropa

- Milford-Faber, Susan**, Research Fellow, Project Manager, ÖGfE, Austrian Society for European Politics
- Molina, Ignacio**, Senior Analyst, Elcano Royal Institute
- Mureşan, Bogdan**, Researcher, EIR, European Institute of Romania
- Pazderski, Filip**, Senior Analyst, ISP, Institute of Public Affairs
- Poli, Eleonora**, Research Fellow, IAI, Istituto Affari Internazionali
- Primatarova, Antoinette**, Programme Director, CLS, Centre for Liberal Strategies
- Russack, Sophia**, Researcher, CEPS
- Sánchez Margalef, Héctor**, Researcher, CIDOB, Barcelona Centre for International Affairs
- Schaller, Stefan**, Research Fellow, Project Manager, ÖGfE, Austrian Society for European Politics
- Schenuit, Felix**, Research Assistant, SWP, German Institute for International and Security Affairs (until Dec 2018); PhD Student, Centre for Globalisation and Governance, University for Hamburg
- Schmidt, Paul**, Secretary General, ÖGfE, Austrian Society for European Politics
- Sebe, Mihai**, Senior Researcher, EIR, European Institute of Romania
- Slavov, Atanas**, Senior Research Associate, EI, European Institute
- Smilov, Daniel**, Programme Director CLS, Centre for Liberal Strategies
- Sychra, Zdeněk**, Assistant professor, MUNI, Masaryk University, Faculty of Social Studies
- Toygür, Ilke**, Analyst, Elcano Royal Institute
- Vaş, Eliza**, Researcher, EIR, European Institute of Romania
- Világi, Aneta**, Assistant Professor, FiF UK, Faculty of Arts, Comenius University in Bratislava
- Vizunova, Elizabete**, Researcher, LIIA, Latvian Institute of International Affairs
- von Ondarza, Nicolai**, Deputy Head of EU/Europe Research Division, SWP, German Institute for International and Security Affairs