

**National parliaments and European legislation.
How scrutiny procedures have adapted and why.**

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Abstract

National parliaments have always been involved in the affairs of the European Union. They have debated and voted on joining the Community and have ratified the European treaties negotiated by their governments. On a more regular basis, national parliaments have also, to varying degrees, scrutinised European legislation and the European-level activities of their executives. Increasingly, it has been recognised that national parliaments underpin decisions taken at the European level by legitimising the actions of their executives.

As Europeanisation has progressed and the impact of European legislation has become more widely felt at the domestic level, national parliaments have found that their space to manoeuvre has shrunk. National parliaments have become part of a multi-level system of governance and can no longer, singularly, determine the parameters within which they operate.

The traditional model of undertaking scrutiny, with specialised European committees operating in isolation from the rest of parliament, is therefore no longer tenable. EU specialists are unable to provide the expertise on all areas covered by European integration and increasingly require the expertise found in other committees within national parliaments to perform their scrutiny adequately. Inter-parliamentary contacts have contributed to a better understanding of common parliamentary problems. Parliamentarians have become more aware of the challenges of Europeanisation and globalisation, but have also discovered ways to, collectively and individually, face these challenges.

National parliaments are likely to remain firmly anchored in the domestic level, maintaining their roles as legitimisers of national executives as well as expressions of national sovereignty. They can therefore also be expected to remain independent and autonomous institutions, determining their own activities and procedures. As a consequence, the impetus behind any move by national parliaments to further develop their influence over European (or global) decision-making and activities must come from within national parliaments themselves.

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List of Abbreviations

ASEAN	Association of Southeast Asian Nations
COREPER	Committee of Permanent Representatives
COSAC	Conference of European affairs Committees
DG	Directorate General
ECJ	European Court of Justice
ECSC	European Coal and Steel Community
EEC	European Economic Community
EESC	European Economic and Social Committee
EP	European Parliament
ESC	European Scrutiny Committee
EU	European Union
EUC	European Union Committee
EURATOM	European Atomic Energy Community
FPP	First Past the Post
IGC	Intergovernmental Conference
MEP	Member of the European Parliament
MP	Member of Parliament
NATO	North Atlantic Treaty Organisation
NGO	Non-Governmental Organisation
OSCE	Organization for Security and Cooperation in Europe
PCI	<i>Partito Comunista Italiano</i> (Italian Communist Party)
QMV	Qualified Majority Vote
SEA	Single European Act
TEU	Treaty of European Union
UKIP	United Kingdom Independence Party
WTO	World Trade Organisation

Chapter 1: Introduction

National parliaments¹ have always been involved in the affairs of the European Union (EU).² They have debated and voted on whether their member states should join what is now the EU and have ratified the European treaties negotiated by their governments. On a more regular basis, national parliaments have also, albeit to varying degrees, scrutinised European legislation and the European-level activities of their executives. While the EU's own institutions—the European Commission, Council of Ministers, and European Parliament (EP)—are the EU's primary decision-takers, it has become increasingly recognised that national parliaments underpin decisions taken at the European level by legitimising the actions of their executives.

The central hypothesis of this thesis is that the role of national parliaments in EU policy-making has changed and expanded, but only to a limited extent and as part of a more general process of Europeanisation (a process related to but distinct from European integration), in which other national institutions (especially administrations) have become considerably more intimately involved with European issues compared to national parliaments. The research has attempted to identify these changes and (some of) their causes. A related hypothesis is that national parliaments have expanded (or have the potential to expand) their role in the EU legislative process. Such expansion is achieved by scrutinising European legislation and holding national representatives in the Council accountable to the national electorates. In a process that has been initiated, as well as furthered, by Europeanisation national parliaments thus, theoretically at least, contribute to the legitimisation of the EU, although there remain unfulfilled demands—as reflected by the ungratified Constitutional Treaty—for further legitimisation by national parliaments.

There is, however, little agreement on how national parliaments ought to engage in scrutiny activities or with the European level. An important finding of this thesis is that national parliaments have struggled to adapt to their new roles. While Europeanisation has contributed to changes in procedures, it has also emphasised the contradiction inherent in *national* parliaments engaging with activities at the *European* level. Differences in legislative procedures as well as timetables have meant that, although national parliamentarians have discussed the importance of developing scrutiny

¹ Neil MacCormick has proposed that parliaments representing an entire EU member state be called a member state parliament, while the term 'state parliament' has also been suggested. Although these descriptions may be more accurate than the term 'national parliament', they have not (yet?) caught on in literature on the subject, and the term 'national parliament' will therefore be adopted here.

² Throughout the text 'EU' will be used to describe the current Union as well as its historic predecessors.

procedures at the national level extensively, practical moves in that direction have been slow and (usually) limited.

All EU Member State parliaments now have a committee dedicated to EU affairs. Yet this may, ironically, limit incentives for parliamentarians not involved with these committees to engage with EU affairs. Rather than undertaking the extra work required to scrutinise EU legislation, there is a strong temptation to refer European matters to the EU committee for consideration. National parliaments have therefore had to decide whether EU affairs must be dealt with by the entire parliament or a parliamentary 'sub-section'. A second finding of this thesis is thus that existing parliamentary rules for the treatment of domestic legislation have, to a considerable degree, determined how European legislation has been handled. With the partial exception of the UK, changes in parliamentary activities and procedures have conformed to existing rules at the national level. Differences between national parliaments, historic as well as procedural, therefore help explain how and why EU affairs are handled differently by individual parliaments. As will become evident in later chapters, certain common themes and challenges have emerged in national-level scrutiny of European legislation as all member states are subject to the effects of Europeanisation.

In some ways, national parliaments have been somewhat shielded from the effects of Europeanisation. European affairs have traditionally been defined as foreign policy—and therefore a matter for the national executives rather than parliaments. The recent crisis over the EU's failure to ratify its Constitutional Treaty was a consequence of 'no' votes in the 2005 French and Dutch referendums, even as national parliaments in a majority of EU member states quietly (usually) voted to ratify the new Treaty. Still, as European integration has developed, national parliaments have found it increasingly difficult to maintain a distance from European affairs given the increasing impact European legislation has in most policy-areas at the domestic level. In turn, this intertwining of the domestic and the EU has increased the need for parliaments to scrutinise the activities of national executives at the European level. Indeed, national parliaments have gradually realised that they must alter their procedures and activities relating to European legislation.

The fact that national parliaments focus on *national*-level legislation, together with the differences between national parliaments, means that inter-parliamentary cooperation on scrutiny of European legislation is often seen to be neither desirable nor particularly effective. A third major finding of this thesis is thus that inter-parliamentary cooperation has been useful mainly for the purposes of exchanging information and experiences. Although it has been recognised that changes affect all the national

parliaments of the EU, with fora for the exchange of information and common experiences being developed, it appears that these meetings have had little direct or traceable effect at the national level. However, it has also become clear that the drive for improved scrutiny—and for acceptable changes to national-level scrutiny procedures—must originate at the national level.

Despite wide-spread agreement amongst national parliamentarians that their focus should remain at the national level, the introduction of appropriate methods for scrutiny of European legislation at the national level has also been difficult. Scrutiny of European affairs has thus come to present a significant challenge for national parliaments in two important ways. The first challenge is the increased number of decisions taken at the European level. Moving decision-making powers to the European level—in a framework that binds member states to uphold such decisions—limits the ability of parliaments to act autonomously within their own state.³ Vertical dispersion of decision-making (both upwards to the European level and downwards to regions) does not make national parliaments redundant, but reduces the areas over which they have full and exclusive influence, thereby limiting their ability to act independently as purveyors and guardians of national sovereignty.

A second challenge has been responding to demands that national parliaments become more involved in Community affairs at both the national and European levels. Any such involvement poses a challenge to traditional patterns of activity as well as notions of what a parliament is and does. The consequences of European integration thus go beyond mere policy-impact and have prompted national parliaments to introduce new scrutiny procedures and activities. As part of this process, national parliamentarians have had to consider what level of involvement is appropriate—as well as possible—at both the national and European levels. Not only have national parliaments responded differently to the challenges of EU membership, they have done so at different times and stages of their state's membership. Individual solutions to the problem of Europe's 'encroachment' on national affairs have been shaped by a wide variety of existing attitudes, procedures and political cultures, thereby creating a wide range of institutional models for parliamentary involvement. However, merely considering the formal rules and procedures that govern this involvement does not provide the entire picture. Informal arrangements and relations between parliaments and their respective governments and administrations must also be examined.

³ William Wallace (1986, p.367) defines national sovereignty as 'the formal ability of a nation to act on its own rather than under the instruction of another nation', whereas national autonomy is 'the ability of a nation to attain its objectives through unilateral action'. He argues that the former is undiminished while the latter has become highly constrained. In this text the term 'national sovereignty' will be used in a manner equating to Wallace's concept of national autonomy.

Despite the increased importance placed upon national parliaments and their contributions to the European integration process, their scrutiny activities have attracted relatively little scholarly attention. Moreover, research rarely moves beyond an acknowledgement of the formal rules and procedures in place for parliamentary scrutiny.⁴ Few book-length studies focusing solely on the role of national parliaments have been published (important contributions have been Katz and Wessels, 1999; Maurer and Wessels, 2001b; Norton, 1996c), with significant amounts of material instead found in individual articles or conference papers (examples include Bindi, 2002; Fitzmaurice, 1996; Holzhaacker, 2002; Judge, 1995; Raunio, 1999, 2001) or documents issued by national parliaments themselves (for instance European Parliament, 2000c; Folketinget, 1999, 2001a; House of Commons European Scrutiny Committee, 2002a).

The aim of this thesis is to achieve a deeper understanding of national parliamentary involvement in EU affairs. As national parliaments have increasingly been considered important legitimisers of European activities, it has become imperative to understand the role of national parliaments within the European context better. By supporting their governments at the national level, national parliaments also—albeit indirectly—help to uphold and legitimise government policies on Europe. Increasingly, parliaments have been unwilling to do so without question, creating a trend towards more substantial scrutiny by national parliaments of governmental activities at the European level. In other words, national parliaments have become important actors within European integration in a way that was never foreseen at the origins of what is now the EU.

National procedures for scrutiny will likely remain a matter for individual parliaments to determine. European institutions do not have it within their powers to determine what such procedures should be like. Moreover, in all the three case studies of Denmark, Italy and the UK, the pressure to adapt has originated at the domestic level although European variables (specifically, European legislation and the decision-making procedures surrounding it) have influenced how national parliaments have adapted. It can thus be argued that Europeanisation, rather than European integration—two very distinct processes (see below)—has shaped scrutiny procedures within national parliaments.

Section one of this introductory chapter will therefore introduce the concept of Europeanisation. It will explore what Europeanisation can contribute to the discussion

⁴ A good example is Hussein Kassim's (2005 (forthcoming)) contribution to Bulmer and Lesquesne's text on EU's member states. Table 2 (overview of European affairs committees in national legislatures (EU-15)) relies entirely on earlier, secondary sources and therefore does not reflect, for instance, developments in the Italian Senate (see Chapter five for details on these developments).

of scrutiny procedures within national parliaments, and how it can contribute to an understanding of how and why national parliamentary scrutiny procedures have changed. Section two examines what a parliament is and does, defines power and influence, and looks at vertical division of power and influence within the EU. The third section will, briefly, look at national parliaments in the European context while section four briefly introduces the three case studies.

1. The impact of Europeanisation

The two concepts of Europeanisation and European integration differ in many respects. There is still no uncontested definition of Europeanisation, and the concept continues to be applied in a variety of ways. In an authoritative article on the topic, Johan P. Olsen (2002, pp. 923-4) thus outlines five distinct possible uses:

- changes in external boundaries;
- developing institutions at the European level;
- central penetration of national systems of governance;
- exporting forms of political organisation and
- a political unification project

It is the third of these definitions that is of relevance here. Europeanisation as central penetration of national systems of governance is, according to Olsen, the most common way in which the term is used. He expands on this particular definition by stating that it 'focuses on change in core domestic institutions of governance and politics, understood as a consequence of the development of European-level institutions, identities and policies' (2002, p. 932). This obviously includes changes that have taken place within national parliaments in response to events at the European level and indicates a tentative agreement that the concept of Europeanisation can be used to link national political culture with the European level—and therefore with European integration.

Jos de Beus and Jeanette Mak consider Europeanisation and European integration to be sharply distinguished as 'European integration leaves national identity and political culture by and large untouched, while Europeanisation involves mutation of national identity and political culture' (2003, p. 2). In a more integrative approach, Claudio M. Radaelli (2004, p. 5) links the two concepts by stating that 'the theoretical effort in Europeanisation as a research agenda is all about bringing domestic politics back into our understanding of European integration, without assuming that the balance of power between the state and European institutions is being tilted in one direction or another' and that 'Europeanisation is mostly interested in adaptation to Europe'. In a

definition that will be adopted here, Radaelli subsequently (2004, p. 35) describes Europeanisation as

processes of a) construction, b) diffusion and c) institutionalisation of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things' and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic (national and subnational) discourse, political structures and public policies.

The adaptation that has taken place within national parliaments has, in most cases, been quite limited, as well as preceded and exceeded by adaptation within national administrations and executives. Because of the different and uneven ways in which EU institutions impact upon the national level, various parts of national-level political systems have responded differently to Europeanisation. Olsen (2002, p 933) argues that 'because European institution-building and policy-making are unevenly developed across institutional spheres and policy areas, the adaptive pressures on states and institutions vary'. In the context of parliamentary involvement in Community affairs, this uneven development is evident in the relatively late process of parliamentary adaptation to membership of the European Union. Whereas national administrations and governments have participated in policy-development and decision-making at the European level for as long as the state has been a member of the Community/Union (or even prior to this when negotiating membership terms), it is only very recently that most national parliaments have become involved in any significant or meaningful way. Moreover, public debate on Europe often appears limited to brief periods surrounding elections to the European Parliament or referenda on European matters. This can be seen as an indication that Europeanisation may have affected national subcultures (at the elite level of political classes) rather than fundamental aspects of national political cultures.

While institutional differences exist, different member states (influenced by the adaptive pressure on the state) have also had fundamentally different approaches towards membership. It can thus be argued that, due to Euroscepticism within Britain and Denmark (expressed to some extent in the emphasis on economic rather than political rationale for joining the Community), the governments and administrations of both these countries have needed to be very pragmatic and 'result-oriented' in their approach to Community membership. On the other hand, Italy's membership was motivated mainly by ideological support for European integration, with the consequence that the issue of how much Italy has benefited (especially economically) has only recently become more prominent. In turn, this has meant that the Italian

administration and executive have been under less pressure to 'perform', specifically with regard to obtaining the best possible result for the Italian state and people, in the manner both British and Danish governments have.

In all three case studies, and by its very definition, Europeanisation has altered the political environments within which national political institutions have operated. With the degree of misfit varying across the policy areas, processes and institutions, it is commonly assumed that '[t]he lower the compatibility ... the higher the adaptational pressure' (Börzel and Risse, 2000, p. 6). According to Tanja Börzel and Thomas Risse this adaptational pressure can cause three different degrees of change at the domestic level: absorption, accommodation and transformation,⁵ each leading to low, modest or high degrees of change at the domestic level (2000, p. 10).⁶ This contrasts somewhat with Olsen's view (2002, pp. 934-5) that 'a main finding (although with many nuances) is that there has been no radical change in any of the national systems and no significant convergence towards a common institutional model homogenizing the domestic structures of the European states'. In other words, '[e]stablished national patterns are resistant to, but also flexible enough to cope with, changes at the European level'.

However, adaptation is not necessarily undertaken solely due to pressure from the European level. Scrutiny procedures within national parliaments have altered the most at times when European integration has taken significant steps, but changes have also taken place at other points in time. The development of scrutiny procedures can therefore be seen as a bottom-up process, a story which, in the words of Radaelli, 'starts and finishes at the level of the domestic system of interaction' (2004, p. 9). The bottom-up process has thus developed beyond the initial approach which 'was mainly concerned with how to conceptualize and explain the effect of member states on processes and outcomes of European integration' (Börzel, 2003, p. 1). The development of relations between national parliaments and European institutions has not been easy.

⁵ 'Absorption' is defined as an ability to 'incorporate European policies or ideas and readjust their institutions, respectively, without substantially modifying existing processes, policies and institutions'. Accommodation is when pressure for Europeanisation is accommodated 'by existing processes, policies and institutions without changing their essential features and the underlying collective understanding attached to them', while transformation requires replacement of 'existing policies, processes, and institutions by new, substantially different ones, or alter existing ones to the extent that their essential features and/or the underlying collective understanding are fundamentally changes' (Börzel and Risse, 2000, p. 10).

⁶ A wide range of resources, political as well as administrative, contribute to the success or otherwise of any such change. Börzel thus argues that

[t]he *administrative capacity* of Member States to shape and take EU policies is a function of particular resources, such as staff-power, money, expertise, and coalition-building skill. ... Member States, like Denmark or Britain, where EU related policy-making competencies are concentrated, are able to formulate and represent a coherent bargaining position and stand a better chance to be heard than countries like Greece or Italy, where competencies are highly fragmented as a result of which they often do not speak with one voice (2003, p. 7, emphasis in original).

Europeanisation has forced national parliaments to become acquainted with and take into consideration the workings of institutions at the European level. Thus, when conceptualising Europeanisation as a process and contributing factor in explaining domestic change (and therefore not as a separate theory), national parliaments, as political actors in their own right, become better understood. For the purposes of this thesis, an understanding of what a parliament is must be developed. The following section therefore looks at definitions of a parliament as well as the power and influence exercised by parliaments.

2. Legislatures and parliaments

Parliaments are rule-making bodies within political systems. They are usually elected, although institutions such as the British House of Lords are exceptions to this rule. Institutions whose constituent members are elected will here be referred to as parliaments. Parliaments are often seen as the institutionalisation of representation: while the citizens remain sovereign, the power to decide on their behalf is vested in their parliamentary representatives.

A suitable definition of a parliament would thus be 'a group of individuals operating on the behalf of others in a binding and legitimate manner and making decisions collectively but with formal equality' (Copeland and Patterson, 1994, p. 153). The emphasis on legitimacy implies that those represented must consent to the 'group of individuals' taking decisions on their behalf, with consent provided through participation in elections (or, at the very least, acknowledgement that elections provide legitimate parliamentary bodies). In contrast to 'parliaments', a definition of legislatures has been provided by Philip Norton (1990a, p. 1) as 'constitutionally designated institutions for giving assent to binding measures of public policy, that assent being given on behalf of a political community that extends beyond the government élite responsible for formulating those measures'. This definition is more overarching than that for 'parliaments' and in fact subsumes the latter as a category of 'legislature', but does not include the specific requirement of legitimacy. In this study the term 'parliament' will be used, with the British House of Lords considered one chamber of the parliament.

Parliaments' involvement in legislation and governance is discussed with frequent reference to the concepts of 'power' and 'influence'. Parliaments gain their right to exercise power, authority and influence by performing their three main tasks: legitimisation, linkage and decision-making (Copeland and Patterson, 1994, p. 154). In scrutinising, holding accountable, and providing support for the government of the day, parliaments legitimise governments as well as their policies. As representative

bodies parliaments also link citizens with governing bodies and structures, making it possible to govern larger territories. Madison believed that representative bodies also made it possible to address social conflict better by bringing it into a forum where it could be controlled. However, such control is only possible if representatives pursue the interests of their constituents (Pitkin, 1989, p. 146). The link between parliaments and executives also enables accountability to be exercised, as regular elections provide citizens the opportunity to pass judgement on both parliament and government.

Parliamentary power and influence over legislation varies significantly throughout the democratic world. Norton (1994, p. 18) identifies three 'levels' of parliaments:

- policy-making (able to 'modify or reject measures brought forward by the executive and can formulate and substitute policies of their own');
- policy influencing (can 'modify or reject measures brought forward by the executive but cannot formulate and substitute policies of their own');
- legislatures with little or no policy affect.

Following this classification, Norton (1994, p. 19) placed EU national parliaments (those for which he has sufficient information) in the policy influencing category. More specifically, he argued that the Italian and Danish parliaments bordered on the policy-making category, while the British Parliament had only relatively recently begun to move away from the third category of legislatures with little or no policy affect.

When considering European legislation, however, it can be argued that parliamentary *power* has been reduced to parliamentary *influence*. The two concepts are strongly linked and interrelated, with one often used to describe the other. Consider, for example, one definition of influence as 'power or sway resulting from ability, wealth, position, etc.', or power defined as 'political, financial, social, etc., force or influence' (Makins, 1991, pp. 794 and 1220). Moreover, both concepts are included in Robert Dahl's list of 'power terms' (1979, p. 406). In general, the concept of power is used to explain how one actor actively alters (or maintains) a particular environment or situation. Specific definitions include: 'the abilities of social agents to affect the world in some way or other' (Isaac, 1992), 'the ability to make people (or things) do what they would not otherwise have done' (Allison, 1996, p. 396), and Russell's definition of power as 'the production of intended effect' (cited in Allison, 1996). Arguably, Dahl's definition of power terms has been the most influential. To Dahl, power terms 'refer to subsets of relations among social units such that the behaviors of one or more units (the responsive units, R) depend in some circumstances on the behavior of other units (the controlling units, C)' (1979, p. 407). However, as indicated earlier, Dahl includes both 'power' and 'influence' in his 'power terms', and argues that 'the names for the

various categories are so completely unstandardized that what is labeled power in one scheme may be called coercion or influence in another’ (1979, p. 412).

A significant problem in Dahl's conception is that it is concerned solely with what actually occurs. Other theorists, such as Steven Lukes, argue that power may be exercised even though there is no visible evidence of it. This makes it even more difficult to distinguish between power and influence, as it is often impossible to determine whether R's altered behavior is due to good argumentation (influence) or the threat of sanctions (power) on behalf of C.

A further complication is the notion of legitimate power, what Jens Peter Frølund Thomsen calls authority. According to Thomsen, 'whether exercise of power is legitimate or illegitimate depends on the extent to which it is the result of a preceding democratic procedure' (2000, p. 58, author's translation). Thomsen's three methods for affecting behaviour are summarized as follows:

Figure 1.1: Power, authority and influence as methods of affecting behaviour

	Power	Authority	Influence
Criteria	Conflict Sanctions	Agreement Sanctions	Agreement Freedom
Methods of affecting behaviour	Force Control Manipulation Disciplinary action Suppression of identity	Legislation Punishment Rewards Expertise	Suggestions Encouragement Persuasion Open dialogue

Source: Thomsen, 2000, p. 58, author's translation.

As will become evident, the ability of national parliaments to influence the behaviour of actual decision-makers in the European legislative process is very limited. This contrasts with procedures at the national level where parliamentarians most often have the ability to affect changes in domestic legislation. At the European level it is only indirectly, through their own executives, that national parliaments can wield *influence*, with *power* over final decisions being beyond their grasp. One way of defining the two concepts of power and influence independently of each other thus lies in separating policy-shaping decisions—which alter the detailed provisions of legislative options—from decisions that actually choose (or ‘set’) policies (for a discussion of the concepts of policy-shaping and policy-setting (as well as history-making) see Peterson and Bomberg, 1999, Chapter one). It is thus possible to have influence without power, although power does bring its own amount of influence. In this study, influence will

thus be defined as a (sometimes indirect) say in policy-making and power as 'possession' of legal authority to make decisions that definitively set policy.

Within most liberal democratic states, national parliaments are considered as sovereign, with governments required to find a majority in support of its legislation. However, if applying the above definitions of power and influence to national parliaments and their participation in European affairs, very few can be classified as having formal power—or even authority—as they are limited to attempts at influencing their executives. Moreover, formal power and influence (as well as authority) has been significantly limited by (perceived) political realities, making it difficult for national parliaments to regain influence in this area (Siedentop, 2000, p. 119). Few authors of written constitutions were able to foresee that foreign policy would be conducted at several different levels.⁷ Constitutions, therefore, generally contain few or no provisions for parliamentary involvement in foreign policy, a policy sphere that is traditionally viewed as extending to issues of peace and war, life and death, and thus touching quite directly on national sovereignty.

Vertical division of power

Over time, and as a consequence of EU membership, the issues handled by national parliaments have changed. In turn, so have notions of 'proper' democratic procedures and institutions. All of the EU member states' parliaments have thus established committees dealing with EU-issues. Such committees are an example of the horizontal division of power that has become a standard feature of EU membership—although it also introduces certain problems. Where specialised EU committees handle Community affairs on an exclusive basis, Members of Parliament (MPs) who are not members of such committees may become complacent about EU affairs, choosing to refer these to the EU committee. The realisation that EU policy is no longer foreign, but also domestic policy, has only taken hold gradually.

Regional devolution, as it has taken place in Europe, has implications for how European issues are handled, as regional authorities are often given the task of implementing European measures. The decision-making process within Europe can thus become further complicated, as the regional authorities may wish to influence negotiations on these issues. In countries with strong sub-national entities, Spain and Germany for example, there are important issues. However, regionalism, regional

⁷ As will become evident in Chapter five. Italy, with its relatively young constitution, is an exception due to the option of limiting Italian sovereignty through international cooperation.

authorities and institutions (including regional parliaments where these exist) and their involvement in European affairs are matters beyond the scope of this thesis.⁸

Within the EU, power has also flowed upwards with the emergence of an increasingly powerful European Parliament. The legal basis for this institution has changed several times in its relatively short lifetime, forcing it to adapt to new environments and challenges. The similarities between national parliaments and the EP lie in the provision of a linkage between EU's citizens and governing structures, as well as the EP's participation in decision-making. The greater distance (perceived or real) between representatives and represented has meant that Members of the European Parliament (MEPs) are perceived differently to national parliamentarians. According to Dahl 'it seems fanciful to expect that the European Parliament ... would ever become as responsive to the citizens of the European Union ... as the existing national parliaments of the present members of the EU' (1994, p. 32). Moreover, Karlheinz Neunriether (2000, p. 147) argues that 'for both constitutional and attitudinal reasons, the representation of the component wholes is likely to remain stronger than the majority of EP members are prepared to admit'. If these interpretations are correct, national parliaments will remain important actors in the European system of governance, providing a(nother) link between European citizens and the bodies where decisions governing their lives are taken.

While the EP contributes to the legitimacy of Community legislation, the formal separation of powers between EU institutions means it does not provide any legitimacy for its legislative partner, the Council. Instead, national parliaments act as legitimisers of the Council, which is the EU-institution most closely resembling an executive. The Commission, however, is subject to a vote of confidence from the EP. Although the EP votes on the Commission *en bloc*, concerns about individual Commissioners have caused the EP to withhold (or threaten to withdraw) their support for the Commission, as occurred when the incoming Commission under Jose Manuel Barroso was forced to reconstitute itself, without the controversial Italian nominee, Rocco Buttiglione, to secure a vote of investiture in 2004. In contrast to the EP's power over the Commission, no other EU institution can threaten to dissolve the EP. The guarantee of an un-interrupted five-year term has provided the EP with a certain degree of stability to pursue increased institutional power and influence for itself. While MEPs come from many different backgrounds and all sections of the

⁸ Greenland and the Faeroe Islands, despite being part of the Danish kingdom, are not part of the EU. The Faeroe Islands elected to not join with Denmark in 1973 while Greenland, after a referendum in 1982, chose to leave the Community. This leaves a potentially awkward situation due to the development of European cooperation on issues such as foreign policy, defence and justice which, despite 'home rule', remain the prerogative of the Danish *Folketing*. As the Greenlandic and Faroese populations do not participate in Danish referenda on European matters, they essentially have no say in where decisions governing critical aspects of their lives are taken.

political ideological spectrum, most have been united in seeking to empower the EP further.

3. National parliaments and the EU

The historic development of the EP is an important component in most theories of European integration. However, as will be discussed in Chapter two, few integration theorists concern themselves with national parliaments. In most cases, including in work on multi-level governance, the national actor considered is the 'state', which most frequently means the executive. Multi-level theorists thus describe European integration as 'a polity-creating process in which authority and policy-making influence are shared across multiple levels of government – subnational, national, and supranational', with multi-level governance being the 'dispersion of authoritative decision making across multiple territorial levels' (Hooghe and Marks, 2001, pp. xi and 2). Despite the focus on multiple actors and levels within the model of multi-level governance, national parliaments rarely get a specific mention here. In the main, writers on multi-level governance consider national parliaments to be legitimisers of national governments rather than actors in their own right. The deepening integration process and lack of direct participation in the European decision-making process have weakened national parliaments institutionally. Membership of the Union has therefore been a constraint on parliaments' ability to legislate freely in all policy-areas.

Decisions influencing the lives of European citizens are clearly taken at both the national and European levels. The EU therefore conforms well to Robert D. Putnam's model of two-level games. Putnam (1988, p. 434) contends that

[a]t the national level, domestic groups pursue their interests by pressuring the government to adopt favorable policies, and politicians seek power by constructing coalitions among those groups. At the international level, national governments seek to maximize their own ability to satisfy domestic pressures, while minimizing the adverse consequences of foreign developments. Neither of the two games can be ignored by central decision-makers, so long as their countries remain interdependent, yet sovereign.

National parliaments fit into this model as they can be considered one of the domestic groups pressuring the government at the national level. Moreover, if dissatisfied with the outcome of European-level decision-making, national parliaments have the potential to withdraw support for their executives—perhaps the ultimate 'adverse consequence'.

However, central decision-makers, in the EU national executives through the Council, maintain a strong position when it comes to the negotiation of European legislation, a powerful contributing factor in the perceived decline of national parliaments in Europe. By monopolising (or strictly controlling) information relevant to EU negotiations, in conjunction with the principle of supremacy,⁹ national executives have been in a position to control their own parliaments, rather than the other way round (Majone, 1996, p. 284). Parliamentary decline was first described in the 1920s, long before European integration was a factor, by Lord Bryce who saw power passing from the House of Commons to the Cabinet—and especially to the party leaders from the party supporting the Government of the day.¹⁰ Despite the parliamentary decline, Lord Bryce (1990, p. 56) still saw parliaments as important, claiming that they

must remain the vital centre of the frame of government in every country not small enough to permit of the constant action of direct popular legislation; and even in such countries they cannot be altogether dispensed with. ... The people as a whole cannot attend to details, still less exercise over the executive the watchful supervision needed to ensure honest and efficient administration.

Lord Bryce's description of the declining parliament has remained influential. According to Norton (1990a, pp. 4-5)

[t]wentieth-century study of legislatures has ... taken place within the inheritance of three basic and related axioms: that the fundamental task of legislatures is the making of laws; that legislatures in and since the nineteenth century have 'declined'; that the explanation for such decline lies in the growth of party, a growth that in the context of legislatures has been cancerous.

EU membership could, initially, be interpreted as further contributing to the decline of parliaments. National executives took the lead in decision-making at the European level, with important areas of legislation transferred away from national parliaments to the Community level (obvious examples are protection of the environment and agricultural policy). Until the 1990s, the EP had very little legislative power or influence. Consequently, parliamentary scrutiny of measures decided at the European

⁹ The principle of supremacy holds that Community law has supremacy over national law in case of a conflict, including in cases where national law has been enacted after the Community legislation.

¹⁰ The importance of political parties was derived from the fact that they appointed the parliamentary candidates. These candidates thus no longer felt their allegiance to be with their constituencies, but rather with their party, on which they depended for reappointment as a candidate.

level was very limited, leading to allegations of a democratic deficit (see Chapter two for a definition and further discussion).

More recently, however, there have been indications that parliaments have regained ground. This is especially so in proportional systems where the number of political parties has been on the increase, fragmenting parliaments and causing government coalitions to contain or be supported by a larger number of parties. Writing specifically on the Scandinavian Parliaments, Erik Damgaard outlines several changes that have occurred since the 1970s. Damgaard associates a higher level of parliamentary activity (examples include more bills and resolutions proposed, more activities in committees and an increased number of questions asked) with a higher level of conflict among political parties represented in parliament. Such increased activity and conflict also leads to more (public) disagreement and competition for the attention and votes of citizens (1994, p. 92). Consequently, the challenge of being in government has increased, as it has become more acceptable and practiced behaviour for opposition parties to voice concern regarding government policy as well as offering alternative policies to the public: '[t]he power of parliaments has increased vis-à-vis the governments in the sense that party groups not participating in the governments have obtained increased policy influence and sometimes even the power to make the crucial decisions' (Damgaard, 1994, p. 93).

As national parliaments have developed an understanding of how European legislation impacts upon domestic legislation, they have begun to scrutinise government activities at the European level more closely. In the scrutiny process, an important source of parliamentary power (even in the British House of Commons) is that of select committees. The resources available to them include finance, access to expert opinions and the power to call witnesses—including members of the executive. The importance of committees has been recognised by parliaments themselves in recent years, with all EU member states' parliaments establishing or strengthening committees dealing specifically with EU issues. This can be interpreted as a (re)discovery by national parliaments that, ultimately, they control their governments—and thus, indirectly, the Council. EU committees have thus become potentially important sites of political control regarding the use of EU power (Lord, 1998, p. 55).

Since the Single European Act (SEA), but especially the Treaty of European Union (TEU),¹¹ national parliamentarians have increasingly recognised their interdependence with the EU and the extent to which EU decisions circumscribe their ability to act at the national level. Moreover, MPs have also realised that unless they wish to become

¹¹ These treaties came into force on 1 July 1987 and 1 November 1993 respectively.

bystanders to decisions affecting their own constituents, they have to develop methods for participating in European decision-making—even if this is achieved indirectly through scrutiny of their executives' activities at the European level. However, national parliamentarians have also realised that certain issues (especially those of a cross-border nature such as environmental issues) are better dealt with at the European level. A symbiotic relationship has thus developed between national parliaments and the EU, although one with limited direct contact between the national and European levels. It has therefore become widely recognised that democratic and legitimate cooperation at the European level cannot be achieved merely through parliamentarisation of the European level: Europeanisation of the national level is necessary too.

In Norton's terms, the debate is about at what level it is most appropriate for national parliaments to operate. Norton distinguishes between the individual and collective levels, although he emphasises that they are not mutually exclusive. At the individual level, national parliaments have become more active in scrutinising their executives while, collectively, they can potentially act as a political constraint on governments at the supranational level (Norton, 1996a, p. 183).

4. The case studies of Denmark, Italy and the UK

These member state parliaments for the case studies were chosen as they form a continuum in terms of their ability to scrutinise their executives. The Italian parliament has no scrutiny reserve power, and appears preoccupied with legislation on the implementation of European legislation rather than involvement in the pre-decision process. Moreover, it has only very recently begun to realise that in order to influence European decisions, an effort at the earlier stage where problems can be developed into policy initiatives is required (see Greenwood, 1997, p. 27). However, both chambers of the Italian Parliament also include other select committees in their work and see this as essential to carry out proper scrutiny of European legislation. Cooperation between select committees is taken to its logical conclusion in the Senate where it is a requirement that members of the European committee are also members of another select committee. While this institutional arrangement manages to combine an interest in European affairs with specialised knowledge from the select committees, it also introduces problems, mainly by adding to the already onerous workload of parliamentarians.

In the British parliament, *ex ante* participation in the legislative process is an unusual occurrence, and although the European Scrutiny Committee (ESC) in the House of Commons can impose a scrutiny reserve power (thereby requiring ministers not to commit to measures still being scrutinised), the ESC is only now beginning to realise its

potential. Moreover, due to the committee's remit to provide an opinion on the legal and political importance of European documents (although an opinion on the merit of these documents is beyond the ESC), the scrutiny reserve power does not allow the ESC to impose its opinions on British Ministers. The House of Lords has traditionally been the Chamber undertaking investigations with the purpose of examining the merits of European legislation. However, it too is unable to bind ministers to particular behaviour and is therefore limited to influencing decisions through other means such as debates, writing of reports and other interactions with actors at the domestic as well as European levels.

In contrast, the Danish European Union Committee (EUC) mandates Danish ministers, and does so prior to all Council meetings. It can be argued that Council meetings, as the very last stage of the decision-making process, are a very late point for the *Folketing* (Danish Parliament) to become involved. Yet, participants in the Danish decision-making process contend that civil servants and the government factor the knowledge that all decisions have to be accepted by the EUC into their negotiations on European-level decisions. Although the EUC delivers the final negotiation mandate in a meeting with the minister in question, its influence is largely indirect. The fact that most Danish governments are coalition (and often minority) governments, accounts for the strong involvement of the *Folketing* (through the EUC). The involvement of the *Folketing* ensures that a parliamentary majority supports government policies,¹² although it still remains the prerogative of the Danish executive to conduct foreign (and therefore also European) policy.

The case studies were also chosen with their contrasting electoral systems in mind (majoritarian and proportional), although this factor does not appear to have an impact on the parliamentary willingness to scrutinise European legislation. Both the Danish and British parliaments (one elected by a proportional and the other by a majoritarian electoral system) consider parliamentary scrutiny to be of significant importance. The impact of scrutiny is potentially higher in a proportionally elected parliament, although the Italian case indicates that this is not always the case, and that other factors for effective scrutiny are important too. The size of the member state does not appear to be of significance either. Size may have been thought to matter insofar as a large member state would be expected (despite being traditionally underrepresented in votes using qualified majority voting (QMV)) to have more influence in the Council. It may therefore be assumed that the national parliament would be less concerned with EU policy-making than the parliament of a smaller member state. However, as

¹² Technically the requirement is that no majority is against the government.

parliamentary scrutiny procedures are considered to be of great importance in the UK, this is obviously not the case.

National parliamentary scrutiny procedures are best understood if placed within the context of the overall national political culture. Taken in isolation a scrutiny procedure conveys little. However, as an expression of political beliefs and convictions, or national political culture, it acquires more meaning. Within this particular context it becomes important to consider expectations placed on national parliaments, how parliament as an institution fits within the political system and how it contributes to national ideas of what democracy is and how it works. Because democracy and the role of parliaments within it are perceived differently in different countries, the concept of political culture can be useful in explaining the different approaches to parliamentary involvement in European matters, and the interaction between parliaments and executives in this area.

A significant challenge common to EU's national parliaments remains, however, in the collective parliamentary activities at the European level. Their inability to control, fully, the actions of their executives at the European level has caused national parliaments to explore international cooperation closer. Such cooperation is not undertaken with the aim of participating directly in the legislative process at the European level, but to create a forum where ideas and opinions can be exchanged, and matters of importance to all parliaments can be discussed. As national parliaments have traditionally been very autonomous actors, the notion of having to cooperate with other parliaments in order to carry out their work effectively has posed a great challenge.

Non-binding decisions and small steps towards deeper cooperation, all driven by national parliaments themselves, have characterized such cooperation. The extent to which inter-parliamentary cooperation will succeed may largely depend on how far national political cultures permit parliaments to 'stray'. In Italy, the willingness to cooperate at the international level is substantial, owing mainly to past political experiences and ideological support for European integration. Meanwhile, in Denmark, inter-parliamentary cooperation is considered in a positive light if it can aid the process of democratising scrutiny of European legislation further. However, European-level cooperation is considered more problematic in Britain, mainly due to the sharp divisions between committees within the UK Parliament's two Chambers as well as the inability of any one member or committee to commit the House they represent—let alone the entire Parliament.

Conclusion

National parliaments have found themselves in a multi-leveled system of governance. New demands have been placed upon them as important contributors to democracy at both the national and European levels. Being *national* parliaments, the adaptation to involvement with *European* affairs has not always been easy. As one link between governors and the governed, it is the duty of national parliamentarians to represent the wishes of their constituents—but also their task to explain the development and impact of, for instance, European integration and globalisation.

Increasing political interest in involving national parliaments in the work of the EU led to the inclusion of the 'Protocol on the Role of National Parliaments in the European Union' in the Treaty of Amsterdam. Although the first paragraph of the protocol states that 'scrutiny by individual national parliaments of their own government in relation to the activities of the Union is a matter for the particular constitutional organization and practice of each Member State' (Duff, 1997, p. 302), it goes on to encourage national parliaments' involvement in EU affairs. The provisions laid down in the protocol cover access to Commission consultation documents and proposals for legislation. It also provides direction for the work of the Conference of European Affairs Committees (COSAC), currently the most important forum for inter-parliamentary cooperation.

It seems evident that collective activities have been important sources of inspiration for the development of scrutiny procedures in some national parliaments. Events like COSAC have thus also been 'show grounds' for parliaments with more developed scrutiny systems, making it difficult to speak of totally separate fields of events as the individual and collective arenas have clearly influenced each other. Although difficult to prove with certainty, it appears that collective activities have focused attention on the general need for national parliaments to become involved in European affairs. Despite the recognised value of such meetings, exchange of information has not been limited to formal meetings, with private conversations between participants at, for instance, COSAC meetings considered just as important.

There is no doubt that national parliaments have the potential to become important players in European decision-making. It is also certain that this is a welcome step from the point of view of EU legitimacy. However, exactly how such involvement is to be carried out remains uncertain. Official recognition of the importance of national parliaments to the European integration project is still lacking while the future of the Constitutional Treaty remains unclear. Currently, avoidance of binding collective decisions remains an overriding feature of inter-parliamentary cooperation, making it

unlikely that national parliaments will work in anything other than an advisory capacity at the European level.

For national parliaments to engage with the European level is still a significant departure from their traditional roles. Chapter two will therefore examine governance and democracy within the nation state, as well as how integration theories have approached national parliaments. Chapter three will look specifically at the European context and how relations between national parliaments and European institutions have developed. Chapters four, five and six will present the three case studies, while Chapter seven investigates the concept of political culture and its relevance in explaining the different approaches to parliamentary involvement in European matters. In Chapter eight the difficulties of developing inter-parliamentary cooperation are explored, while Chapter nine, the conclusion, draws together common themes and sets out the findings of this thesis.

As will become evident, membership of the EU has redefined the role of national parliaments and has challenged traditional conceptions of what parliaments do, as well as concepts such as democracy and sovereignty. Notions of democracy and its requirements in an increasingly internationalised world have obviously changed with the development of the EU. The implications of these changes will be the starting point for Chapter two.

Chapter 2: Democracy and integration theory.

[D]ifferent schools of researchers have exalted different parts of the integration 'elephant'. They have claimed either that their parts were in fact whole beasts, or that their parts were the most important ones.

(Puchala, 1972, p. 268)

For as long as societies have existed, effective governance has been central to their stability and development. Dahl (1989) has divided governance into stages separated by two 'transitions', with a third transition currently taking place. The first transition occurred when the ancient Greeks took upon themselves the ruling of their city-states. This move vested sovereignty with the demos and based governance on the rule of law and formal equality (in participation as well as before the law). To the Greeks (or at least to the exclusive male part of the population classified as citizens), democracy, literally translated 'government by the people', meant just that: every citizen had the duty to participate in the political life of their city-state. While the democratic experience of the ancient Greeks was relatively short-lived, the ideas of political equality, rule of law and sovereignty being vested in the citizens, lived on. Eventually these ideas were expressed in the governing principles of the European (especially Italian) city-states of the Renaissance. However, as territorial boundaries (and the number of citizens within these) grew, direct participation became more an ideal and less a reality, as the city-state gave way to the nation-state in the second of Dahl's transformations.

The second transformation occurred through the practice of representation. This idea would most probably have seemed very undemocratic to a Greek from 400 BC, but it allowed for the popular government of a territory with a much larger citizenry than that of the Greek city-state. The institutions (a representative parliament and a government derived from it) and procedures (free, fair and competitive elections) associated with representative democracy now appear throughout the world in many variations, but their types are familiar to any modern student of politics. The term 'democracy' is often taken to mean this set of institutions and procedures without any further definitions provided, leaving democracy 'one of the most generalised words of approval in the political lexicon' (Beetham, 1993, p. 6). Because of its legitimising associations, most states aspire to a 'democratic' form of governance.

Even as increasing numbers of states proclaim themselves to be democratic, they exist in a world that has become increasingly interconnected and in which states and

citizenries have become interdependent. While states remain important actors internationally, their roles have changed. David Held (2005) thus argues that

[w]hile many states retain the ultimate legal claim to effective supremacy over what occurs within their own territories, this should be juxtaposed with, and understood in relation to, the expanding jurisdiction of global and regional governance and the constraints of, as well as the obligations derived from, new and changing forms of international regulation.

Although globalisation involves and affects states, it is also characterised by its 'transnational form'. In other words, 'it is based on exchange processes which, more or less, bypass both the state and the traditional international character of the world economy in the past' (Ladeur, 2004).¹ Individual nation states find it ever more difficult to fulfill all the needs of their citizens (one example being protection from border-crossing pollution) and have developed methods for cooperation at the international level in a response to these difficulties. The EU can thus be seen as an acknowledgement of this process of globalisation and of a third transition to something at least approximating regional or global democracy.

Increasingly, it is demanded that regional and international governing structures be subject to democratic scrutiny in a manner similar to what takes place in democratic nation-states. This has been especially so with the EU, where one institutional response to this demand has been the increased powers accorded the EP. A requirement for membership of the EU is that the applicant state is democratic, even though the EU itself is frequently accused of harbouring a 'democratic deficit'. Indeed, in the words of MEP David Martin, if the EU was to apply to become a member of itself 'it would be turned down on the grounds that it was not a democracy' (Martin, 1991, p. 16). Exactly how to assess democracy at the regional or international level remains open to debate. Although the EU's governance structures in some respects resemble those of a nation state (having institutions that largely conform to a national-level parliament, government and administration), the differences are still sufficient to cast the democratic criteria usually applied at the national level as inapplicable at the European level. Views on how best to democratise the EU are closely aligned with opinions on how further integration should be undertaken. Intergovernmentalists emphasise the role of national actors while supranationalist thinkers support the development of the EP, although both see a role for national parliaments. In the words of Beetham (1993, p. 8)

the degree of democracy in a society is not to be judged by the degree of support any particular governmental decision may enjoy – after all, even dictators may enjoy periods of great popularity. It is to be judged by the

¹ For a definition of globalisation and further discussion of the concept see below.

effectiveness of the arrangements for ensuring popular control over decision makers on a regular basis.

This chapter will not attempt to develop an exacting definition of democracy. Rather, it is the historic development of democracy and the importance of national parliaments in this development that will be discussed. Global interdependence has caused alterations in the nature of decision-making with an increasing number of decisions taken above the national level. In turn, this process has changed the demands placed on democracy in order that decisions remain legitimate. Parliaments remain the most important legitimisers of international cooperation, especially national parliaments, although at the international level their role is often indirect—and rarely explicitly recognised by integration theorists.

In this chapter the second and third transitions of democracy will thus be explored in an attempt to better understand how familiar structures of governance (and national parliaments) have developed and are now being challenged. Following this discussion the term 'globalisation' will be examined together with the forces that gave rise to it. The final section will offer a brief overview of how various theories of European integration view democracy within the EU, attempting to identify their views on the role of national parliaments within the European construct.

1. The nation state and its governance

Arguably, the system of nation states to which we have become accustomed was established with the peace of Westphalia in 1648. At this time, four aspects of statehood (territoriality, sovereignty, autonomy and legality (McGrew, 1997)), became firmly established and formed the basis on which nation states could build their existence.² Increasingly, territorial boundaries coincided with uniform systems of rule, a situation that was aided by the Protestant reformation as well as the emergence of absolute monarchs that encouraged national churches and national rule. As the peoples' rights and duties were no longer tied to the church, but to a territorial entity based on secular political powers, these people could claim sovereignty. In other words, they became 'capable of being active citizens of a new political order – citizens of their state' (Held, 1995, p. 37). While active citizenship was initially limited to a very small number of people, the development of both a capitalist economy and new ways of conducting war helped increase the scope of citizenship. Economic power and influence eventually translated into political power and influence for new sectors of society, while the development of the standing army made it necessary to extend political rights to

² See also James A. Caporaso's (1996, p. 34) discussion of the Westphalian state system, described as a world organised into 'territorially exclusive, sovereign nation-states, each with an internal monopoly of legitimate violence'.

significant parts of the male population. Although on a different scale, this, in effect, amounted to a repeat of events in ancient Greece some 2000 years earlier.

As the nation state was significantly larger than the Greek city-states, representative democracy developed to ensure a link between citizens and the system of government. In other words, representative democracy ensures accountability as it 'limits government power by establishing mechanisms of political control in which one institution (or a range of institutions) oversees the working and performance of another, scrutinising policy proposals and monitoring political performance' (Thomas, 2005).

Within representative systems of governance, executives have increasingly taken the lead in terms of initiation of legislation. An important role of parliaments has therefore become that of legislative scrutiny. Indeed, the British Parliament states that 'the Government is primarily responsible for arranging the business of both Houses. As the initiator of policy, it indicates which actions it wishes Parliament to take, and explains and defends its position in statements and public debate. Parliament is responsible for making the Government accountable for its actions' (The British Parliament, 2004b).³

In the main, the UK parliament conducts post-legislative scrutiny, whereas both the Danish and Italian parliaments are more heavily involved in the legislative process leading up to the decision-making. The Danish *Folketing* thus describes its roles as being those of legislation *and* control of the government, i.e. scrutiny. Whether conducted before or after legislation has been passed, the ability to ask questions of the government (in either the chamber or committees) has become an important means by which parliamentarians hold the government accountable.⁴ Moreover, the feeling that parliaments should be able to scrutinise their governments is now extending to European issues too, providing these with a democratic foundation which the EP on its own (due to it not having been granted co-legislative power in all areas of EU decision-making) is unable to provide.

The protection of liberal values, expressed through civil and political rights, together with systems of representation (with governments derived from and answerable to a representative body), has resulted in most current democracies describing themselves as liberal democracies. Varying enormously in their institutional and constitutional

³ A more comprehensive list of ways in which the British Parliament holds its government accountable includes parliamentary questions, adjournment debates, early day motions (House of Commons), unstarred questions and general debates (House of Lords) (The British Parliament, 2004a) (in political systems where coalitions and/or minority governments are common, methods for holding the executive accountable to parliament are very similar, see for instance Folketinget, 2005a; Folketinget, 2005b).

⁴ The fact that British procedures for post-legislative scrutiny can be described as reactive and unsystematic does not detract from the fact that politicians—and the British public—feel that scrutiny is an important element of the work of MPs.

architecture, liberal democracies are still generally based on the territory of nation states whose citizens elect representatives to make decision on their behalf, including decisions made in international arenas.

Consequently, a widely accepted definition of 'democracy' is very difficult to find. A very narrow, and purely procedural, definition of democracy is provided by Joseph A. Schumpeter (1943, p. 269) who states that 'the democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote'. Politics is thus reduced to an economic transaction with governmental performance, in effect, exchanged for electoral support. In contrast, Held (1987, p. 271) provides a considerably wider interpretation, requiring a much higher level of both knowledge and participation by citizens. His 'principle of autonomy' states that

individuals should be free and equal in the determination of the conditions of their own lives; that is, they should enjoy equal rights (and, accordingly, equal obligations) in the specification of the framework which generates and limits the opportunities available to them, so long as they do not deploy this framework to negate the rights of others.

In between these two definitions lies that of Georg Sørensen (1998, pp. 12-13), for whom political democracy is a system of government which a) provides meaningful and extensive competition for all effective positions of government power, b) has a highly inclusive level of political participation in the selection of leaders and policies and c) provides and protects a certain level of civil and political liberties. While this definition may not live up to Held's ideal, it is still extensive enough for most countries in today's world to fall short of all its requirements.

The advantage of Sørensen's definition lies in its prescription of processes rather than particular sets of institutions and positions, thereby making it possible to compare presidential systems to that of constitutional monarchies, while also gauging democracy at the regional or international level. All of these definitions aim to define democracy within a liberal, representative system. While they may represent a continuum on a theoretical 'democracy-scale', all require a representative parliament as part of an institutional set-up.

Any representative body in a democratic system would need to partake in decision-making—in other words, legislation—to fulfill the requirements of a democracy. It is not enough that representatives merely present the opinions and views of those represented, as without influence on policy-making the representative body, as well as the idea of democracy, is impotent. When decision-taking shifts upwards to the regional or international level, any direct participation by elected representatives

becomes difficult. With the third transition, towards increasing globalisation, national parliaments have become limited and indirect participants in increasingly important decision-taking processes, while also having their functions challenged by the introduction of multi-national parliaments such as the EP. The process of globalisation and its causes are therefore the subject of the next section.

Globalisation

Throughout history, no state has ever existed in total isolation. Moreover, few societies have been truly self-sufficient, always relying in some measure on trade and contacts with other societies. As economic integration has progressed, the term 'globalisation' has been used with increasing frequency to describe this trend. However, as with democracy, globalisation can be interpreted in many ways, and 'is sufficiently ubiquitous to make it relevant to discussion of issues in all academic disciplines today' (Gavin, 2001, p. 2). Although globalisation is most commonly associated with economic activity, it is more appropriately described as a multi-faceted process. Indeed, Held (1995, p. 21) argues that globalisation 'implies at least two distinct phenomena. First, it suggests that many chains of political, economic and social activity are becoming world-wide in scope. And, secondly, it suggests that there has been an intensification of levels of interaction and interconnectedness within and between states and societies'. Since the Second World War, globalisation has advanced with increasing rapidity as the ability to transfer raw materials, finished goods and (not least) know-how and economic resources has developed.

The political dimension of globalisation has had several implications. According to Held (1995, p. 16) 'regional and global interconnectedness contests the traditional national resolutions of the key questions of democratic theory and practice. The very process of governance can escape the reach of the nation-state'. Held (Held, 2005) further argues that

[t]he intimate connection between 'physical setting', 'social situation' and politics, which distinguished most political associations from pre-modern to modern times, has been ruptured, new modes of understanding and new frames of political reference independent of direct contact with particular peoples, issues or events.

Obviously, this has serious implications for national parliaments whose ability to hold their executives accountable diminishes as the number of decisions taken beyond the nation state increases.

Developing globalisation has consequently brought with it a need for regulation at the international level, to which the EU has been one answer. However, the European

parliament has not been accorded powers similar to those ceded by national parliaments and, accordingly, it can be argued that a democratic deficit has developed (see below). Moreover, international institutions themselves have traditionally been assumed to acquire legitimacy indirectly 'by the consent of the participating governments and above all their capacity to solve the problems that led to their creation' (Held and Koenig-Archibugi, 2005, p. 1). While Held (1995, p. 267) contends that globalisation has meant that 'democracy can only be fully sustained by ensuring the accountability of all related and interconnected power systems, from economics to politics', Rodger A. Payne and Nayef H. Samhat (2004, p. 132) put it differently, arguing that '[t]he challenge of democracy, then, is to open channels to "reinstrumentalize" the state away from the ideologies and influences of forces of neoliberal globalization-from-above- toward the redefinition of its role as a mediator between the logic of capital and the needs of its people.' In both instances, it becomes obvious that national parliaments, if they wish to continue their activity of holding the executive accountable, must develop an understanding of international affairs and consider this dimension in their daily work.⁵

While globalisation has brought benefits (especially economic) to states in the EU, it has also impacted significantly on the Westphalian principles of sovereignty and autonomy. Within the EU, trade is the most heavily developed area of integration, with decisions on trade and how to regulate it moved upwards from the national to the European level—and in some cases further to the international level in cases where rules formed at the World Trade Organisation (WTO) apply. As a consequence of deepening globalisation, states have thus been limited in both their political and economic options, depriving them of certain instruments of self-government.

In the European integration process, member states have willingly relinquished part of their ability to act independently. Consequently, in the international sphere, nation states have become but one type of actor, thereby limiting their significance. One example of this is the considerable importance lobby and interest groups play within Europe, especially in relation to the Commission during the formative stages of legislative drafting.⁶

⁵ It is recognised that globalisation involves activities carried out by non-executive actors (examples include trans-governmental networks and business and civil society organisations that organise at the international level). However, the focus here will be on activities by national executives.

⁶ Justin Greenwood (1997, p. 2) thus argues that, as a whole, neither the outputs (purposive and non-purposive action and inaction), nor the outcomes (end-results), of European public policies can be understood without reference to, and analysis of, the behaviour and perspectives of those with interests in them. Similarly, the development of the EU cannot be fully understood without considering the role which key interests have played in encouraging the growth of European-level competencies.

States voluntarily sign up to the EU (and other international organizations—including the WTO), and do so in the full knowledge that membership imposes limits on both their sovereignty and autonomy, concepts that must now be re-interpreted in a globalised world. In the words of Held (1995, p. 113): ‘any conception of sovereignty which assumes that it is an indivisible, illimitable, exclusive and perpetual form of public power – embodied within an individual state – is defunct’.⁷ Despite globalisation, nation states have by no means lost their importance. Nation states are still the building blocks of international organisations, including the EU, and therefore important seats of political power. National parliaments thus remain important too, as they are the ultimate legitimisers of national governments and their actions at the international level. The EU is an important participant in the globalisation process, but can also be seen as a response to globalisation and the effects it has on nation states. However, democracy has been very difficult to achieve at the international level. While shifting decision-making upwards has not been a straightforward process, a similar transfer of institutions and procedures legitimising these decisions has proved very difficult, leaving national parliaments with important legitimising tasks.

It may, however, be argued that democratic requirements applied to the national level are inappropriate for cooperation at the international level. Andrew Moravcsik (2002, p. 621) thus claims that ‘[w]hen judged by the practices of existing nation-states and in the context of a multi-level system, there is little evidence that the EU suffers from a fundamental democratic deficit’. Moreover, the above discussion assumes the legitimacy of the EU to be input-based, and does not consider the legitimacy that may be derived from outputs of international cooperation. Fritz W. Scharpf (1999, pp. 10-11) argues that input-based legitimacy (government by the people) often relies on the rhetoric of participation and consensus and is derived from ‘a pre-existing collective identity’. On the other hand, output-based legitimacy (government for the people) is based on the ‘capacity to solve problems requiring collective solutions’ that cannot be solved by individual action, market exchanges or voluntary cooperation. Due to the lack of a pre-existing collective identity at the European level and thus Europe-wide political discourses, combined with the absence of a Europe-wide institutional infrastructure ensuring political accountability at the European level, Scharpf maintains a sceptical view of input-based legitimacy (1999, see especially the conclusion), stating that ‘for the time being and for all currently practical purposes, the European polity will lack the quality of government by the people, and that all

See also Chapter ten for a discussion of how the Commission has encouraged transnational groups—and how these provides it with ‘a whole range of advantages, including loyalty transfer, pressures for further integration, a simplified consultation and participation structure, channels of communication, and sources such as information exchange, cooperation, and implementation mechanisms’ (1997, p. 265).

⁷ Held’s use of the word ‘sovereignty’ in this particular context can only be compared with Wallace’s definition of ‘national autonomy’ (see Chapter one, fn three).

discourses that attempt to draw on input-oriented legitimizing arguments can only exacerbate the perception of an irremediable European democratic deficit'. Moreover, in principle, 'there is no reason why governance at the European level should not also be supported by output-oriented legitimacy arguments' (Scharpf, 1999, p. 188). The advance of globalisation means that output-based legitimacy is an important element when justifying membership of the EU. However, while many problems are recognised as better dealt with at the European level, it is also becoming a requirement that these decisions are taken in a democratic and legitimate manner. In other words, the legitimacy of EU decisions must also, to a certain extent at least, be input-based.

Decision-making at the European level can indeed be characterised as participatory and consensus-based, with decision-making processes that often require the building of compromises in order to succeed. Furthermore, while a collective identity may not exist among citizens of EU member states, actors who frequently perform in the European arena are more likely to develop such an identity. At the very least, they may develop a mutual understanding that they must find commonly acceptable solutions to certain policy problems presented to them.⁸

National parliaments do not participate directly in European-level decision-making, but have the potential to hold participants acting on their behalf accountable for their actions. As a direct consequence of globalisation, national parliaments have become important participants in a multi-leveled system of governance where they have had to re-evaluate their activities and methods of government scrutiny. They have become essential providers of input-based legitimacy for European cooperation. The EU, with its elaborate institutional set-up and decision-making procedures, is the most advanced example of attempts at democracy at the international level—although still not without its problems, as will be discussed in the next section.

2. Democracy in the EU

EU and the democratic process

Integration can be seen as both a process and an outcome. It is thus important to realise where and how to apply democratic criteria. According to Moravcsik the EU does not fare badly, while Alex Warleigh (2003, p. 1) claims that 'European integration has never been democratic. Instead the process of constructing the Euro-polity has been about securing conditions in which democracy is a viable proposition'. The important

⁸ Greenwood (1997, p. 252) argues that 'years of collaboration within the structures of the EU has had an impact on the ways in which member states see issues, respond to them, and relate to one another and to supranational structures. Actors come to share assumptions and belief systems as a product of the institutions and interests in which they participate and interact, and socialise one another in so doing'.

issue then becomes the extent to which democracy exists within the developing European system of governance.

If the EU is judged against the three criteria in Sørensen's definition of democracy it fails miserably. The only criterion that is fulfilled is the protection of political and civil liberties. Even this is not entirely due to these liberties being protected at EU level, but rather because they are protected at the national level, and through EU's member states signing up to the United Nation's Charter of Human Rights. The 'Solemn Proclamation' on the Charter of Fundamental Rights of the European Union agreed in 2000 can be interpreted as an attempt to provide protection of citizens at the European level. However, not until member states ratify the Constitutional Treaty (if that ever happens), which incorporates the charter of Fundamental Rights and gives it legal force, can the EU itself be said to protect the political and civil liberties of its citizens.

The remaining two criteria—meaningful and extensive competition for all effective positions of government power and a high level of inclusiveness relating to the selection of leaders and policies—remain unfulfilled. If 'positions of government power' is taken to mean positions within the executive, this corresponds to both the Council and the Commission at EU level.⁹ While EU citizens only indirectly choose who should represent them in the Council, they have even less influence over the Commission. Commissioners, chosen by national governments, are not directly responsible to the public. The EP's powers of investiture and dismissal are of the 'nuclear type': the EP cannot sanction individual Commissioners, and the sacking of (or failure to confirm) the entire Commission is a serious undertaking, which has only been threatened on very few occasions. For the individual voter, influence over EU's governing institutions is thus very limited, as there is no way in which EU citizens can 'throw the rascals out', replacing the governing body of the EU with one more to their liking. At best, any such replacement is done piecemeal, and thus with very limited effect (Lord, 1998, p. 93).

For European citizens, participation at the EU level is limited to EP elections and the occasional referenda: 'there is no civic act of the European citizen where he or she can influence directly the outcome of any policy choice facing the Community and Union' (Weiler et al., 1996, p. 2). Elections to the EP do not result in a European government, and national elections only indirectly influence governance (and therefore policy choices) at the European level. Furthermore, in the limited number of member states who have held referenda on EU issues, the citizens have been presented with a 'take it or leave it' situation. The long negotiations preceding referenda on either membership of the EU or revisions of the treaties have traditionally been conducted by governments

⁹ For a discussion of individual EU institutions as well as inter-institutional relations see Chapter three.

of the member states, often with no or very limited consultation of the European peoples or their representatives in parliaments. Although the Convention on the Future of Europe included national parliamentarians in work determining the future of European integration, this work was limited to a small number of parliamentarians from each participating country. Moreover, the participants have been described as 'a self-selected group of the European political elite' (Stuart, 2003), and although the 'pedagogic impact' of parliamentarians' participation in the work of the Convention should not be underestimated, it is still the case that '[i]f the constitutional treaty is to deliver on its promise of securing progress for Europe's citizens there must be deeper understanding and more discussion of the Union and its impact in national and regional legislatures' (Norman, 2003, p. 329). Furthermore, the Constitution and its work did not generate as much attention as hoped (Norman, 2003, pp. 327-8). It can therefore still be argued that 'there is little sense in which this pattern of deliberative politics has been broadened out to include the public' (Lord, 1998, p. 79).

Citizens' further involvement with EU affairs can be achieved through petitions to either Members of the European Parliament (MEPs), the ombudsman¹⁰ or participation in interest groups. Although the number of petitions to MEPs has increased over the years, it is still not significant (Corbett et al., 2000, pp. 275-278). Whether such activity can be deemed 'participation' should also be questioned, especially in the case of mass-petitions, where most people do little more than sign a form. Participation in interest groups requires more from the individual citizen and potentially provides the opportunity to interact with the Commission and (increasingly) the EP, influencing decisions as well as the agenda. However, significant resources (time-wise as well as financial) are required to be effective at this level, restricting such activity to a limited number of people. Consequently, the number of citizens able to influence the agenda of the EU is severely circumscribed, as are the opportunities for influencing policy outcomes.

The democratic deficit

Governing structures at the European level are thus different to those of a nation state. Political power and influence is distributed in different ways, both vertically and horizontally, making it difficult for EU citizens and their representatives to oversee and control executive activities. The result is a democratic deficit that exists at both the national and European level.

¹⁰ It is stipulated that

The European Parliament shall appoint an Ombudsman empowered to receive complaints from any citizen of the Union or any natural or legal person residing or having its registered office in a Member State concerning instances of maladministration in the activities of the Community institutions or bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role (Treaty of Nice, 2001, Article 195, para 1).

The source of the deficit is commonly attributed to the transfer of responsibility to the EU-level without a concomitant transfer of (input-based) democratic procedures and practices. In other words, decision-making powers are transferred from national parliaments to institutions at the European level—but without awarding the EP powers similar to those of national parliaments. This situation has led to ‘deficiencies in representation, representativeness, accountability, transparency and legitimacy’ (Eriksen and Fossum, 2000). The institution most commonly providing these traits in a democratic system (at the national level) is a representative parliament. However, despite becoming an equal co-legislator with the Council in a majority of policy-areas the EP has historically had limited influence (compared to national parliaments) on EU-legislation. National parliaments have been considered incapable of properly scrutinising EU-matters, mainly due to time-constraints and lack of appropriate documentation (Justice, 1996, p. 5), and have therefore been unable to complement the work of the EP. The democratic deficit within the EU thus has two dimensions (as identified by Lord, 1998, p. 14). The first dimension relates to a difference in the levels of democracy attained at national and EU-level and becomes important when competences are transferred from the national level to less democratic EU-institutions. In theory at least, this dimension of the deficit is rectifiable, being a matter of improving democratic practices at EU-level. The second dimension of the deficit relates to a discrepancy between democratic ideals and practices which, as pointed out above, exists in any political system.

EU leaders have endeavoured to reduce the democratic deficit, including the attempt at embracing the principle of subsidiarity. The TEC stipulates that ‘decisions are taken as openly as possible and as closely as possible to the citizen’ (Treaty on European Union, 1997, Article 1) but also that the Community is to act ‘only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community’ (Treaty Establishing the European Community, 1997, Article 5). As these two ‘definitions’ do not sit easily together, the principle of subsidiarity may better be defined as a mechanism that ‘regulates the *allocation* or the *use* of authority within a political order where there is no unitary sovereign’ (Føllesdal, 1999). It has also been suggested that subsidiarity is an attempt to reconcile the incompatible objectives of sub-European independence and popular sovereignty at the European level (Katz, 2001, p. 75). Consequently, a decision may be lifted above or pushed below the national level, depending on which is more appropriate. However, the principle of subsidiarity cannot by itself depoliticise the issues it helps allocate. In effect, it is little more than ‘a tool to help illuminate the costs and benefits of alternative choices’ (Peterson, 1994, p. 130). Moreover, applying the principle of subsidiarity does

not guarantee that decisions are subject to appropriate democratic measures, most notably parliamentary scrutiny.

Within the nation state, elections to a representative parliament have become the most important method for citizens to express their choice of leaders and policies. During election campaigns, political parties will offer their candidates for election, as well as a policy platform based on a certain political ideology, with citizens being free to choose between them. Although only a limited number of citizens choose to do so, they have the opportunity to become further involved at the party level where they can participate in the formulation of policies as well as in choosing which candidates are to stand for election. Historically the end destination for elected representatives, parliaments became important locations for the aggregation and consideration of citizens' wishes and choices. At the EU level this function is increasingly reflected in the gradual extension of the EP's powers (this despite a continual decline in participation at EP-elections, see Chapter three for further details).

Contacts between national parliaments and the EP have also been limited, especially since direct elections to the EP began in 1979. Moreover, EU issues have been conspicuously absent from most national election campaigns—and even EP-elections have mainly featured national issues. European citizens have therefore had limited opportunities to become informed about and express opinions on issues dealt with at the European level. However, as the line between domestic and foreign affairs continues to blur, it is questionable whether such a distinction remains valid. Increasingly, decisions at one level will have consequences at other levels of governance. The ability of national parliaments to deal exclusively with 'national' issues, and the EP with 'EU-issues', must consequently be questioned. Moreover, the nation-state (with its concomitant administration) has acquired the additional function of being a 'sorting office'; deciding at what level a decision should be handled as well as what institutions are most appropriate for solving particular issues. In the words of Held 'the sovereign state now lies at the crossroads of a vast array of networks and organizations that have been established to regulate and manage diverse areas of international and transnational activity – trade, communications, crime and so on', while globalisation 'is associated with a transformation or an 'unbundling' of the relationship between sovereignty, territoriality and political power' (2005, pp. 242 and 243).

One implication is that national executives or citizen's representatives can no longer, at any one level, address issues on their own. Instead, it has become necessary to debate and inform at several different levels and in several different forums simultaneously. Legitimation of multi-level governance is, to a large extent, reliant on national

parliaments. However, as will become evident in the case studies below, many national parliaments have been unwilling to take on the additional work required to scrutinise government activities above the national level. Because of the ability of national executives to evade the most direct form of scrutiny of its activities at the European level, it can be argued that a structural (or input-based) democratic deficit exists within the EU. Although Moravcsik argues that 'indirect democratic control via national governments (together with constitutional checks and balances and the increasingly powerful European Parliament) provide 'in nearly all cases, clean, transparent, effective, and politically responsive' decision making (2005, p. 224, emphasis not reproduced), he does not consider the issue of accountability of national governments to national parliaments.

The case study chapters that follow in this thesis will seek to demonstrate that taking this level of accountability for granted is an error, as national parliaments generally do not have the ability to hold their executives to account for activities at the European level. As the following section will show, few integration theorists have considered national parliaments as independent actors in the European decision-making process. It has been done only infrequently—and rarely explicitly.

3. European integration: theories and the parliaments

According to the Concise Oxford Dictionary, 'integrate' originates from the Latin 'integrare', meaning to make whole. Supporters of European integration can thus be said to favour the construction of a 'whole Europe'. However, what constitutes a 'whole Europe'—and how to achieve this construction—has been much debated, with means often being dictated by visions of the end result. Donald J. Puchala's image (1972) of the blind men fumbling around trying to identify the elephant seems apt in this context. Attempts at defining European integration and governing processes are further complicated by the fact that events can often be interpreted in several different ways. One example is the Treaty of Maastricht which, on the basis of its contents, can be interpreted as a victory for integrationists, but also, due to the way in which it was negotiated, as vindication of the (liberal) intergovernmental model (see Moravcsik (1998), chapter six). It has become increasingly evident that one theory cannot fulfill all three requirements of a model (description, explanation and prediction) for all aspects of the integration process. In the words of Ben Rosamond 'theorists have to decide what they plan to explain from the array of multiple games embedded in any single situation' as 'different theoretical perspectives produce and reproduce different types of knowledge' (2000, pp. 6 and 7). This point has also been argued by John Peterson, who writes that the choice 'is about what, precisely, is being explained, and at what level of analysis in a system of government which is clearly and uniquely multi-tiered'

(2001, p. 291). In the following sections, a brief historical development of integration theories will be sketched, with special emphasis on the role of national parliaments within each theory.

Federalism, transactionalism, and functionalism

Of the three theories dealt with in this section, federalism is the oldest and may be more appropriately described as a movement or ideology. The carnage left by the First World War sparked an interest in a federal Europe that still exists, albeit in modified form. The Schuman declaration, which speaks of pooling of coal and steel production as 'a first step in the federation of Europe' (Fontaine, 2000, p. 36), can be seen as one of the first expressions of a desire for a federal Europe. Common institutions and systems of governance would bind the nation states together, making it less likely that they would fight one another. A federation clearly calls for representation of the people(s) at the central level and would therefore require a central parliament, in effect 'bringing along' its own democracy. Such a parliament would most likely hold powers superior to those held by the EP today. However, in all existing federations, state-level parliaments are of significant importance too. This is especially so in systems like Germany's, where central level governance is partially made up from representatives from the constituent parts. If the EU was to become a federation, national parliaments would thus continue to exist and be an important part of the institutional construction of this federation. In existing federations the central government commonly deals with 'high politics' such as defence and foreign policy, issues that are currently only weakly developed at the European level, with individual states maintaining significant autonomy in these areas. Any move in a federal direction would thus change the role of national parliaments as well as the topics over which they have influence.

National parliaments are also important components of the decision-making process within the theory of transactionalism (also known as the communications or pluralist theory), as is a central parliament. When writing about the 'amalgated' approach, the best known writer on transactionalism, Karl W. Deutsch, prescribes a common set of institutions, requiring 'a degree of compliance and popular support for functioning'. Without such compliance, authority can be left with the 'components' of the system, creating a 'pluralistic' decision system (Deutsch, 1964, p. 60). The means of achieving a 'system' is, in both instances, communication or transactions, with transactions understood as communication between societies as well as groups and individuals encompassed therein.

The idea of contacts and cooperation between components of societies is also the guiding principle in David Mitrany's theory of functionalism. To Mitrany, the essential

question was not the form international cooperation was to take, but its function (Rosamond, 2000, p. 32). He dismissed regional cooperation on the basis that these 'represent merely a rationalized nationalism, with wider limits for the individual units, but otherwise reproducing the working characteristics of the system of national states'. In other words, 'peace will not be secured if we organize the world by what divides it' (Mitrany, 1943, pp. 19 and 54). To facilitate international cooperation Mitrany suggested instead to 'proceed by means of a natural selection, binding together those interests which are common, where they are common, and to the extent to which they are common' (Mitrany, 1943, p. 32). The areas to cooperate on would be chosen according to need and requirements, and national governments would not be involved in the setting up of appropriate bodies through which to conduct the cooperation. Equally, no international organisations would be set up. Although Mitrany briefly discussed an international assembly consisting of representatives from national assemblies, such a body was only intended to 'discuss and ventilate general policies, as an expression of the mind and will of the public opinion; but it could not actually prescribe policy, or this might turn out to be at odds with the policy of governments' (Mitrany, 1943, p. 37). As national governments would determine what areas would be subject to cooperation at the supranational level, it can be assumed that national parliaments would participate, at least indirectly, in this decision-making process. However, if any cooperation beyond the nation state was considered a matter of foreign affairs, it is very conceivable that national parliamentarians would have only a cursory input into decisions on how to engage at the regional or international level.

The functionalist approach is prone to charges of being 'hopelessly naïve', relying too heavily on rational behaviour (Rosamond, 2000, p. 40), as well as maintaining a distinct division between 'technical/functional' and 'political/constitutional' issues (Cram, 1997, pp. 11-12). However, functionalism, together with both federalism and transactionalism, raised important issues about both agency and structure, issues on which later models have expanded.

Neofunctionalism

Neofunctionalism has, arguably, taken inspiration from all of the above-mentioned theories of integration. The best known advocate of neofunctionalism is Ernst Haas, who defined political integration as 'the process whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations and political activities toward a new centre, whose institutions possess or demand jurisdiction over the pre-existing national states' (Haas, 1968, p. 16). The end result is thus similar to what federalists advocated, differing from functionalism in emphasising regional government—within which a regional parliament would be required.

To neofunctionalists, achieving the development of a political community is dependent on the cooperation of elites within societies. A certain amount of political will is necessary to further the integration process, mainly through the 'spillover effect' as '[e]arlier decisions ... spill over into new functional contexts, involve more and more interbureaucratic contact and consultation, thereby creating their own logic in favor of later decisions, meeting, in a pro-community direction, the new problems which grow out of the earlier compromises'.¹¹ Haas (1961, p. 372) therefore argues that 'policies made pursuant to an initial task and grant of power can be made real only if the task itself is expanded, as reflected in the compromises among the states interested in the task'. The emphasis on elites and 'interbureaucratic contact and consultation' may, despite the mention of a central parliament above, indicate a limited concern for democracy, with the upwards transfer of cooperation being more important than the simultaneous transfer of democratic practices.

In his studies of early attempts at European institution-building, Haas emphasised the importance of supranational institutions. As facilitator of 'the transfer of elite loyalties' as well as being a 'honest broker' (Cram, 1997, p. 13), the High Authority of the European Coal and Steel Community played an important role in the development of the nascent European Community. However, the Common Assembly was also important to this development for two specific reasons. Firstly, the parliamentarians in the Common Assembly worked 'deliberately and self-consciously' to 'create a federal Europe by prescribing appropriate policy for the High Authority'. Secondly, the parliamentarians also stressed their 'latent "legislative" powers' and pushed for further integrative treaties. According to Haas, the early parliamentarians were 'advocates and proponents of federation in their parliamentary activity' (Haas, 1968, p. 390). With early institutional developments, national parliaments also maintained a place within the institutional framework, although their role would likely change as cooperation at the European level, and thereby a new political community, developed.

Realism/intergovernmentalism

Haas' most influential writings were published in the late 1950s and early 1960s. However, it soon became evident that the spillover effect and the theory of neofunctionalism had its limitations, and did not fully explain European integration. The slowdown in the integration process after the early 1960s was not accounted for in the theory of neofunctionalism. Although nation states were considered important elements of the theory, the continued importance they obviously enjoyed was not

¹¹ Haas noted the interest that the UK expressed in becoming a member of the European Community (1968, p. 317), and concluded that spill-over could be geographical as well as functional.

explained. In the words of Stanley Hoffmann '[nation states] go on *faute de mieux* despite their alleged obsolescence; indeed, not only do they profit from man's incapacity to bring about a better order, but their very existence is a formidable obstacle to their replacement' (1966, p. 863). Hoffmann (1966, p. 882) goes on to describe the logic of integration as that of 'a blender which crunches the most diverse products, overcomes their different tastes and perfumes, and replaces them with one, presumably delicious juice'. This 'presumably delicious juice' may be acceptable to national governments and their agents if the ingredients are of relatively little importance or cost, or if the certainty regarding the deliciousness of the final product is relatively high. According to Hoffmann: '[t]he logic of diversity ... suggests that, in areas of key importance to the national interest, nations prefer the certainty, or the self-controlled uncertainty, of national self-reliance, to the uncontrolled uncertainty of the untested blender' (1966, p. 882).

For national parliaments the important aspect of these considerations is the extent to which they are considered foreign policy. With foreign policy it is mainly executives who will determine what is contributed to the blender. On the other hand, it is likely that parliaments have to judge the final juice without knowing exactly what ingredients went into it, what the method of production was or how their own government contributed. Any influence is thus indirect and difficult to assess.

The above criticisms of the functional and neofunctional approaches should not be taken to imply that Hoffmann denies the influence of the European integration process on European nation states. Hoffmann writes of a 'transformation' of the nations in Europe 'promoted by the Common Market itself', but still maintains that the most visible aspect of the European balance sheet is 'the survival of the nation states' (1966, pp. 889). The survival, and continued importance, of the nation states is fundamental to intergovernmental theories.

Intergovernmentalism in the context of European integration has been interpreted by Moravcsik as the process whereby

the EC has been based on interstate bargains between its leading member states. Heads of government, backed by a small group of ministers and advisers, initiate and negotiate major initiatives in the Council of Ministers or the European Council. Each government views the EC through the lens of its own policy preferences; EC politics is the continuation of domestic policies by other means. (Moravcsik, 1991, p. 25)

As in Hoffmann's writings, Moravcsik considers the rational nation state to be the basic unit of European cooperation. International regimes exist for purely functional reasons as long as they serve nation states: '[s]tates are the principal actors in the

international system. ... International regimes shape interstate politics by providing a common framework that reduces the uncertainty and transaction costs of interstate interactions' (1991, p. 27). Moravcsik (1998, p. 472) thus views integration as 'a series of rational adaptations by national leaders to constraints and opportunities stemming from the evolution of an interdependent world economy, the relative power of states in the international system, and the potential for international institutions to bolster the credibility of interstate commitments'. He goes on to argue that the 'EC has been, for the most part, the deliberate creation of statesmen and citizens seeking to realize economic interests through traditional diplomatic means' (1998, p. 501).

Although the end result of treaty negotiations are presented to national parliaments for ratification, parliamentarians are, in effect, faced with a *fait accompli*, having had no voice during negotiations and very limited influence over the final outcome. Only with the Convention on the Future of Europe did parliamentarians (European and national) gain a direct voice in the drafting of a constitutional text. Final negotiations were still, however, kept in the hands of national governments at International Government Conferences (IGCs). The strong focus on the state as a source of political legitimacy means that within intergovernmental theories, supranational institutions are necessary only to uphold the terms of bargains states make with one another. Moravcsik accords them little proactive importance in the process of European integration, and considers the driving force to be states and their domestically determined requirements. Governance is thus a national or domestic issue, with democratic accountability and legitimacy derived from the national level, a process that necessarily must involve national parliaments. In Moravcsik's theory of liberal intergovernmentalism there is no need for accountability and legitimacy to be derived from the European level, as decision-making is carried out by the states according to domestically derived interests.

Multi-level governance

The focus on traditional means of diplomacy, economic interests and the state does, however, leave certain phenomena unexplained. For instance, European governance has become too complex, as well as independent of national governments, to be explained by the intergovernmental model. This point is developed by Daniel Wincott, who also points to 'intergovernmentalism's failure to theorize the significance of policy feedbacks into the EU system that are the consequence of previous decisions' (see Rosamond, 2000, pp. 145-7).

Even if one accepts that national governments are the main driving forces behind EU policies, the preferences of these national governments will be influenced by

membership of the EU. Wayne Sandholtz (1993, p. 3) writes that 'national interests of EC states do not have independent existence; they are not formed in a vacuum and then brought to Brussels'. In a critique of the dichotomous view of European integration which the 'rivalry' between supranationalism and intergovernmentalism provides, Sandholtz concludes that '[p]erhaps our explanatory goals are best served by specifying the analytic strengths—and limitations—of approaches that work better in combination than alone' (1993, p. 39).

The concept of multi-level governance is an attempt to explain how multiple participants with affiliations at different territorial levels take part in the European integration process. Not only are national-level actors influenced by events, procedures and decisions from the European level, they have also been forced to cede influence to actors at the European level (and in some cases also to sub-national level actors). What is being explained is thus the 'dispersion of authoritative decision making across multiple territorial levels', with European integration described as 'a polity-creating process in which authority and policy-making influence are shared across multiple levels of government – subnational, national, and supranational' (Hooghe and Marks, 2001, pp. 2 and xi).

As decision-making has moved both horizontally and vertically, more actors have become involved in the process. National governments are still key actors, but their role has altered in that they have to share their power with other participants. States 'are an integral and powerful part of the EU, but they no longer provide the sole interface between supranational and subnational arenas, and they share, rather than monopolize, control over many activities that take place in their respective territories' (Marks et al., 1996, p. 347).

The focus on multiple actors and levels within multi-level governance rarely leads to direct discussion or even mention of national parliaments. In the main, writers on multi-level governance consider national parliaments to be legitimisers of national governments rather than actors in their own right. One of the few areas where this is not the case is in the ratification process of new treaties. Whereas national governments are still considered key actors when treaties are being negotiated, the ratification process of the TEU has meant that national executives now 'have to contend with the participation of many kinds of domestic actors' (Hooghe and Marks, 2001, p. 6)—including national parliaments. Parliamentarians have become more involved in (especially) oversight procedures due to a perceived need for greater public scrutiny, with the result that 'action has shifted from national governments and technocrats in semi-isolation to domestic politics in the broad and usual sense: party programs,

electoral competition, parliamentary debates and votes, public opinion polls, and public referenda' (Hooghe and Marks, 2001, p. 10).

Despite different visions regarding the destination of European integration, integration theories often seem united in the view that national parliaments are not very important in this process. While national executives are most frequently considered the main actors at the national level, national parliaments and their support for executive policy are often taken for granted. However, the nature of European policy at the domestic level has often not been considered by integration theorists, and potential sources of difficulty for the conduct of coherent EU policy therefore not investigated.

Whether or not European integration continues to deepen, national parliaments are likely to develop their methods of scrutiny further. Such a development may, potentially, cause existing broad interparliamentary agreements on the EU to dissolve, leaving EU policy vulnerable to the cleavages traditionally found within national parliaments. As a consequence, national parliaments may come to be thought of as important national-level actors on European policy.

Conclusion

As the territory in which 'democracy' has been the chosen form of governance has expanded, so the nature of that democracy has altered. Where once individual citizens were able to participate directly in the affairs of their city-state, individual states now represent their citizens in regional or international forums where issues that directly affect the citizens are decided. The transformation from direct to representative democracy is well documented, with theories on a third transition towards global and multi-levelled governance—and how it might be democratised—currently being developed.

It is clear that governance at the international level does not comply with the democratic criteria developed above.¹² At EU level the selection of many leaders is indirect, as is the protection of many civil and political liberties. However, the EU does have a directly elected parliament and national representatives are required to find support for most policy decisions at the national level. Globalisation may thus have necessitated cooperation at the international level, but it has not made nation states (including national parliaments) redundant.

¹² This point is little disputed if democracy is defined as a system of governance providing meaningful and extensive competition for all effective positions of government power, a highly inclusive level of political participation in the selection of leaders and policies and provision and protections of a certain level of civil and political liberties.

Over time, demands that governance at the European level be developed in a democratic manner have grown stronger. It is commonly accepted that the role of national parliaments is focused at the national level and that their involvement in European legislation is indirect through national executives. The extent to which EU decisions reach into all corners of the lives of EU citizens, and the associated reduction in national parliamentary autonomy, has meant that the role of national parliaments has changed. While EU membership was initially seen as a limitation of their roles, the case study chapters will explore how national parliaments have explored potential sources of power and influence.

The limited role national parliaments play at the European level is reflected in how integration theories consider the role of national parliaments. While all integration theories consider parliaments to be important in legitimising the activities of their executives, most theorists do not recognise parliaments as important and independent actors within the explanatory frameworks they deploy.

One partial exception to this limited attention to national parliaments is in treaty-ratification procedures. Although national parliamentarians do not partake directly in treaty negotiations, the Convention on the Future of Europe saw them involved in the preparatory work for the IGC that followed the Convention. Their inclusion in this Convention was partially a result of the difficulties surrounding the ratification of the Maastricht Treaty, which served to emphasise the need for public consultation and involvement during negotiations of new treaties.

Having national parliamentarians contribute to the Convention may have given them a sense of ownership regarding the final result, thereby easing the paths of ratification. However, their involvement in the Convention may also have opened their eyes to the extent to which European matters impact on legislative activities within national parliaments, underlining the need for scrutiny of European affairs.

The ratification process of the Constitutional Treaty has, if anything, underlined this view. The French and Dutch rejections of the Treaty in referenda were a clear indication that the European peoples are not in agreement with their politicians on the issue of European integration.¹³ Clearly, deeper and more nuanced debates are necessary if politicians and citizens are to understand each other on European issues.

¹³ The results in the two referenda were as follows:

	No-vote (per cent)	Turnout (per cent)
France	54.68	69.34
The Netherlands	61.7	63

Such debates may also influence how scrutiny systems within national parliaments develop.

As will become evident through the case studies, how national parliaments have reacted to the European integration process has varied considerably between parliaments. To a large extent, responses have depended on traditional political cultures, practices and procedures, although they have also often been reactive rather than proactive. However, the blindfolds are coming off, gradually revealing the integration elephant in its entirety.

National parliaments therefore remain on a steep learning curve as their contact with and understanding of the European level is becoming more important but has often been limited. The relationship between national parliaments and European institutions will be explored in the next chapter, together with an overview of how national parliaments have been considered at the European level in the various treaties ratified so far.

Chapter 3: The European Union and national parliaments: Together but apart?

[T]he national Parliament shall have a real opportunity to use the information received to gain an influence on its own country's European policy and thereby the common decisions made in the Community.

(COSAC, 2003b, section I).

As legitimisers of European integration national parliaments have so far ratified all EU treaties placed in front of them. However, their ability to influence the treaty texts has traditionally been negligible, only existing indirectly through their national executives. The ratification of (especially) the Treaty on European Union (TEU) made it clear that the EU and its institutions had not managed to develop the legitimacy claimed by national institutions. As Europeanisation has developed, it has become increasingly obvious that national level institutions, especially national parliaments, are integral to the legitimisation of the Community and its policies. The premises for the involvement of national parliament in European affairs have therefore been altered. Despite the importance of the legitimising function, a specific role for national parliaments in the European construct has not been included in any of the treaties ratified to date. Indeed, until very recently the importance of this function has not been widely recognised amongst national parliaments themselves. The two Conventions on Human Rights and the Future of Europe (for more details see Chapter eight) have changed this picture, with national parliamentarians participating directly at the European level, and it is now inconceivable that preparations for future IGCs will exclude national parliamentarians.

In contrast, the EP has been included in the treaties as a fundamental element of the European institutional order from the onset of European cooperation. While MEPs have worked to increase the EP's power and influence, their involvement in European decision-making has never been questioned. The idea of direct involvement by national parliaments at the European level has been raised at different points in time, but has always been rejected in favour of national parliaments limiting their legislative activities to the national level. Contacts between national parliaments and European-level institutions have been limited although the two levels have increasingly found themselves needing the other: European cooperation is, to a large extent, legitimised by national parliaments, but it has also been recognised that certain issues of relevance to voters at the national level are better dealt with at the European level.

In this chapter the relationship between national parliaments and the European level will therefore be examined. Firstly, the EU's development will be investigated through consecutive treaties, focusing on the limited extent to which national parliaments are included in these treaties. In the second section the Community's main institutions are described, with a focus on their relations with national parliaments. The final section is a brief overview of how national parliaments have attempted to scrutinise their governments' behaviour and actions at the European level. National parliaments can be classified according to their influence on either national or European legislation, with no certainty that the two categories overlap. Greater influence over domestic legislation does not automatically translate into influence over European legislation (even indirectly through the activities of executives at the European level). Another important factor in efficient scrutiny is the amount and type of information available to national parliamentarians, with too much information as much a problem as too little. Specific national circumstances also influence parliamentary levels of ambition, with some parliaments perceiving themselves as needing to be supportive rather than critical of their governments' European policies. European institutions or treaties have not dictated scrutiny activities undertaken at the national level. Indeed, they have barely mentioned national parliaments. The gradual recognition of their role within Europe is the subject of the first sections of this chapter.

1. The EU's founding treaties

The origins of what is now known as the European Union lie in the European Coal and Steel Community (ECSC), whose founding treaty was the first of those upon which the EU of today is based. The ECSC treaty was signed in April 1951 by Belgium, France, the Republic of Germany ('West Germany'), Italy, Luxembourg, and the Netherlands, also known as 'the six'. The ECSC was to 'contribute, in harmony with the general economy of the Member States and through the establishment of a common market ... to economic expansion, growth of employment and a rising standard of living in the Member States' (Treaty Establishing the European Coal and Steel Community (Paris, 18 April 1951), Article 2). To this end four main institutions were established: a High Authority, a Common Assembly, a Special Council of Ministers (Council), and a Court of Justice. The Common Assembly, composed of members appointed from member states' national parliaments, was intended to represent the peoples of the member states in the Community, and was granted supervisory powers accordingly. However, its influence was limited, and the Assembly remained a marginal player for many years. The only direct way for national parliaments to be involved in the emerging integration process was thus extremely circumscribed, with the only other method being indirectly through national executives in the Council.

The institutional design altered little when the European Economic Community (EEC) and the European Atomic Energy Community (EURATOM) came into force in January 1958. The aim of the EEC was similar to that of the ECSC, namely the establishment of a common market, promotion of economic activities, increased standard of living through continuous and balanced expansion, an increase in stability, and closer relations between the Member States (Treaty Establishing the European Economic Community (Rome, 25 March 1957), Treaty of Rome, Article 2).

The new Communities established their own Councils and Commissions, although it was decided that the Assembly, renamed the European Parliamentary Assembly, should be common to all three Communities (Palmer, 1981, p. 23). The Assembly remained a body to be consulted, but whose views neither the Council nor the Commission was obligated to take into consideration. Significantly, though, the Assembly was requested to draw up proposals for 'elections by direct universal suffrage in accordance with a uniform procedure in all Member States' (Treaty Establishing the European Economic Community (Rome, 25 March 1957), Article 138, paragraph 3). Although never implemented, the Assembly worked hard to develop such procedures. The requirement for unanimity within the Council meant that no uniform election procedure could be agreed upon, and it was only in 1976 that the Act on direct elections of members to the Assembly was signed. However, direct elections did not take place until 1979 and are still conducted according to electoral procedures chosen at the national level.

Direct elections brought a measure of legitimacy to the Assembly, which its members claimed entitled it to increased influence. Despite the claims to greater legitimacy, further influence was not granted until the introduction of the Single European Act (SEA). Moreover, direct elections also broke the direct link with national parliaments. At this point the involvement of national parliaments in European matters thus diminished,¹ being reduced to the requirement that they ratify the Treaties underpinning European integration. As they were intergovernmental in nature, negotiations leading to these treaties remained a matter purely for national executives, effectively leaving national parliaments in a 'take it or leave it' situation, with no scope for directly influencing the contents of the treaties.

The next significant institutional change arrived with the adoption of the SEA, which came into force July 1987. The Act reinforced economic cooperation by committing member states to complete the internal market by the end of 1992. Furthermore, common policies were extended, and new objectives pursued in the fields of 'economic

¹ Contacts resulting from MEPs holding double mandates have also reduced, as the practice has become less frequent with many political parties no longer permitting this practice.

and social cohesion' policy (Article 23), research and technological development (Article 24) and the environment.

For the first time the specific aim of a European *Union* was mentioned in the preamble, thereby making explicit the political goals of European integration. The need to 'speak with one voice', as well as act with 'consistency and solidarity' to protect 'common interests and independence', while also contributing to the 'preservation of international peace and security' was thus recognised, and the political nature of Community cooperation provided with a legal basis. Furthermore, promotion of democracy was, also for the first time, mentioned in the preamble. To this end the signatory states saw the EP as an 'indispensable means of expression' for the European peoples. However, national parliaments were not mentioned, leaving citizens with few opportunities to influence the decision-making process, and the EU short of the democratic requirements discussed in Chapter two.

The SEA also introduced increased powers for the EP that somewhat alleviated the developing democratic deficit. For the first time in an official European Treaty the EP was referred to as the 'European Parliament', a name it had adopted for itself in 1962. It was also invested with the co-operation (see Figure 3.1) and assent² procedures, significantly increasing the influence of the EP in the areas covered by these procedures. National parliaments, however, were still limited to expressing their opinions indirectly through the Council.

The Maastricht Treaty (signed February 1992, and coming into force November 1993) has to date been the most controversial, as well as the most ambitious, of the Community's Treaties. Again, the preamble is a helpful indicator of how far the member states had moved since the last treaty amendment. The desire to promote economic and social progress was reiterated, as was the aim of an ever closer Union. Moreover, the Union was reinforced through the provision of a European citizenship extended to all nationals of the member states. The Union's attachment to the principle of democracy was confirmed and enhanced through the principle of subsidiarity, which holds that decisions should be taken as closely to the citizen as possible.

² The assent procedure requires the EP to approve a proposal before the Council can adopt it.

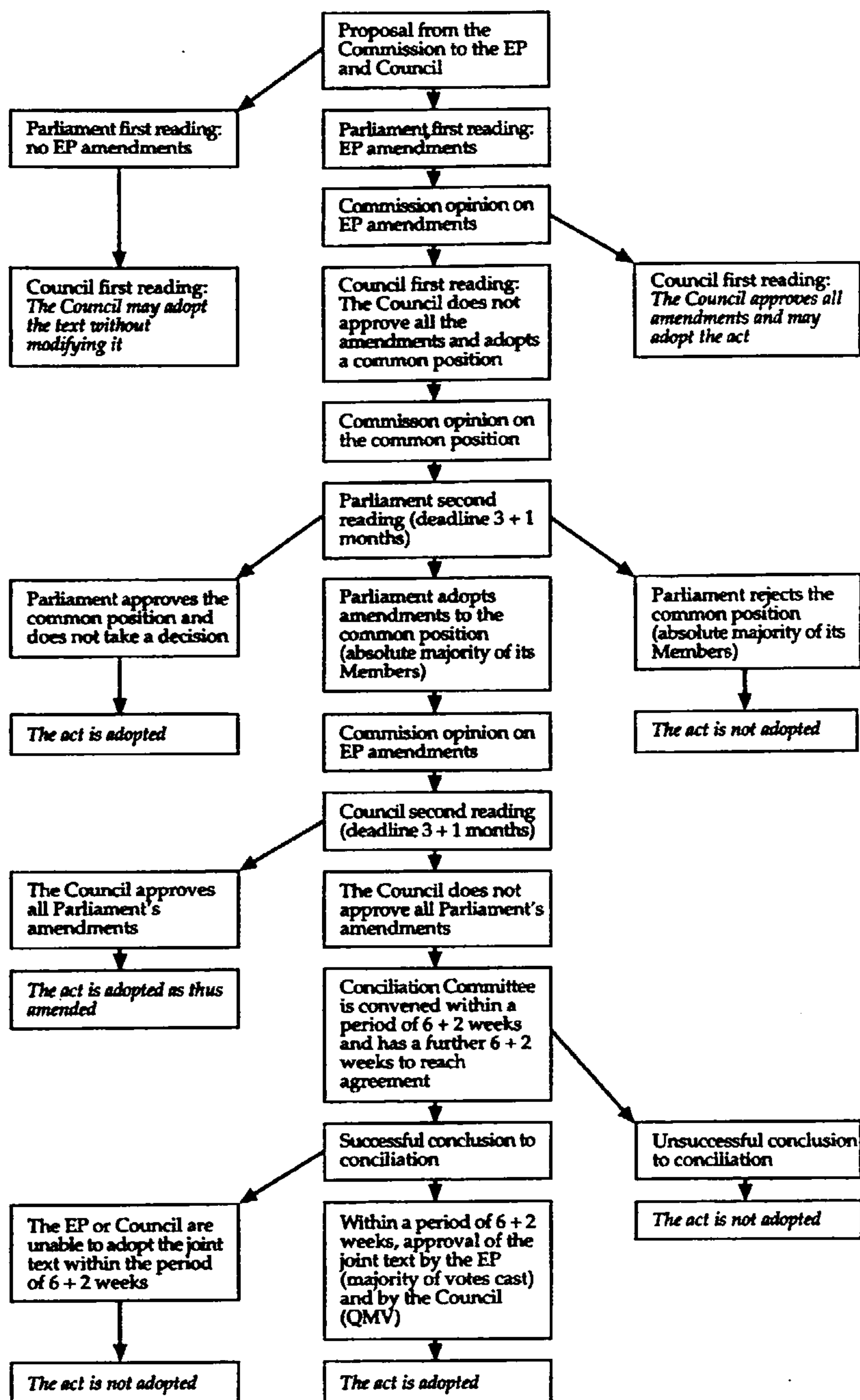


Figure 3.1 Co-decision procedure (Source: Corbett et al., 2000, p. 190).

As with previous treaty amendments, the institution most affected by the Maastricht treaty was the EP. Its powers were increased with the introduction of the co-decision

procedure³ and the extended use of the co-operation procedure to most of the areas where the Council uses qualified majority voting (for an overview of other changes affecting the EP see Corbett et al., 2000, p. 300). For the first time national parliaments were also, in protocols thirteen and fourteen annexed to the Treaty on European Union (TEU), mentioned in the Community treaties. Protocol thirteen on the role of national parliaments in the European Union mentions the importance of encouraging 'greater involvement of national parliaments in the activities of the European Union', recommending 'exchange of information between the national Parliaments and the European Parliament' as well as 'granting of appropriate reciprocal facilities and regular meetings between members of Parliament interested in the same issues' (Treaty on European Union, 1992, Protocol 13). Protocol fourteen on the 'Conference of the Parliaments' encourages the formation of 'Assizes', meetings between the EP and national parliaments.⁴ The protocols do not, however, indicate a more specific role for national parliaments, nor do they accord these institutions any specific rights at the European level. Protocol thirteen does say that 'governments of the Member States will ensure, *inter alia*, that national parliaments receive Commission proposals for legislation in good time for information of possible examination', although this can hardly be deemed a right. Furthermore, as national governments provide this information for scrutiny at the national level, national parliaments were still not explicitly recognised in the European decision-making process and thus still did not have their importance to the European construct recognised in the treaties. This very marginal mention of national parliaments in Community treaties contrasts with the treatment of the EP, which, although initially only a consultative body, was accorded treaty-based rights and duties from the very outset of the European integrative process.

With the Amsterdam Treaty it can be argued that a new era in treaty development began. The ratification process of the Maastricht Treaty had clearly indicated that accept of deepening cooperation was not automatic. The Amsterdam and Nice treaties, due mainly to public opinion on the EU but also because of the upcoming enlargement, shifted the negotiators' focus to internal structures and inter-institutional relations. As a consequence, the agenda for the 1996 IGC was more limited than that for the TEU. In the words of Geoffrey Edwards and Georg Wiessala (1998, p. 4): 'what the relative lack

³ It should be noted that the only point at which national parliaments can influence decisions is when the Council announces its common position, a very indirect method of participation. For the most part the co-decision procedure is an open procedure, permitting national parliaments to follow the legislative procedure. If a conciliation committee is convened, following the legislative process becomes more difficult, causing national parliaments to rely heavily on their governments for information about proceedings. It is even more difficult, however, for national parliaments to follow comitology procedures. Comitology has been summarised as 'the various types of committees (regulatory, consultative, and management) created to oversee the implementation of Community law, a power delegated to the Commission by the Council. These committees are composed of experts from the member states and chaired by a representative of the Commission' (Hayes-Renshaw, 2002, p. 70 n. 5).

⁴ The Assizes was intended as a body to be consulted 'on the main features of the European Union'.

of ambition in the IGC also revealed was an increased awareness of the problems of the general acceptability and legitimacy of the European venture'. The Treaty of Amsterdam can thus be described as consolidating rather than groundbreaking, while the Nice Treaty attempted to ready the EU's institutions for the upcoming enlargement.

In a Protocol (number 9) to the Amsterdam Treaty, provision of information from the EU to national parliaments is discussed, and the Conference of Community and European Affairs Committees (COSAC) is mentioned for the first time. This can be considered as evidence that the topic of national parliaments and their relevance to Europe was finding its way on to the European agenda. Confirmation of this could be found in the Treaty of Nice, where national parliaments became an important item on the European agenda as, in Declaration 23, the agenda for the 2004 IGC is outlined and includes 'the role of national parliaments in the European architecture' (Treaty of Nice, 2001, Declaration 23, 5).

National parliaments were not included in negotiations leading to the Amsterdam and Nice treaties. They were, however, involved in the Convention leading to the Charter of Fundamental Rights of the European Union, and were important contributors to the Convention on the Future of Europe (for further discussion see Chapter eight). With the Charter of Fundamental Rights being incorporated into the Constitutional Treaty and the second Convention delivering recommendations to the 2004 IGC, national parliaments had been directly involved at the European level in an unprecedented manner and are unlikely to be excluded from any Convention-like undertakings in the future.

These two events aside, contact between national parliaments and European-level institutions has been limited and mainly indirect. Direct contacts have been especially rare after direct elections to the EP began in 1979. To understand the relationship between national parliament and European-level institutions better, the next section will investigate how European institutions have developed, and what level of contact has existed between them and national parliaments.

2. The EU institutions

The Commission

It is common to talk of 'the Commission' as if it is a unitary actor although, in reality, there are two 'arms' of the Commission. One of these is the administration which consists of sectorally based Directorate Generals (DGs) and the coordinating services,

while the political arm is made up of the Commission President, the Commissioners (individually as well as collectively in the college) and the *cabinets* of the individual Commissioners (Nugent, 1997, pp. 2-7; but see also Nugent, 2002; Peterson, 2002). Far from being a singular entity, the Commission can thus be described as a multifaceted institution, and its officials may represent either national, institutional, political or sectoral interests (Peterson, 1999, p. 58). The Commission's many roles and functions remain very important to the functioning of the EU, it being an ally to and blamed by all (Fitzmaurice, 1994, p. 179), as well as central to the EU's 'self-definition'.

The tasks of the Commission have vaguely been identified in the treaties as ensuring 'the proper functioning and development of the common market' (Article 211). Complying with this requirement, the Commission has developed four main functions for itself. It initiates legislation; it administers, manages and guards the treaties; it mediates and it represents the Union internationally (outline by Edwards and Spence, 1997, p. 4). In fulfilling all of these tasks the Commission relies heavily on the member states and their agencies for implementation, only maintaining a relatively small bureaucracy itself. The effectiveness of the Commission thus depends heavily on both administrative and political support at the national level, and the Commission must remain sensitive to the moods in national capitals. These points were illustrated by the Prodi Commission, which lacked support from national governments. Often showing insensitivity to national agendas, the result was a general 'lack of obvious political capital for Prodi to fall back on' (Taylor, 2000b).⁵

Direct contact between the Commission and national parliaments has been much less frequent than contact with national executives. However, as the role of national parliaments at the European level is being reconsidered, this may change too. Protocol 9 in the Amsterdam Treaty thus outlines three requirements the Commission must fulfill in relation to national parliaments, although these mainly serve to ease procedures at the national level. Firstly, all consultation documents (Green and White Papers included) must be forwarded to member state parliaments as soon as possible; secondly, legislative proposals must be forwarded so that national executives can ensure adequate time for the national parliaments to receive these according to national rules; thirdly, at least six weeks must pass between legislation being proposed and it being placed on the Council's agenda with the purpose of adopting a common position. To improve relations with national parliaments, it has been suggested that with the increase in the number of Commissioners two should be assigned to each 'portfolio', one with the task of maintaining contacts with national parliament on issues

⁵ See also Taylor (2000a) for further analysis of the Prodi Commission, and Peterson (1999) for a historical (as well as normative and theoretical) analysis of (especially) the Delors and Santer Commissions.

falling within their remit.⁶ A further suggestion is that national parliamentarians should elect the Commission President, a move Simon Hix argues would give national parliaments 'genuinely significant role in the EU system' (Hix, 2002, p. 22). While these changes will not ensure national parliaments any further influence over decision-making at the European level, they may contribute to improved scrutiny at the national level.

The Council

While the Commission guards the treaties and initiates and implements legislation, the role of the Council⁷ is to 'ensure coordination of the general economic policies of the Member States' (Article 202). It also defines and implements work in the second and third pillars and, together with the EP, is the Community's budgetary authority. According to the treaties, the Council is, in legal terms, one entity. In reality, however, it meets in several forms based on sectoral divisions, with ministers from the member state governments representing national interests.⁸ Although ministers meet on a regular basis, the Council is heavily dependent on other Community institutions as well as on close cooperation between national officials.

When votes are taken in the Council these must be published. However, a vote is very rarely taken, with the chairperson merely indicating whether a majority in favour has been established or not. In such cases it is difficult for a national parliament to hold their negotiators accountable, as they simply do not have the information to achieve this. Ministers can thus blame unappetising decisions on 'Brussels' while claiming victory when decisions are in line with domestic wishes. Although all Council decisions are formally taken at Council meetings, the Committee of Permanent Representatives (COREPER) and its working groups (attended by member state civil servants) in effect prepare and effectively agree most decisions. This makes it even more difficult for national parliaments to follow decisions made at the European level.

As the historically most important institution for decision-making within the European Community, the Council has been heavily criticised for the secrecy maintained at all levels in its decision-making process. This is a very unsatisfactory situation for the public, parliaments (at both national and European levels), lobbyists and the press

⁶ Interview B-10.

⁷ The role of the European Council, which brings together Heads of State or government of the member states, assisted by their Ministers of foreign affairs, is to provide the EU with the necessary impetus for its development as well as define its general guidelines (Article 4), but will not be discussed in any further detail here.

⁸ It is important to note that not only do member states have different goals regarding what they wish to achieve, they also behave in different ways, and are by no means unitary actors. See for instance (Hayes-Renshaw and Wallace, 1997, pp. 230-3).

alike. The lack of transparency at all levels of the Council restricts parliamentary scrutiny—by both the EP and national parliaments. While the EP participates in the decision-making process, the co-decision procedure still does not cover all areas of cooperation. Furthermore, the Council has traditionally been accused of not being transparent enough. The forthcoming constitutional treaty attempts to alleviate this problem with the Council being required to meet in public when deliberating and voting on draft legislative acts.

As individual institutions operating at the national level, national parliaments have obvious difficulties in asserting any influence over the Council as an institution operating at the European level. In order to do so, collective activities would have to develop significantly, as would cooperation with the EP. It therefore seems clear that any impact must be developed at the national level, with national parliaments attempting to scrutinise their own executives' activities at the European level.

The European Court of Justice

Although the Council (including the European Council) has provided direction and guidance to the European integration project, the development of the Community beyond a traditional international organisation has in large part been based on rulings and opinions by the European Court of Justice (ECJ).⁹ The duty of the ECJ is to ensure that the law is upheld in the interpretation and application of the treaties (Article 220), a task the ECJ initially fulfilled during a long period of 'benign neglect by the powers that be' (as first identified in Eric Stein's article on the ECJ (1981)). Fundamental to developing the Community beyond a 'normal' international agreement are the principles of direct effect and supremacy which establish that 'EU law may confer rights or impose obligations on individuals which national courts are bound to recognise and enforce', and that European legislation takes precedence over national legislation (see also Dehousse, 1998; Hunnings, 1996; Nugent, 1999, p. 219). Of importance has also been the use of preliminary reference, which, indirectly, has allowed individuals access to the ECJ.¹⁰ The requirement that the ECJ *interprets* means that its opinions are always abstracted, only providing opinions on the law, not on specific cases. In the words of Neill Nugent, the ECJ 'fills the gaps in the law and, in doing so, it not only clarifies the law but it also extends it' (1999, p. 258). However, the ECJ has often gone to great efforts to make its opinions as directly implementable as

⁹ Although the EP's right to take proceedings before the ECJ developed gradually, 'the Court has consistently refused to exclude the Parliament from the scope of provisions which refer to the institutions of the Community in general terms' (Arnold, 1990, p. 691-2).

¹⁰ Article 234 of the TEU allows lower courts (and requires Courts of last instance) to request a ruling (preliminary reference) on matters of the interpretation of the Treaty; the validity and interpretation of acts of the institutions of the Community and of the ECB; and of the interpretation of the statutes of bodies established by an act of the Council, where those statutes so provide.

possible. According to G. Federico Mancini: '[t]he national judge is thus led hand in hand as far as the door; crossing the threshold is his job, but now a job no harder than child's play' (1989, p. 606).

From the point of view of national parliaments this situation is very unsatisfactory, as their role as legislators becomes circumscribed by a body over which they have no influence, and with which they have no direct contact. Despite the right to submit reasoned opinions on whether a piece of legislation complies with the principles of subsidiarity and proportionality embedded in the Constitutional Treaty, national parliaments can still not go directly to the ECJ to seek this test (for further details see Chapter eight). Essentially, national rules determine whether a member state, in effect the executive, is to take a case to the ECJ, and parliaments still operate individually at the national level, seeking to influence their executives. While national parliaments can coordinate activities in an effort to obtain enough votes to force the Commission to review its position (see Article 6 of the protocol for the exact rules), there is still no direct or collective way for MPs to express their concerns at the European level.

In contrast to national parliaments, the EP has benefited significantly from the ECJ's influence on the integration process. Most important was perhaps the Isoglucose case in 1980 which stated that the Council could not adopt a piece of legislation unless it had received the EP's opinion. Further cases brought before the ECJ gradually recognised the EP as a litigator, allowing it to bring cases of annulment before the ECJ in order to protect its prerogatives by means other than a vote of no confidence.

The European Parliament

Although the EP is no longer the only international directly elected body,¹¹ it remains the 'most far-reaching experiment in trans-national democracy' (Corbett et al., 2000, p. 2). One reason is that MEPs have organised themselves in political groups, which are fundamental to the organisation of the EP and its work. Historically, positions such as President, Vice-President and Quastors, but also committee chairs and rapporteurs, have all been allocated according to the size of the political groups. Moreover, debates within committees are conducted on the basis of the political groups' standpoints, while the allocation of speaking time in plenary sessions is also determined by membership of political groups.

MEPs were initially chosen by and from members of the national parliaments, thus only indirectly representing the European peoples at the European level, but ensuring

¹¹ The Central American parliament is the only other multi-national parliament that is directly elected (Corbett et al., 2000, p. 10).

a link between national parliaments and the EP. Direct elections to the EP began in 1979 and have occurred at five-year intervals since. The elections marked a turning point in the life of the EP as it began to accumulate significant powers and influence. It was hoped that direct elections would provide a measure of legitimacy for the EP and the Community as such. However, there were also concerns that low turnout and general lack of interest in the elections would reduce credibility in the EP and the entire process of European cooperation.¹² Direct elections also meant that links to national parliaments were severed, the only link being parliamentarians with double mandates, a practice which is increasingly discouraged.

Despite an emerging political system at the European level (see for instance Thomassen and Schmitt, 1997), interest in European elections has generally been limited. To date, the highest level of participation (65.9 per cent) was measured at the first elections in 1979. The lowest level of participation was recorded in the 2004 election, when participation was 45.7 per cent.¹³ Mark Franklin and Cees van der Eijk argue that EP elections are, essentially, 'second-order national elections' (1996). For his part, Martin Westlake (1994, Chapter two) argues that European issues are emerging, that 'Europeanisation' of elections to the EP is not just about the substance of the debate, but also evident in the fact that MEPs are elected to the same institution, and that these elections occur simultaneously. There is thus little agreement on how elections to the EP are perceived and how this influences the voter turnout.

Table 3.1: Voter turnout in elections for the European Parliament

Member State	1979	1984	1989	1994	1999	2004
Denmark	47.8	52.4	46.2	52.9	50.5	47.9
Italy	84.9	83.4	81.5	74.8	70.8	73.1
United Kingdom	32.2	32.6	36.2	36.4	24	38.83
EU Average	63	61	58.5	56.8	49.8	45.7

Source: The European Parliament, www.elections2004.eu.int/ep-elections/sites/en/results1306/turnout_html

The EP’s activities resemble those of a national parliament—although it remains a co-legislator. Procedures for the EP's involvement have developed gradually over the years, with the 'Isoglucose' ruling in 1980 representing a significant turning point. In

¹² For a more in depth discussion of these problems, see for instance Lodge (1986), and, for a later analysis, Lodge (1996b).

¹³ The figures mask significant national differences. Some countries (Belgium, Greece and until recently Italy) have compulsory voting, thus bringing the average level of participation up. In 1999 the highest and lowest levels of participation were thus 90.7 per cent (Belgium) and 24 per cent (UK) respectively (see, for instance, Blondel et al., 1997 for possible explanations as to why participation is so low in comparison with participation in national elections).

this ruling, the ECJ made it clear to the Council that it could not adopt Community legislation before the EP had given its opinion if the treaties required it.¹⁴ With the Isoglucose ruling the ECJ gave the EP a significant card to play, in effect allowing it to delay an opinion in order to pressure the Commission or Council into adopting suggested changes. Although the EP could not be seen to delay legislation blatantly, it became possible to refer legislation back to committees for reconsideration, potentially causing considerable delay.

The old adage that 'the Commission proposes and the Council disposes' thus clearly no longer holds true as the EU's decision-making process has developed into a triangular institutional setting where the EP plays an important part together with the Council and Commission (and occasionally the ECJ). However, the EP remains heavily reliant on the Commission for practical purposes, mainly in terms of the Commission providing the EP with information in areas where the EP's level of influence is not well developed. The reliance of the EP on the Commission is so strong that it has been suggested that 'Parliament's theoretical constitutional independence is heavily compromised' (Westlake, 1997, p. 261).

On the other hand, the Council has traditionally been more hesitant in cooperating with the EP, guarding its own status as the main decision-maker within the EU. As the EP's legislative influence has grown, contact between the two institutions has increased both quantitatively and qualitatively. As a result, the Council has come a long way in acknowledging the EP's 'significant but contingent' contribution to Community legislation (Earnshaw and Judge, 1996, p. 124). Still, the EP's relationship with the Council is complicated by the fact that the Council is both legislator and executive. While the EP can participate constructively in the legislative process, it has no influence over the Council's actions as executive, having to rely on national parliaments for this purpose. Cooperation with national parliaments is also a necessity if the Council as legislator is to be held fully accountable, with national parliaments ensuring domestic points of view are being taken into account, as well as scrutinising the Council's actions in areas where the EP has no or little influence (including at IGCs).

National parliaments have often perceived the EP as a competitor, and have thus been reluctant to increase the EP's power and influence within the EU. MEPs, on the other hand, have tended to resist national parliaments becoming directly active at the European level, arguing that their role is at the national level in relation to their executives. However, it is increasingly recognised by national parliaments that the EP has an important role to fulfill, especially in relation to the Council, which national

¹⁴ For more information on the case and its implications see Corbett et al. (2000, pp. 179-181).

parliaments cannot undertake. Suspicion has thus slowly given way to tentative cooperation, expressed in multilateral parliamentary meetings (such as COSAC and the Speakers' Conference, discussed in greater detail in Chapter eight), but also in meetings between members from select committees at different levels of governance.

The European Parliament is thus the European-level institutions with which national parliaments have the highest level of contacts—and the ECJ that with which they have the least. Relations with the Council exist mainly at the individual level, with national parliaments scrutinising the activities of their participants in the Council, making it difficult for national parliaments to develop a joint and coherent approach towards the Council as an institution has been. Such a relationship is easier to develop with the Commission, as this institution is becoming an important provider of information for national parliaments which all have similar informational needs. By receiving further information, directly from the European level, national parliaments are, theoretically, better able to scrutinise the activities of their executives at the European level. An overview of scrutiny procedures will be developed in the next section, where it will become evident that national parliaments have pursued scrutiny activities with varying levels of vigour and success.

3. National parliaments and the EU

Parliaments can be classified according to several criteria such as methods of election, functions or influence over the executive. Michael L. Mezey began to classify parliaments according to their influence over the executive based on two criteria: their mass and elite support, and their policy-making power. On this basis, Mezey introduced three categories of parliament: those with strong policy-making power (able to modify and/or reject legislation proposed by the government); those with modest policy-making power (able to modify government legislation); and those with little or no policy-making power (Mezey, 1990; Norton, 1990b). Philip Norton (1994, p. 17) builds on this 'useful but not problem-free' classification, arguing that Mezey only includes parliaments able to respond to executive activities, and thus does not consider reactive actions. Incorporating the reactive ways in which parliaments can act, Norton (1994; but see also Norton, 1996b; Norton, 1998a) thus refines Mezey's parliamentary categories to:

- Policy-making legislatures (able to modify or reject measures brought forward by the executive, can formulate and substitute policies of their own).
- Policy-influencing legislatures (able to modify or reject measures brought forward by the executive but cannot formulate and substitute policies of their own).

- Legislatures with little or no policy affect (can neither modify or reject policies brought forward by the executive nor formulate and substitute policies of their own).

All of the seven parliaments investigated in Norton's initial outline of the model fall within the policy-influencing category. Italy and Denmark lie very close to the policy-making category, with the Netherlands not far behind. Germany and the UK sit in the middle of the policy-influencing category, with Ireland and France towards the bottom (Norton, 1994, p. 20). The legislation over which parliaments in this analysis have power is domestic legislation. If a similar categorisation is used with regard to the influence national parliaments¹⁵ have over European legislation, their placements within the three categories alters significantly (European Centre for Parliamentary Research and Documentation, 2003; Maurer, 2001). An extract from Andreas Maurer's table shows three categories: parliamentary policy-making, policy-influencing and weak impact. While each category contains at least one parliament, some parliaments straddle two of the categories. The *Folketing* is the only parliament present solely in the policy-making category, while the Austrian, Finnish, German and Swedish parliaments cover both the policy making and influencing categories. Sitting only in the policy influencing category are the parliaments of France, the Netherlands and the UK, while weak parliaments are considered to be those in Belgium, Greece, Ireland, Italy, Luxembourg, Portugal and Spain. Seven of the fifteen member state parliaments included in this study are thus considered to have a weak impact on European matters.

Table 3.2: Impact of national parliaments in EU affairs

Country	Weak influence	Policy influence	Policy making
Austria		X	X
Belgium	X		
Denmark			X
Finland		X	X
France		X	
Germany		X	X
Greece	X		
Ireland	X		
Italy	X		
Luxembourg	X		
Netherlands		X	

¹⁵ 'National parliaments' still refers to the parliaments of the 15 nation states who were members of the Community prior to 1 May 2004. For brief information about scrutiny in a number of the new member states (Cyprus, Czech Republic, Estonia, Hungary, Latvia, Poland and Slovakia), see the Annex to COSAC's first 'Report on developments in European Union procedures and practices relevant to parliamentary scrutiny' (2004).

Portugal	X		
Spain	X		
Sweden		X	X
UK		X	

Source: (Maurer, 2001, p. 24)

A table like this raises several questions. For example, what determines which category a parliament is placed within? Moreover, does this placement correspond to the parliament's influence in domestic matters? The remainder of this chapter will look briefly at these questions in a historic and comparative manner (and will draw significantly on European Centre for Parliamentary Research and Documentation, 2003; Maurer, 2001; Maurer and Wessels, 2001b; Wessels et al., 2003).

Historic developments

Initial involvement by national parliaments in European affairs was limited in the early years of the European Economic Community. Not until the Single European Act and the Maastricht Treaty did many national-level parliamentarians realise that for their parliaments to maintain influence over legislation applied within their country, they had to take an interest in European matters too. A table providing an overview of developments in EU committees between 1957 and 1997 (Maurer, 2001, pp. 6-7) thus shows a total of 37 entries (as some committees have been re-established with renewed or altered remits), 21 of which occur post - SEA. Despite this 'awakening' and increased committee activity, only three parliaments moved one step to the right in table 3.2 above. In France, new legislation and determined action on behalf of the *Assemblée* and Senate moved these institutions from the category of 'Weak legislature' to that of 'Policy influence' (for a description of this development see Szukala, 2003; Szukala and Rozenberg, 2001). The British Parliament made a similar move to the 'Policy influence' category (especially post-1997 as Labour implemented its manifesto commitments on domestic reform), although it was the Maastricht Treaty, rather than the SEA, which caused parliamentarians here to reflect on their scrutiny procedures. While adjustments also took place during the 1980s and early 1990s, it has been argued that change 'was by far outweighed by the changes in the decision-making processes introduced in the Single European Act' (Hansen and Scholl, 2002, p. 10). Scrutiny procedures, even if they develop, must therefore not be looked at in isolation, but in relation to developments at the European level. Perhaps the most significant development has taken place in Germany, which, according to Maurer's table, has moved from the 'Weak legislature' category to straddling the 'Policy influencing and 'Policy making' categories. Significant influence is limited to narrow areas of policy making, but the *Bundestag's* EU committee has developed to a point where it is now

considered to be 'a useful instrument for holding the government to account' (see also Hölscheidt, 2001; Maurer, 2003, p. 131).

In most other parliaments, changes have mainly been related to rights of information and improved communication between parliament, government and the administration. As several parliaments are still heavily dependent on their executives for the transfer of information, improvements in transfer procedures contribute significantly to parliaments' abilities to hold the executive to account in European matters. The importance of inter-institutional relations at the national level is reflected in the fact that Working Group IV in the Convention on the Future of Europe discussed the subject and produced several recommendations on the subject (The European Convention Working Group IV, 2002a, pp. 8-9). However, while the (timely) transfer of information is important, explanatory notes are perhaps even more so. Regular reports from executives to parliaments on European affairs and on the executives' activities at the European level are thus also of significant importance (for more information on the development of information transfer, see Maurer, 2001).

Information

Appropriate information is fundamental to parliaments if they are to conduct scrutiny in an adequate manner. However, notions about what constitutes 'appropriate' levels of information vary significantly between member states. On matters falling under the European Community Treaty, Greek parliamentarians are thus entitled to receive all draft proposals by the Commission, with the Greek Government submitting a report on developments in EC affairs at the end of each parliamentary session. On both the common foreign and security policy and justice and home affairs, the Government submits progress reports (European Centre for Parliamentary Research and Documentation, 2003, pp. 22-3). In contrast, the Finnish Parliament receives, in all three areas, 'comprehensive information on the drafting of EU policy, on request and where needed', and the Danish *Folketing* has developed a system whereby documents are automatically transferred from the Commission's database to the database of the *Folketing's* EUC, ensuring that all documents from the Commission are received by the EUC on their day of publication (COSAC, 2004; European Centre for Parliamentary Research and Documentation, 2003). The scope of information received thus differs significantly—and, consequently, so does the ability of national parliaments to scrutinise their governments. In the Greek case, parliamentarians can do little but accept the outcome of events. In fact, it has been argued that effective scrutiny in the Greek parliament is absent, and that 'EU affairs are usually dealt with long after their news-worthiness has evaporated and debate is usually derailed by general party bickering' (Frangakis and Papayannides, 2003, p. 172). On the other hand, the Finnish

Parliament is in a position to influence its government's activities at the European level. As it is kept informed of how European legislation is developing, the Finnish Parliament has the opportunity to contribute to the government's negotiating stance during both the initial stages of decision-making, as well as at the final decision taking in the Council. This involvement has developed to a point where the Parliament has been described as 'an active participant in the formulation of Finnish EU policy' (Tiilikainen, 2003, p. 156).

The timely arrival of information is a problem most parliaments seem to encounter, especially if translation into a less used language is required. However, even British parliamentarians often consider the transfer of documents to be too slow. Ministries of foreign affairs still hold a central position in the coordination of most member states' European policy, and are thus frequently also in charge of the transfer of documents to their parliaments. While this extra stop on a document's route to a national parliament may be considered necessary within a national political context, it never the less causes delays which may hamper the parliament's ability to scrutinise the government's actions in European matters.

Where required, explanatory memoranda are often transmitted simultaneously with European documents from governments and administrations. These are an important component of parliaments' basis for participation in the pre-decision stages of European legislation. Such notes are likely to spell out the governments' view on the matter at hand, where political and legal problems may arise and, occasionally, also the anticipated negotiating stances of other member states.

To counter the problem of missing or delayed information, as well as a reliance on the executive and administration, some parliaments have set up their own offices in the European Parliament.¹⁶ These offices are staffed with 'spies' (a term used by national parliamentarians themselves), who may be able to obtain information about upcoming legislation, possibly before official channels communicate this to their parliaments, while documents may also be obtained directly. Furthermore, staff in these offices often develop a thorough understanding of how decision-making at the European level takes place, and may thus be able to explain procedures and processes to parliamentarians if required, as well as set up meetings with people at the European level.

¹⁶ By late 2004 the Czech Republic, Denmark, Finland, France, Hungary, Ireland, Italy, Latvia, Lithuania, the Netherlands, Poland, Sweden, Slovenia and the UK either had (or were expected to have very shortly) representatives in the EP.

Unfortunately few MPs seem aware of the existence of these offices or the potential use they could make of the staff employed there. British politicians (unless involved with one of the European scrutiny committees within Parliament) thus seemed generally unaware of the existence of the British parliamentary office in Brussels. For instance, David Curry, MP and chair of Environment, Food and Rural Affairs Committee 2001 – 2003, declared that he ‘did not have the faintest idea they existed’.¹⁷ When told about the office and its functions several politicians, including Curry, questioned the use they could make of a parliamentary office in Brussels. Indeed, Curry claimed that staff in Brussels ‘wouldn’t tell me anything that’s not in the FT’,¹⁸ while Michael Ancram (shadow Foreign Secretary 2001 - 2005) and Lord Oxburgh (chair of the Science and Technology Select Committee in the House of Lords) also questioned how they could use the office.¹⁹ Members of the Danish parliament seem more aware of the existence of the parliamentary office in Brussels although several admit to not utilising the resource to its fullest.²⁰

A further source of information for parliamentarians is personal contact with parliamentarians in other countries or in the EP. Interparliamentary meetings are conducted on an infrequent basis, and usually at the invitation of the EP, providing parliamentarians with a forum where specific issues can be discussed and personal contacts be established. Specifically aimed at discussing the role of national parliaments is COSAC, which will be discussed further in Chapter eight. Although dismissed, until very recently, as a ‘talking club’, COSAC is increasingly seen as a place where ideas can be exchanged on how national parliaments are to engage themselves in the European debate. Concluding ‘contributions’ are still not binding on COSAC participants, but working groups and the recent establishment of a permanent secretariat are indications that COSAC has the potential to develop into a useful and constructive forum. In contrast to these formal channels, direct contact with MEPs is often through party contacts at the national level. Only the Belgian parliament explicitly involves MEPs in its joint committee on European affairs, while MEPs may attend meetings of the Community committees in the German and Greek parliaments, although they have no voting rights in either. On the other hand, four parliaments (the Danish *Folketing*, Austrian *Bundesrat*, Swedish *Riksdag* and UK House of Commons) explicitly exclude MEPs from European Committee meetings.

¹⁷ Interview UK-7.

¹⁸ Interview UK-7.

¹⁹ Michael Ancram asked ‘[w]hat do you use it for? What contacts do you want to make? The easiest thing for me as an MP is to ring up one of my MEPs from my party and say I’m coming over to Brussels, can you arrange for me to see A, B and C?’ (Interview UK-1) while Lord Oxburgh stated that he did not ‘know how we could use them’ (Interview UK-13).

²⁰ E.g. interviews DK-11 and 15.

Even the most extensive rights to information are worth naught if parliamentarians can do little with the information obtained. When it comes to actual scrutiny of national governments, several factors influence how parliaments choose to monitor their governments' actions at the European level. Formal powers and responsibilities are important, but political restrictions at the national level may prevent parliaments from using their full powers of scrutiny. On the other hand, formal and legal powers may not be necessary for a parliament to influence its government.

The Danish *Folketing* is still unique within the Community, having established its mandating powers for itself shortly after Denmark entered the Community in 1973. With frequent minority governments the *Folketing* plays an important role at the domestic level, a role it has simply extended to European issues. However, the EUC's ability to mandate Danish ministers rests on a political agreement with no formal legal basis. It is inconceivable that the political agreement should be broken, and the spirit of the agreement remains more important than its actual legal standing. This can be contrasted with the Austrian *Bundesrat*, whose power to mandate the executive has been so rarely used that it has been classified as a weak participant at the European level (Maurer and Wessels, 2001a, p. 510). In an investigation of scrutiny procedures in Austria, Finland and Sweden, Hans Hegeland and Christine Neuhold (2002, p. 13) state that 'it is not enough to have formal rules; the rules must also be implemented' (as will become evident in Chapter five, the Italian parliament has also found this to be true).

At the domestic level there may be reasons for parliaments to curtail the use of formal powers. The German *Bundestag* thus for a long time resisted pressuring the government over European issues, mainly due to the 'permissive consensus' existing on European integration (Hansen and Scholl, 2002, p. 14). A similar consensus-seeking style can be found in the Netherlands, which is considered a strong player at the national level, but having latent or potential policy influence at the European level. Both the French and British parliaments are better able than the Dutch parliament to confront their governments over European policy. However, having 'only' a scrutiny reserve power does not enable them to force their governments to alter policies and directions pursued at the European level. These two parliaments can thus be labelled as 'modest policy-making legislatures' with weak influence at the national level too. In most other member states (Belgium, Greece, Ireland, Italy, Luxembourg, Portugal and Spain), deliberation of European affairs takes place on an infrequent basis, and parliamentarians often consider their role to be supportive rather than critical of the

government. The classifications of the different parliaments can be summarised in the following table:

Table 3.3: Types of actors in a two-level game

	Strong national player	Weak national player
Strong European player	DK, SF	EP
Modestly strong European player	D, S	F, UK
Weak European player	A, I, NL	B, E, GR, IR, LUX, P

Table adapted from: (Maurer and Wessels, 2001a, p. 510).

The level of influence wielded by national parliaments can therefore not be argued to rest solely on legal provisions for scrutiny. Nor is there necessarily a connection between institutional impact on domestic matters and ability to influence European-level activities. Considerations specific to individual member states therefore contribute significantly to explanations of how national parliaments have involved themselves with European affairs. One example are the concerns of the German *Bundesrat* mentioned above, another is the Italian parliament, where specific reasons for joining the Community have historically made EU matters a ‘non-issue’ with which parliament had no interest in engaging (see Chapter five for further details).

Conclusion

Since the SEA, but especially the TEU, national parliaments have woken up to the fact that they are ‘married’ to the EU, and that, unless they wish to become bystanders to decision-making within their own country, they have to develop methods for participating in European decision-making, even if this is done indirectly through scrutiny of their executives’ activities at the European level. Europeanisation has caused national parliaments to become indirect legitimisers of Council decisions, providing them with the potential to play an important role in the European construct, although this role has not been recognised in the EU treaties. The EP, on the other hand, has always been provided with a role through the treaties—which have also increased its powers to the extent that the EP can now be described as, politically and legally, an equal co-legislator with the Council in a majority of policy areas. National parliaments have thus had the disadvantage (compared to the EP) of having an ill-defined role to fulfill, although this has also permitted the better development of individual responses to particular, national political requirements for scrutiny procedures.

The appropriateness of national parliaments only participating indirectly at the European level has been questioned on several occasions and in several forums over the years. The idea of direct participation has most commonly been dismissed as undesirable, unworkable or not suitable for the continued development of European integration. However, as national parliaments have gradually become more involved with European affairs, it has been accepted that certain issues are better dealt with at the European level. A symbiotic relationship is thus developing, although this is one without much direct contact between the national and European levels. Each level, however, needs the other: Europe cannot become democratic merely through parliamentarisation at the European level; Europeanisation of the national level is necessary too.

National parliaments have experienced limited contact with (especially) the ECJ and the Commission. However, contacts with the Commission seem destined to develop as it becomes increasingly acceptable for national parliaments to receive documents directly from the Commission without first going through coordinating bodies (most often ministries of foreign affairs). To develop relations with the Council as an institution has been difficult for national parliaments, with national interests most often outweighing any concerns national parliaments, as institutions, may have. Influence over Council-decisions is therefore focused on the national level. Consequently, the only European-level institution with which national parliaments have regular (and anything approaching frequent) contact is the EP. Recognition that a European-level parliament is indispensable to a democratic EU has gradually led national parliaments to develop cooperation with this institution, although at times still hesitant and guarded.

Although all national parliaments accept that their role in European affairs has altered, scrutiny efforts undertaken at the national level vary significantly in extent and have differing degrees of impact. Differences are only to a limited extent dependent on the availability of information, as national parliaments are all entitled to European documentation as well as time to examine it. Moreover, documents are often available on the internet, and parliamentary 'spies' at the European level are able to provide further information and contacts where required. To some extent parliaments can be provided with too much information, with the task of sifting it and determining what is important requiring significant resources. It thus becomes important for national parliaments to develop quality over quantity when it comes to provision of information, as they otherwise stand no chance of making any perceptible impact on the activities of their executives.

In the three case studies chosen for this research (the parliaments of Denmark, Italy and the United Kingdom), developmental continua exist on several dimensions, while they are also all strong parliaments or resting on a strong parliamentary tradition. In all three countries the parliaments are very important institutions in the national political process, although their ability to influence domestic legislation differs, with the UK being the weakest. In terms of influence over European legislation, the influence exercised by the Danish *Folketing* reflects the influence it has over domestic legislation, whereas the British House of Commons arguably has more influence over European than national matters and the Italian Parliament less. In the following three chapters the case studies will be further examined, and reasons for the differences outlined above investigated.

Chapter 4: Denmark

I always experienced it as a constructive and positive challenge [to meet with *Folketing* committees prior to meeting in the Council]. I felt a deep responsibility to answer as satisfactorily as possible, to have prepared properly and thereby provide the EU Committee and select committees with a concrete and secure basis [for the provision of mandates]. This is traditional in the relationship between the *Folketing's* committees and the government.

(Rasmussen, 2002, Danish Prime Minister 1993 - 2001)

The political institutions in Denmark are very similar to those of most other democratic countries. Voters elect parliamentarians to the Danish *Folketing* (Parliament) from which a government is formed. Non-political civil servants staff the administration, laws are upheld by (independent) courts,¹ and the principle of universal suffrage is adhered to. Although the Monarch has formal duties to carry out in relation to the governance of Denmark (such as appointing or dismissing ministers), absolute monarchy was abolished with the signing of the Constitution in 1849.

However, the Danish system of governance is distinguished by how democracy is translated into a 'people's democracy' (*folkestyre*) where openness and transparency are fundamental to political institutions and processes—including the public administration. *Folkestyre* has emerged for a variety of reasons, one being a relatively flat societal structure. The limited social hierarchy helped establish demands for direct influence on governance structures and activities during the 19th Century, although it was not until the early 20th Century that the right to vote was awarded women and servants.

The relatively long struggle for general suffrage has contributed to the feeling that democracy is 'valuable' to the individual citizen, still reflected in relatively high rates of participation in elections and referenda. Danish *folkestyre* has developed in conjunction with representative democracy with the consequence that close scrutiny of government activities has become fundamental to Danish political culture—greatly assisted by the fact that Danish governments are often (minority) coalition governments. Close scrutiny is also evident in EU affairs where the EUC mandates all ministers negotiating for Denmark in the Council and all select committees are increasingly involved in scrutiny of European affairs.

¹ The oldest Danish law from 1241 begins with the statement 'Med lov skal land bygges', which means 'with law shall a country be built'.

Historically, the *Folketing's* scrutiny of EU affairs has been carried out by the 'Europaudvalget' (European Affairs Committee (EUC)), the second oldest parliamentary committee on Community Affairs within the EU. The committee was established in 1961, twelve years prior to Danish membership of the Community, although only formalised and institutionalised by law in 1972, the year before Denmark took up membership of the Communities. The initial purpose of the committee was to be a forum of debate where Denmark's options regarding membership of the Community could be discussed—a function reflected in the committee's first name: The Market Negotiation Committee. Later on, Danish terms of accession were discussed within the committee, and, after 1 January 1973, it became the main parliamentary forum for the debate of Community affairs. The changes in the committee's functions, as well as developments at the European level, have been reflected in the committee's name, which was altered, initially, to 'The Market Committee' in 1972, and again in 1993 to the European Affairs Committee.

As will become evident, the handling of European affairs has been based on the systems developed for national legislation—but European legislation (and Europeanisation) has also altered the work of the *Folketing* in general. Whether parliamentarians approve of EU membership or not, it increasingly influences the work of all Danish MPs. In turn, membership is also beginning to impact on Danish political culture, as membership affects Danish governance, institutionalisation and discourse (see Radaelli, 2004, pp. 10-14). While EU issues have traditionally been treated separately from domestic issues by the EUC, select committees are beginning to think of scrutiny of European legislation as being (almost) as important as their work on domestic legislation. Potentially, this development may bring an end to the broad parliamentary agreement that has so far existed on EU affairs, instead subjecting European legislation to more traditional political cleavages. If these broad agreements cease to exist, it is likely that the *Folketing* and its select committees will become increasingly important in the formulation of Danish EU policy, making it imperative to fully understand how the *Folketing* engages in this process and what level of influence the select committees can develop.

Changes at the European level, through successive treaties and other arrangements have also been reflected in the work of the EUC although its basic function has remained the same throughout its institutionalised history. The EUC's primary task is to coordinate the *Folketing's* EU policy and to provide Danish ministers negotiating in the Council with mandates to carry out this policy. It is still the Danish government's prerogative to develop Denmark's EU policy, and it is not for the *Folketing* to take over this role. Still, parliamentary influence on EU policy can be described as substantial

because of the considerable involvement of the EUC. This involvement can, on one hand, be argued to only occur at a very late stage and therefore leaving parliamentarians with no real opportunity to influence European legislation. On the other hand, the Danish government as well as civil servants are aware of the need to obtain agreement on European issues from the EUC, and they keep this in mind during preparatory stages of the decision-making process, thereby providing the EUC with indirect influence.

As early as 1923 the *Folketing* set up an advisory foreign Affairs Committee the government was to consult on all major issues (Fitzmaurice, 1981, p. 136). Parliamentary involvement in foreign policy thus has a long history in Denmark, as does the institutionalisation of committees within the *Folketing*, although their role and importance has varied over the years. The last significant reform of the committee system was undertaken in the 1970s, when the *Folketing's* activities were made considerably more dependent on work carried out within committees. To fully understand the changes that have taken place within the *Folketing* and the inter-relationship between procedures for national and European legislation the first section of this chapter will focus on the *Folketing's* committees, how they are appointed, the basis of their membership and how voting is carried out. This will be followed by a closer examination of the EUC whose *modus operandi* is contrasted to that of 'normal' select committees.²

An increasingly important aspect of the scrutiny procedure is cooperation between the EUC and other select committees within the *Folketing*. It has been recognised that the specialised knowledge available in the select committees is required in order to fully assess the impact of European proposals at the national level. The role of select committees in the scrutiny process, and their relationship with the EUC, will thus also be investigated. Members of select committees have become aware that scrutiny of European legislation can be a significant task that, with mandating still undertaken by the EUC (to preserve the overview and coordination) does not appear especially rewarding. Consequently, select committees have been reluctant to undertake such work and the involvement of select committees in scrutiny of European legislation has therefore developed gradually over a significant period of time.

The last section of this chapter will explore the crucial relationship between the administration and the *Folketing*. These relations have developed significantly as select committees have become involved in scrutiny procedures, while the EUC's

² Committees within the *Folketing* are called 'stående udvalg', which, literally translated, means 'standing committees', a term the Italian Parliament also employs. However, for the sake of consistency, they will all be called select committees.

relationship with the administration has also been affected by changes in European-level cooperation. New demands for the provision of information have continuously been placed on the administration as Parliament relies heavily on such information when carrying out its scrutiny. Parliamentary treatment of individual ministers depends on the individual relationship, specifically the amount of trust that has developed between a select committee and 'its' minister. If ministers are trusted to uphold the spirit of a negotiating mandate, they, and their civil servants, will likely find it easier to negotiate the terms of mandates than will ministers who have not developed such trust. However, before reaching the stage of mandating, Danish ministers are first questioned in select committees. Because of the fundamental role select committees play within the *Folketing*, this is where this chapter will start.

1. Select committees within the *Folketing*

According to the *Folketing* itself, committees are its 'workshops' (Folketinget, 2000), whereas plenary sessions are reserved for major debates and voting. Decisions are prepared in select committees, of which 24 currently exist with remits corresponding roughly to those of each Danish Ministry. Two are considered as being particularly powerful: the Finance Committee and the EUC (Folketinget, 2000).³ MPs are often, simultaneously, members of several committees, a practice that can test members of small parties severely, as each MP has to cover a large number of topics within both the *Folketing's* committees and in the party's relations with the press. In the larger parties MPs can share the workload and three people may, for example, be appointed to the Food, Agriculture and Fisheries Committee, with one person specializing in each of the topics this committee covers.

The importance accorded EU affairs by the *Folketing* is evident in party nominations to the EUC, most of which are party 'heavyweights', thereby contributing to the committee's significant authority.⁴ Just as parties are allocated seats in the EUC on the basis of their representation in the chamber, voting within the EUC is carried out on this basis as well. In an unusual deviation from common practice, the chair of the EUC does not count 'heads' (or hands) when a vote is taken, but the number of seats each

³ The importance of these two committees is illustrated by the fact that in material generated for the public about the *Folketing*, one information sheet covers committees in general, while the EUC and the finance committee—but only those two—are described in individual information sheets.

⁴ Examples from the 2003-2004 memberships include Pia Gjellerup and Kristian Thulesen Dahl (group chairs from the Social Democrats and the Danish Progress Party respectively), Jacob Buksti (former minister of transport) and Ritt Bjerregaard (former agricultural minister and European Commissioner).

member of the committee represents in the *Folketing*.⁵ As the EUC takes decisions on behalf of the *Folketing* that, at a later date, may have to be implemented by the *Folketing*, the counting of parliamentary rather than committee seats minimises the risk of a minister being provided with a mandate that may not be carried in a plenary vote (Jensen, 2003). In a further deviation from common practice, the EUC generally operates in secrecy, based on the fact that Denmark's negotiating position would otherwise be compromised.

When assessing the relationship between committees of the *Folketing* and the government, the fact that, since the Second World War, six governments (from a total of 29) have been majority governments (none of them single-party) becomes important.⁶ With minority governments being the norm rather than the exception, the importance of committees within the *Folketing* takes on a new dimension. Being a parliament of committees, both backbench and opposition MPs have been provided with an important means of influencing, in some instances even controlling, the government. The influence of the opposition can be gleaned from the number of votes on which governments have been defeated in plenary sessions. Between 1982 and 1988 governments (all Conservative) lost 108 of 1356 final votes on EU-related issues. These defeats did not cause 108 elections, indeed, 'in all but three cases - recourse to a popular referendum on the issue of the Single European Act in February 1986 was one - the Government accepted defeat with a view to staying in office' (Arter, 1996, p. 119). The notion that a government can lose approximately 8 per cent of votes on a particular topic is inconceivable in, for instance, the United Kingdom, where such events would have brought about the Government's downfall. Frequent minority governments and the salience of EU issues have thus allowed the EUC and other committees to wield significant influence. The EUC does not, however, replace the government and still 'cannot develop a positive, alternative strategy in Market policy' (Fitzmaurice, 1979, p. 215).

The ability to maintain democratic control over the decision-making processes, including decisions taken at the European level, has always been important for the *Folketing*. National democracy is the most frequently cited reason for the thoroughness of the Danish scrutiny system and is often used as justification for the involved process by politicians from the entire political spectrum. When asked whether ministers found having to obtain mandates from the EUC inconvenient, a Conservative Party politician answered that that was a given, 'but this is the democratic process that has to be

⁵ Political parties are considered to be unitary actors 'in the politically most important sense, that their members in the parliamentary chamber on the whole exhibits a uniform decision-taking pattern' (Jensen, 2002, p. 216). However, the EU is a contentious issue, and Danish political parties are not always united on EU policy. How disagreements are managed when it comes to defining and agreeing a common line within the EUC is, however, beyond the scope of this study.

⁶ Indeed, the government formed immediately after the Second World War was an all-party government.

adhered to'. Another member of the Conservative Party believed the scrutiny process to be worth the trouble 'because we know the decision has a democratic legitimacy and that parliaments have not been pushed aside'. At the opposite end of the political spectrum a member of the Socialist People's Party stated (even if reluctantly): 'I don't think, in the world of realities, that it is possible to do things much better'.⁷

When Denmark joined the Communities, the Luxembourg Compromise was still in effect, ensuring that the EUC, through the Danish representative in the Council, wielded significant influence over EU decisions, even if indirect. John Fitzmaurice claims that 'the Luxembourg agreement was part of the legal and political basis for Danish membership', and that the EUC 'discussed possible ways of exercising democratic control of decision-making, and concluded that control over the Council of Ministers, which would be essential, would have to be performed by national parliaments' (Fitzmaurice, 1976, p. 285). Accepting that the Luxembourg compromise was valid when Denmark became a member of the EU, post-initiative involvement would be sufficient for the *Folketing* to wield considerable influence, as all initiatives could be vetoed at the Council stage. With Danish representatives in the Council being mandated by the EUC, the committee was able to influence EU decisions effectively.

However, the EU no longer functions on the basis of the Luxembourg compromise. When, as is increasingly the case, QMV is used in the Council even a mandated negotiator can be voted down. Moreover, only a small percentage of cases are actually discussed by participants at Council meetings, with the vast majority of issues having been solved at working group or COREPER level (Hayes-Renshaw and Wallace, 1997). For national parliamentarians to be effective in such an environment they not only must become involved at a much earlier stage, they also have to become familiar with European institutions and procedures.

In a 1995 study, Torben K. Jensen investigated how Danish MPs differed in terms of contacts abroad. Although EUC members were found to have significantly more contacts abroad, both with other parliamentarians and other 'political actors' than other MPs, they were by no means part of a 'trans-national parliamentary network of contacts'. EUC members were not considered a separate group with regard to basic attitudes to and opinions on 'decision-making competencies, EU-institutions and the Danish decision-making processes'. The study concludes that 'Danish politicians ... seem to operate within a traditional confederalist universe, and, perhaps precisely because of this, do not seem to be especially well suited to the challenges presented by Europeanisation' (Jensen, 1995, p. 478, author's translation). It may thus appear that, at the time this research was carried out, Danish MPs did not participate in European

⁷ Interviews DK-8, 3 and 11.

decision-making to their maximum ability, in part because they did not understand the nature of the environment they operated in. The latest report from the EUC (available in draft form only (Europaudvalget, 2004)) indicates that changes are taking place to improve the impact of the EUC, with one of the most important elements in this report being the more efficient organisation of select committee involvement in scrutiny of European affairs. Incorporating scrutiny of European legislation into the tasks of select committees (listed in the *Folketing's* standing orders) would serve to make such activity more of a normal occurrence, while also developing a better understanding amongst MPs of how Danish and European decision-making procedures are interconnected and interdependent. Such an improved understanding would likely lead to a clearer perception of the overall legislative environment within Europe—and therefore enable Danish MPs to maximise their influence within it.

Select committees have come to be fundamental to the workings of a political system that is characterised by a fragmented parliament and coalition governments. The *Folketing* has therefore been able to develop significant influence, including in the areas of foreign and EU policy. Danish political culture is also, however, influenced by a strong scepticism regarding further integration with Europe. This scepticism has contributed to demands for strong scrutiny that itself has grown out of existing procedures for legislative involvement.

2. The European Union Committee

The competencies of the EUC are listed in the *Folketing's* rules of procedure and include the scrutiny and coordination of EU issues on behalf of the *Folketing*. The legal basis for the work of the EUC rests on the law of accession from 1972 which states that 'the Government informs a Committee, established by the Folketing, about Commission initiatives which will be immediately applicable in Denmark, or for which the implementation necessitates the cooperation of the Folketing' (Folketinget, 1995, author's translation). However, of more significance for determining the powers of the EUC was the first report issued on March 29 1973, by the then Market Committee. The report was concerned with the Committee's work and competencies, and stated that: 'the Government consults [the Folketing] on Community issues of some significance, in a way which respects both the influence of the *Folketing* as well as the freedom of negotiation of the Government' (Folketinget, 1995, author's translation). This has resulted in a situation where the EUC, on behalf of the *Folketing*, provides ministers with a negotiating mandate prior to meetings in the Council.

The accusation that the Danish system of mandating ministers delays decision-making at the European level tends to be denied by both parliamentary staff and politicians

(including ex-ministers). Indeed, having experienced the process of obtaining a negotiating mandate from the EUC, ex-ministers spoke mainly of the advantages of this process: a better understanding of the topic and certainty that the issue would go through the Danish parliament and implementation without being challenged.⁸ In fact, Poul Nyrup Rasmussen (Prime Minister 1993 – 2001) (2002) states that he ‘under no circumstances’ found the Danish mandating process slow or leading to delays in activities at the European level. On the contrary, he found the Danish system democratic, transparent and a good method for preventing mistakes.

To carry out its work, the EUC is provided with ‘all the information it could possibly want’ according to Claus Larsen-Jensen (EUC-chair 2000 - 2005).⁹ Despite this seemingly idyllic situation, Larsen-Jensen (in the same interview) requested better and improved information. Specifically, he would like to see more concrete information, with the accompanying governmental notes outlining exactly what the issue is, where any problems may be, and what Denmark's negotiating partners are expected to bring to the table. Although the *Folketing* now receives all legislative proposals directly from the Commission (COSAC, 2004), important information is still received from the government with the Ministry of Foreign Affairs as the coordinating body. For instance, to accompany Commission initiatives the government forwards factual notes. Further information is provided to the EUC by interest organisations and the *Folketing's* representative in Brussels. Moreover, members of the EUC travel to Brussels and also visit the parliament in the member state holding the Presidency of the EU. On the other hand, even for the purposes of information gathering, cooperation with MEPs has, historically, not featured as a significant part of the EUC's work. To the extent that MEPs are involved in national affairs, contacts have primarily existed within the political party or group-organisation from which the MEP is elected, while systematic contact with the EUC has been non-existent. The latest report from the EUC seeks to address this situation by establishing regular, monthly meetings between the EUC and Danish MEPs (Europaudvalget, 2004). Such meetings potentially benefit both sides by establishing new, direct channels of communication that are easily tailored to the needs of the participants.

The *Folketing* encounters several problems in its attempts to scrutinise the Danish Government on EU policy. One issue is that of translations which may not be available until several days after the original documents have been released. In such instances MPs have two options: they can either wait for the translations, and thereby risk not understanding or following a topic properly, or learn one of the major languages of the

⁸ For instance interviews DK-2, 10 and 31.

⁹ Interview DK-16.

Community and attempt to work with documents available in that language.¹⁰ While the lack of translations is often considered an inevitable part of closer integration, it remains a nuisance and causes delays, potentially limiting the ability of MPs to undertake national-level scrutiny in as comprehensive a manner as they wish.

Paradoxically, an equally serious problem is that of too much information.¹¹ Both politicians and civil servants agree that the amount of information is substantial, and that it is often difficult (or impossible) to examine it all, even with the simple aim of distinguishing the important from the not-so-important. The sense of being overwhelmed exists even in select committees—despite these ‘only’ dealing with what falls within their remit. Although in many committees staff could easily spend their entire time simply following Community cases within their remit, their main focus is still on national legislation.¹²

While politicians insist it is their job to follow ‘important’ cases, in reality the importance of an issue is often determined by recommendations of committee or personal staff, citizens or the media. It thus becomes essential to determine how an ‘important’ issue is defined. While, historically, broad agreement on EU policy has existed within the *Folketing*, this may well change as European issues increasingly become part of everyday parliamentary activities. The distinction between domestic and European affairs will thus continue to blur, with traditional political cleavages possibly establishing themselves more firmly on European issues, bringing criteria relating to the importance of domestic legislation to bear on European legislation too. Such a development is likely to increase the importance of select committees further, as this is where most parliamentary work is carried out.

¹⁰ Interview DK-11.

¹¹ Erling Olsen, previous speaker of the *Folketing*, thus related how he, in a newspaper, once saw a picture of the chair of the EUC carrying a pile of papers. The papers, approximately 1000 pages, were to be discussed at the EUC meeting the following Friday and had been made available to MPs on the Wednesday before the meeting. In other words, members of the EUC had two days to sift through the 1000 pages. Olsen claimed this was done so the administration could claim that they had not hidden anything. His response to this was that ‘if you put forward 1000 pages you have not put everything on the table, you have hidden everything’. His plan therefore was to develop a system where each important case was to be covered in a document of no longer than ten pages, preferably no more than five, and the focus should be on political issues, not technical or legal aspects (interview DK-22). As Larsen-Jensen was still able to find shortcomings in the information provided, systems for drawing up appropriate information for MPs are obviously undergoing continuous development.

¹² This state of affairs became evident through interviews with Danish politicians and parliamentary civil servants, but see also Bostrup (2002).

Two further (and related) problems for the EUC are those of the overall time frame and the final decision making process for Community proposals. Margrethe Vestager¹³ expressed it as follows:

The process of a directive can be very fast right at the beginning, by taking a decision to set this thing going, and then it moves so slowly that one cries for mercy until suddenly, right towards the end of the process, everything has to move very quickly again. This makes it very difficult for people involved to maintain a momentum. You may become engaged at the beginning, a few headlines will probably appear, somebody has heard that now they're going to ban - whatever, but then nothing happens for a long time until years later things pick up speed again. I think this is difficult for politicians, not just for politicians as participants in a system, but for politicians as human beings, to maintain the focus during such a long process, and I think this creates problems'.¹⁴

Examining the co-decision procedure, it soon becomes obvious that national parliaments have very few 'points of entry' (even indirect) where they can voice their opinion. This is only possible at the beginning of the actual decision-taking process when the Council, essentially the mouthpiece of national parliaments at the European level, establishes its common position. The Council establishing its common position is the beginning of the final 'sprint' towards a piece of European legislation being adopted, and the final stage where things speed up significantly after the long period of inactivity described by Vestager. This is also, however, the stage where actors influence Community legislation the least, with the most effective lobbying having been carried out prior to legislation being formally proposed by the Commission.

Because of the long legislative process at the European level it is not enough for a parliament to focus on this last 'sprint' towards adoption of a piece of legislation. To be effective, parliaments must retain an overview of a proposal right from the initial idea, through possible Green and White Papers, to the final proposal, adoption and implementation. A legislative procedure taking seven years or more is, in all countries within the EU, likely to cover at least two election periods, making a changed membership of parliamentary committees almost a certainty, with continuous monitoring of legislative proposals correspondingly difficult. Executives and their administrations are at a natural advantage in this situation, as one of their important tasks is to maintain an overview and be a permanent and stable force. For members of the EUC it is not possible to counter the administration, nor is it necessary, as it is not the task of the EUC to create policy, merely to scrutinise it.

¹³ Ex-minister of ecclesiastical affairs and education. While these topics are not areas of close European cooperation, Vestager has also been a *stagiaire* with the European Parliament, and is therefore aware of how the two levels of governance impact upon each other, as well as of processes and procedures of European legislation.

¹⁴ Interview DK-29.

3. The involvement of select committees in European affairs

As the EUC works on behalf of the *Folketing*, the Danish Parliament as a whole has rarely been involved directly in Community affairs. This situation is changing, however, as the EUC has progressively involved other select committees in its work. Although a relatively new development, 'farming out' of work from the EUC has been an option since 1973 when the Market Committee, in its first report, claimed the right to 'request an opinion from other select committees in cases which are of relevance to these' (Folketinget, 1999, p. 1, author's translation). Despite having the option to involve other select committees, the EUC very rarely did so for several reasons. One important reason was the persistent belief amongst members of select committees that EU affairs were a topic separate from domestic policy, and therefore not their domain.¹⁵ A second reason, perhaps equally significant, was the similar attitude of various chairs of the EUC and its predecessors: EU affairs were a matter for specialists, and therefore to be kept within the confines of the EUC.

A significant, albeit procedural, step towards greater involvement of other select committees was taken in May 1994 with the publication of a report on the Government's duty to inform the *Folketing* on Community issues (Folketinget, 1999). In this report it was decided that select committees were to receive all relevant information from the ministries. Information from the government was forwarded from the ministry of foreign affairs (the coordinating body for the government on EU affairs, see below) through the EUC to the select committees. Information not originating from the government was provided to the EUC and relevant select committee(s) simultaneously. The report also emphasised that the rules should not hinder further requests for information from the select committees, thus allowing them to scrutinise 'their' minister and ministry further. It was also, however, left to individual committees to decide how to use the information with which they were being provided, making it possible to claim involvement without committing to full scrutiny of matters within the committee's remit. While all committees now require the minister to appear before them prior to meetings in the Council, some committees go further than that, agreeing with 'their' ministry that a resume of activities is to be forwarded to the committee every six months, typically in connection with the change of Presidency of the Union.

The *Folketing* is thus attempting to combine the expertise from the select committees with the specialised knowledge and coordination ability of the EUC. This has also been

¹⁵ The number of agenda items (relating to EU issues) found on the ordinary agendas of select committees has increased from ten in the 1979-80 parliamentary year to 205 in 2001-2. The Environmental and Planning Committee is responsible for a significant number of these, namely 7 in 1979-80, and 41 in 2001-2 (Jensen, 2003, p. 114).

attempted in the Italian Senate through members of the European committee also being members of other select committees. Within the *Folketing* such structural means for achieving the combination of knowledge have not been employed. Instead, the EUC has relied on select committees to understand the importance of their involvement in scrutiny procedures and their willingness to undertake the work required.

While the EUC would like other select committees to forward written recommendations to it, only the committee on the environment has done so for a substantial period of time. It is thus possible to detect a significant divide in behavioural patterns between committees dealing with issues over which the Community has well developed competencies (agriculture, fishing and the environment are obvious examples) and areas where the Community has little competence (health and social issues for instance), with the latter according EU issues much less importance than the former. Committee personnel has been an important factor both in developing interest in European affairs and the building of scrutiny procedures within committees. It is evident that committees with chairs and/or members who have participated in the work of the EUC often have a better understanding of how EU legislation affects their work at the national level. As a consequence, these committees tend to be much more interested in participating in the framing of European legislation.¹⁶

The debate on how to involve select committees further has continued within parliamentary groups and the parliamentary *Præsidium* (governing body). A report from the EUC (published February 1999) thus once more included discussion on the role of select committees (Folketinget, 1999, pp. 96-105). It was argued that because the EU affects the *Folketing's* committees differently, no single model for how select committees should deal with EU affairs could be developed and implemented. The EUC did, however, encourage select committees to become involved at an early stage where the ability to influence the stance of the government is the greatest. The EUC also (again) made it very clear that the final mandating of ministers takes place within the EUC. This point was reiterated in a report from 2001 (Folketinget, 2001a) which also contained a catalogue of ideas for how select committees could potentially develop their work on Community affairs.¹⁷

¹⁶ An example of this is the select committee on Fiscal affairs. Jens Peter Verner (chair 2001 - 2005) was a member of the EUC prior to the 2001 election and has instigated several new initiatives within the committee he now chairs. Although the EU is not—currently—harmonising tax legislation, it is an area of much contention, and the committee has developed a system for keeping track of current legislation, while also asking the ministry to indicate which areas, in the short, medium and long term, they expect to be the subject of negotiation at the European level (interview DK-27).

¹⁷ In the 2001 report it was also decided that an EU consultant, whose specific job it would be to inform and assist the select committees, should be employed by the *Folketing*.

In the latest (draft) report from 2004, a more systematic and independent involvement of select committees is envisaged. It is thus suggested that the first review of EU legislation should take place in select committees that then report to the EUC. The EUC itself would still provide the final negotiating mandate in order to 'ensure unity and continuity in the Folketing's treatment of EU-cases' (Europaudvalget, 2004, p. 4, author's translation). For select committees to fulfill this role they need to 'systematically undertake an independent investigation of new proposals from the Commission' (Europaudvalget, 2004, p. 6, author's translation). Such independent activities require their involvement to begin at a very early stage, while cooperation with the EUC must also be very close.

The potential reward for the significant amount of work such scrutiny requires is indirect through submissions to the EUC, although an improved understanding of Community affairs and their impact at the national level can also be achieved. Despite the wishes of the EUC and the obvious impact of European legislation on domestic legislative activities, the incentives for select committees to become involved with Community issues remain limited. Any involvement means adding to the workload of committee members and staff as well as a steep learning curve as the processes, vocabulary and style of Community legislation are different to those that apply to national legislation. Although politicians are aware that they need to include a European dimension in their work, they are also aware of the difficulties. One Danish MP thus stated that 'it demands significant engagement, it is all or nothing',¹⁸ while another MP commented that 'one can always philosophise about whether everybody can work it out, at times one doubts that somewhat. Partly because sometimes material arrives in a foreign language, while at the same time it is somewhat complicated'.¹⁹ To alleviate the effect of the different legislative procedures Olsen pushed for hearings on Green and White papers from the Commission. These hearings were supposed to help MPs become aware of forthcoming issues at the European level. However, 'the problem is that they can not be bothered to turn up because it may take several years from the introduction of a Green paper to the implementation of it, and before [the implementation] a national election is to be held, there is a party at home in the electorate with a picnic and the whole lot, and that is what matters in terms of being reelected'.²⁰ An ex-minister²¹ echoed this sentiment, arguing that:

The minister turns up [in a select committee] to inform about a topic because the Commission has decided to make a directive or policy on that topic. Then we inform, the committee can have an opinion, take a

¹⁸ Interview DK-5.

¹⁹ Interview DK-31.

²⁰ Interview DK-22.

²¹ Interview DK-12.

standpoint, read some things about it and then, in principle, three years go by before the topic returns. And then it has become a directive that is to be implemented where you can't move a comma and where the ownership of the case is close to non-existent. Then it easily becomes a matter of leaning back and saying 'ah well, it is EU legislation, I can't do anything about it', and that means that the engagement with European issues is very limited

However, the perhaps biggest disincentive for members of select committees to engage with European affairs remains the lack of mandating powers for select committees. While the EUC and the *Præsidium* have pushed for select committees to involve themselves more in EU affairs and contribute to debate in the EUC and in the formulation of and commenting on mandates, the EUC has repeatedly underlined that mandates are—and will continue to be—delivered by the EUC. This has often resulted in Community issues finding their way to the bottom of the pile of papers to be considered at select committees meetings. A *Folketing* staff member suggested that select committees had the 'safety network' of the EUC to address Community issues and therefore did not need to develop a comprehensive understanding of them.²² If they have no involvement in the final stage, that is, the granting of the negotiating mandate, members of select committees may question the usefulness of undertaking all the preparatory work.

Other scrutiny-related problems mentioned by Danish MPs on select committees are similar to those of the EUC, namely those of timely arrival of papers, mainly translations of papers from the European institutions, as well as the quantity of papers. The Government has not been directly accused of drowning the parliament in papers, but several MPs indicated that a summary, setting out the issues and likely problems together with the government's position, would be helpful to busy parliamentarians. As the administration has learnt about how to inform parliament, MPs are being provided with better tools for carrying out their scrutiny. Procedural improvements do not, however, solve the issue of lack of participation by non-EUC members in the final provision of mandates. However, shifting the mandating of ministers to select committees would only create other problems, the main one being a loss of coordination on EU issues within the *Folketing*.

With the increased engagement of select committees in Community affairs, a greater number of MPs are involved with these issues on several levels. Not only is coordination between the EUC and select committees necessary, it has also become increasingly necessary to coordinate party positions across policy areas. For instance, the spokesperson on agriculture must coordinate with the party's representative in the EUC when issues falling under the remit of the agriculture committee are discussed. Many politicians interviewed mentioned this increased coordination as being

²² Interview DK-25.

imperative to the smooth functioning of the work within parliamentary party groups. Party spokespeople have historically been responsible for the coordination of policy. However, it becomes increasingly difficult for one person, or even a small committee, to formulate a party's EU policy if they have to defer to the entire spectrum of select committees. The increased requirements for coordination of EU legislation, both at the intra-party and inter-committee levels, may thus contribute to Community matters increasingly becoming 'everyday' politics to be considered in the formulation of domestic policy preferences.

Currently, the roles of select committees remain limited by the EUC's monopoly on coordination of the *Folketing's* EU policy. Although most politicians accept this state of affairs at the moment, some feel the opposite approach should be taken and that EU policy could well be coordinated in the select committees. Tove Videbæk, chair of the Social Committee in the *Folketing*, thus argues that the coordination process could simply be reversed. In other words, the spokesperson from the select committee could ensure that a proposal conforms to their party's EU policy, rather than the spokesperson on EU policy checking whether a proposal falls within party policy on the given topic.²³

While it is very likely that placing the mandating procedure with select committees would result in increased interest in Community affairs, maintaining the EUC as a coordinating body makes sense institutionally. It is still the prerogative of the government to conduct Danish foreign policy and Community affairs are still organised by the government administration in a manner very similar to foreign affairs with strong central coordination. Compared to the government administration, the *Folketing* has limited resources and must thus maintain tight coordination if it is to be effective in its control of the government.

4. The Administration

The government's right to conduct foreign policy is constitutionally based (Folketinget, 2001b, Chapter III, Article 19, para. 1). While the government is obliged to inform parliament and obtain its approval on matters pertaining to inter-state agreements and any alteration of the Danish Kingdom's territory, the Constitution does not mention the parliament as a participant in foreign affairs. Although civil servants within the Ministry of Foreign Affairs maintain that Community matters have never been considered foreign affairs by the ministry,²⁴ the coordination of EU affairs remains subject to strong centralisation. The administration's coordination of relations with the

²³ Interview DK-30.

²⁴ Interview DK-9.

Folketing as well as the Government's negotiations at the European level thus takes place within the Ministry of Foreign Affairs. Speaking specifically about relations with the *Folketing*, a centrally placed civil servant maintained that 'no paper goes to the *Folketing* without it first passing over my desk'.²⁵

While the procedure of channeling all information through the Ministry of Foreign Affairs ensures continuity in style and form, as well as guaranteeing coordination for the government, it also introduces an extra bureaucratic layer, potentially causing delays that may prevent a thorough examination of a topic by the *Folketing*. It is not disputed that it is the Government's duty to inform the *Folketing*, but how this is achieved has been the subject of many debates, with the administration repeatedly adjusting to new demands made by Danish MPs. Provision of information to the *Folketing* can therefore be described as a learning process for politicians as well as the administration. While politicians on select committees have had to discover what questions to ask and what information to request, staff within the administration have had to learn how to accommodate the MPs' demands.

Although structures and procedures for formulating negotiating briefs and directions are centralised within the Ministry of Foreign Affairs, several non-governmental organisations (NGOs) and other interested parties are also involved through an EU Committee established within the Ministry of Foreign Affairs. This coordinating committee has several sub-committees, each dedicated to an area roughly corresponding to a ministry within the Danish administration.²⁶ The sub-committees prepare the basis for Danish negotiators, with final decision taken in the EU committee within the Ministry of Foreign Affairs or the Danish Government's committee on foreign policy (with no participants from outside the government or administration). Parliamentarians do not participate in any of these committees. While they receive papers from committee meetings, the section outlining the Danish government's negotiation stance and goals has always been withheld. The government has maintained that this is done for reasons of confidentiality, arguing that if parliamentarians leaked the government's goals and aims to the press the Danish negotiation position would immediately be compromised. While this argument has a strong element of plausibility to it, the section removed from the documents forwarded to the Parliament is also, ironically, the one which parliamentarians would find most useful in their scrutiny of the Government's actions at the European level. However, the government has recognised that parliamentarians may find the sections so far

²⁵ Interview DK-9.

²⁶ Participants, on an *ad hoc* basis, are mainly industry and labour organisations. Less frequently organisations protecting, for instance, the rights of consumers will also be involved. At the latest count 35 committees, each with between 4 and 67 participants, were established under the EU committee within the ministry of foreign affairs (Folketingets EU-Oplysning, 2003)).

removed useful, and a compromise appears to have emerged in the latest (draft) report from the EUC. The government has agreed to include its overall opinion on an EU proposal in the notes forwarded to the *Folketing*. In return, the *Folketing* accepts that the wording of the opinion may not be identical to the negotiation mandate later presented to the EUC (Europaudvalget, 2004, pp. 12-3). It is not in the interest of the EUC to undermine the government's negotiating position, this would only serve to diminish its own influence, but the new demands on information provided by the administration do, overall, enhance the basis on which the *Folketing* operates.

Civil servants from the Ministry of Foreign Affairs all officially support the development of scrutiny in the *Folketing's* select committees. However, off the record, they often speak with some disdain of the parliamentary claims of 'significant improvements' in parliamentary scrutiny through involvement of select committees. It is pointed out that such involvement has been a possibility for many years and is happening only very slowly—often with great reluctance on behalf of the members of the select committees.²⁷ However, the administration has its own difficulties to deal with. In particular, the insistence of the Ministry of Foreign Affairs that all papers pass through its offices has been a source of resentment within other ministries.

For individual ministries, the involvement of select committees in scrutiny of the government on EU affairs has offered a chance to gain a level of independence hitherto unattainable owing to the central coordinating function of the Ministry of Foreign Affairs. As select committees involve themselves more in Community matters, they place greater demands on their respective ministries through requests for information and direct communication. The relationship between the Ministry of Foreign Affairs and the other specialised ministries has become an inter-administration issue—although more often hinted at than directly discussed.

As they are only alluded to, it is difficult to ascertain with any certainty how fierce inter-ministerial 'battles' have been. However, one example that is relatively well known is that of Svend Auken (ex-minister of environmental affairs) and his fight against beverages being sold in cans within Denmark. Auken was mentioned as one minister who acted very independently of the Ministry of Foreign Affairs, while he himself has spoken of Foreign Service civil servants' dislike of the *Folketing's* involvement.²⁸ The Danish ban on beverages sold in cans (because these did not fit into the already existing recycling scheme for bottles)²⁹ is one example of Auken's ministerial independence that was mentioned during interviews. For Auken it became

²⁷ Interview DK-9.

²⁸ Interview DK-2.

²⁹ In Denmark a deposit is paid for the bottle itself (on top of the price for the drink) when buying bottled beverages. This deposit is then refunded when the bottle is returned to an authorised collection point.

a personal battle when the European Commission considered the ban on cans a hindrance to entering the Danish beverage market. Due to his influence within the cabinet, Auken resisted significant pressure from other cabinet members to comply with Commission requests. His stubbornness on the issue was an embarrassment to some who saw it as an unnecessary distraction, as well as a battle he was destined to lose. It caused friction within the Cabinet as well as between ministries, taking up time and resources many thought could be better employed on other issues. Consequently, other ministers felt that the strong independence exercised by the Ministry of Environmental Affairs was detrimental to the government's overall EU strategy. Although suppliers have had to set up a recycling scheme similar to that for bottles after a long, drawn-out battle, beverages are now available in cans in Danish shops.

For a small state such as Denmark, the overall coordination of the Government's strategy is of great importance in ensuring that it can bring influence to bear on EU negotiations. Many ministers felt that the close links between their ministry and the *Folketing* benefited their work—both when it came to individual cases and the development of an overall strategy for Denmark's EU policy.³⁰ The greatest benefit of strong parliamentary involvement, mentioned by all those interviewed, was the added knowledge it naturally provided to ministers. As a consequence of the scrutiny procedure in the *Folketing*, they were made aware of where political problems in a proposal were, developed a good knowledge of the issue, and were thus better able to defend Denmark's position in Council negotiations. With the heavy involvement of both select committees and the EUC, they could not get away with just reading the briefing papers on the plane to Brussels—something other Council participants were sometimes accused of. Niels Helveg Peterson (minister of foreign affairs 1993 – 2000) thus argues that:

the government, at a very early point, has to identify where the problems are, both the factual and the political problems. But because of the often very long period between the time a case appears on the agenda of the Council to the point where a decision has to be taken, in most cases there is plenty of time to prepare decision. So if one acts wisely, one has informed the EUC thoroughly before the final decision-making phase is reached so they are familiar with the case.³¹

Moreover, Marianne Jelved (minister of finance 1994 – 2001) stated that 'I believe the preparatory work [in the EUC and select committees] qualifies. That you, as a minister, must also be able to convince opposition parties of the rightness of the government's

³⁰ The ministers interviewed for this project were all ex-ministers at the time of the interviews (June 2002), following the change in government taking place November 2001.

³¹ Interview DK-32.

proposal gives your arguments totally different weight in the Council.’³² While Jacob Buksti (minister of traffic 2000 – 2001) declared that:

the strength in the Danish system is not that the mandate limits the minister, it is that the mandate strengthens the minister, understood in the way that it is the minister, the ministry, who formulates the mandate—and that is of course related to the negotiation situation. It can be very limiting, or it can be very wide, but the important thing is that you are not bound, the important thing is that you have a very clear feeling for the limits within which you can move.³³

Despite the proclaimed benefits that the Danish scrutiny system has brought its participants it is not without problems. Time and resources must be allocated to it, occasionally to such an extent that some ministers felt procedures became more important than issues. At least some participants in the Danish scrutiny procedures thus felt that better results could have been achieved if resources had been focused more on the negotiations taking place at the European level rather than on national level parliamentarians bleating about democracy. To some extent, this situation can be alleviated by trust developing between ministers and parliament.

A trend towards governments being re-elected and parliaments sitting their full term (beginning in the early and late 1980s respectively) has contributed towards the development of such trust between the *Folketing* on the one side and the administration on the other. This has allowed MPs to concentrate on work within the committees, getting to grips with the subject and thus being able to present a more credible challenge to the well-established expertise of the administration. The importance of the stability this creates in the minister-*Folketing* relationship should not be underestimated as trust has a significant impact on the granting of mandates. If the level of trust is high, the minister is likely to receive more flexible mandates, as the EUC is confident the spirit of the agreement will not be broken. However, if ministers show signs of not cooperating with the EUC, they and their civil servants are likely to be kept on a much shorter leash.³⁴

Although at times difficult, it is possible for Danish parliamentarians to remain informed about European-level legislation going through the Council. Difficulties arise if they wish to follow and scrutinise legislation carried out by the Commission through comitology procedures. To alleviate this situation the *Folketing* has agreed with the Danish government that the government must inform Parliament about important cases decided using the comitology procedure (Folketinget, 2001c, pp. 75-8). This duty

³² Interview DK-10.

³³ Interview DK-31.

³⁴ Interviews DK-12 and 32.

to inform covers important cases in the regulatory committees, and follows the same guidelines as for cases dealt with by the Council in its meetings. In other words, in important cases the government, or rather its civil servants, must obtain a negotiating mandate from the *Folketing*. Furthermore, in special cases, the Government must also inform about cases decided in management committees if these are of a more general nature. Cases of this kind have increased significantly in recent years (Folketinget, 2001c, p. 76).

Having to inform the *Folketing* in cases of this type obviously places the administration under increased pressure. It could be argued that if politicians left civil servants to get on with negotiations at the European level without interference, better results could be achieved. However, much depends on the definition of 'better'. The requirements stemming from deep-rooted notions of a public democracy (now carried out through parliamentary representatives) have to be fulfilled. A—technically—good result may be achieved without the involvement of elected politicians, but lacking democratic scrutiny it has no legitimacy and may thus be considered a worse result than none at all. Civil servants too are aware of these democratic limitations on their ability to act and operate. Members of the Danish permanent representation in Brussels thus sometimes provide information to the *Folketing* if they believe the topic is something the *Folketing* would be interested in—even though established procedures do not necessarily require it.³⁵

Danish membership of the EU, and the resulting adaptation of scrutiny procedures in the *Folketing*, has forced significant changes within the administration. It has set new tasks and duties, but also provided new channels of communication and influence. Ove K. Pedersen asserts that such developments have benefited the administration and that 'European integration has strengthened the position of the administration in relation to the government and *Folketing*'. However, he adds that 'it is still striking how the Danish system of coordination and the many years' experience of European integration has subjected the every-day integration to democratic control and guidance' (Pedersen, 2002, p. 208, author's translation). Although the relationship between the civil service and the *Folketing* is generally not as well understood as other inter-institutional relationships (for instance parliament – government), it remains crucial to the smooth functioning of the Danish scrutiny procedure.

Conclusion

The Danish scrutiny system is comprehensive in its involvement of the *Folketing*. It offers parliamentarians significant influence through the ability to mandate ministers

³⁵ Interview DK-19.

before they go to meetings in the Council. Although this active involvement comes at a very late stage in the decision-making process, the views and opinions of parliamentarians are taken into account in the preparation of the negotiating mandate by civil servants and the government. The *Folketing* (through the EUC) is thereby provided with an early, albeit indirect, voice in the domestic-level preparatory work on European legislation. This strong parliamentary involvement reflects the perceived need to comply with democratic demands. The requirement of strong public involvement in decision-making has manifested itself through the people's representatives in parliament exerting significant influence, even power, over areas of policy traditionally considered the domain of the government. It is also, however, a result of institutional circumstances, as the proportional electoral system returns a fragmented parliament, making coalitions a necessity and minority governments a frequent occurrence. A third factor contributing to the strong scrutiny of European policy is the controversy surrounding Denmark's membership of the EU.

Virtually all Danish politicians and civil servants are (officially at least) in favour of the strong scrutiny system. Yet, many also express specific concerns about it. Most focus on procedures that could be improved, resources that could be utilised to better effect and the question of mandating ministers and whether this power should be granted to select committees. No one consulted for the purposes of this study, however, suggested a reduction in the involvement of the *Folketing* in European affairs.

That said, the extent of desired changes differed significantly. Those who simply wanted to improve current procedures and 'tinker' rather than reform root and branch tended to be stronger supporters of European integration than were those advocating more radical changes. The latter were more often critical of the integration process and the consequences it has had for Denmark. Jens Peter Vernersen has thus described the current system as one in which politicians have the possibility to follow cases right to the end, to 'the last drop of blood'.³⁶ He has further argued that if the democratic aspect of the process is not good enough, the blame can only be placed with the politicians themselves, as so many possibilities for following cases are available to Danish politicians. On the other hand, Jørn Jespersen (from the Socialist People's Party) found it impossible to imagine 'what reforms it would require before I seriously felt I was a real participant in a democratic decision-making process'.³⁷ The sheer enormity of the workload, the slow processing of documents and the late stage at which MPs in reality become involved in the process were cited as major reasons for holding this belief.

³⁶ Interview DK-27.

³⁷ Interview DK-11.

The EUC itself has also been criticised, with Professor Søren Dosenrode describing it as a 'pussycat' (Dosenrode, 2002). According to Dosenrode the EUC is handicapped by a severe case of paralysis: as a political institution it has significant powers, but dare not use them for fear of exposing internal party-divisions on EU matters—or indeed antagonising potential voters. While it is still the prerogative of the government to formulate foreign policy (including EU affairs), Dosenrode further argues that parliament is not the main alternative influence on these policies, and that this role is instead played by the civil service and a wide range of interest groups.

Many politicians also speak of a general agreement on EU matters across the middle of Danish politics. The extent to which this agreement extends from the parliamentary party groups to the entire party is a topic that warrants further research, as does the wider question of differences in opinion on the EU in general. Although beyond the parameters of this study, questions arise as to whether political elites are 'conditioned' on European issues in a way that does not 'spill over' to their party members. If this turns out to be the case, it must be asked what the consequences are—apart from turning the EUC into a 'pussycat'. A further question is whether agreement is limited to the big overarching topics and whether divisions occur with regard to day-to-day politics. In other words, does the agreement on EU policy disappear when it begins to resemble domestic legislation where cleavages such as the traditional left-right come into play?

Although the Danish procedure ensures that parliamentarians have a voice in the process of European legislation, the lateness of this involvement remains a problem. If MPs are serious about 'bringing Europe to the Danes'³⁹, then they will have to become active participants in the decision-making process at a much earlier stage. Currently, sustained involvement by MPs at the national level is difficult due to the long legislative processes at the European level as well as the fact that relatively few changes are made to legislative proposals after it has been officially proposed by the Commission (which, realistically, is the earliest point at which national parliaments can become formally involved). For a variety of reasons MPs therefore have considerable difficulties maintaining an overview of and influencing (in a meaningful way) the European legislative process. As a consequence, parliamentarians may concentrate their efforts where they are most visible rather than where they are most effective.

Overall the Danish scrutiny system can be described as very extensive. The democratic strength of the Danish system is reflected in the fact that ministers must obtain a mandate in the EUC prior to negotiations in the Council. The entire process is centred on the weekly EUC meetings, ensuring the involvement of parliamentarians.

³⁹ Interview DK-16.

Moreover, the involvement in earlier stages of the process by NGOs and interest groups is further evidence of the Danish political culture of openness and inclusiveness. It is still debatable, however, whether a 'democratic surplus' actually exists, and whether it is possible to use such an expression when it comes to the Danish aspect of the European legislative process. Pedersen thus argues that the *Folketing*, but also the administration and in some ways even the government, have increased their influence over European matters.³⁹ The question then becomes whether one believes in a finite amount of influence and whether one institution increasing the influence it has over a process necessarily means that another institution must have its influence reduced. If this argument is refuted (which it is by Pedersen), it becomes meaningless to speak of a democratic deficit or surplus.

However, the institution⁴⁰ whose influence is being reduced may, in this case, be that of an autonomous decision-making process at the European level. If all member states were to employ similarly extensive and involved scrutiny procedures, it may well be that only very few decisions would be taken at Council meetings. On the other hand, the Danish parliamentary scrutiny system may also be viewed as one step in the government's preparatory work for Council meetings, with other governments undertaking similar preparations, albeit with other (or less obvious) national-level actors providing guidelines as to how far the government can move during negotiations. The secrecy that has traditionally surrounded Council meetings makes it very difficult to ascertain the extent to which the Danish scrutiny system can be blamed for delaying negotiations in this forum—something Danish politicians and civil servants deny takes place. Outside observers of the scrutiny system that has developed within the *Folketing* may see it as causing delays. It does, however, fulfill the demands of Danish political culture (and the current domestic political climate) for scrutiny through strong parliamentary involvement and accountability of government actions.

There can be no doubt that Europeanisation has had an effect within the Danish *Folketing*—or that the changes in procedures and activities have been very closely tailored to conform with existing practices and requirements. However, it is also becoming apparent that the influence of Europeanisation goes beyond parliamentary structures to also affect discourse. Increasing numbers of parliamentarians find themselves involved in debates on EU affairs, with the distinction between European and domestic legislation becoming increasingly blurred. Although legislation may originate at different levels, it is becoming increasingly obvious that parliamentarians

³⁹ Interview DK-23.

⁴⁰ An institution can be an organisation, but also a social practice 'consisting of easily recognised roles coupled with clusters of rules or conventions governing relations among the occupants of these roles' (Jönsson et al., 2000, p. 6).

must be capable of handling both types and develop appropriate procedures for doing so.

Chapter 5: Italy

[Fortune] shows her potency where there is no well regulated power to resist her, and her impetus is felt where she knows there are no embankments and dykes built to restrain her. If you consider Italy, the theatre of those changes and variations I mentioned, which first appeared here, you will see that she is a country without embankments and without dykes: for if Italy had been adequately reinforced, like Germany, Spain, and France, either this flood would not have caused the great changes it has, or it would not have swept in at all.

(Machiavelli, 1981)

The Italian parliament is significantly younger than either the British or Danish parliaments and has had a much more tumultuous existence. Italy was unified only in 1861, with regionalism still playing an important role in Italian politics. The oft-cited statement by former Prime Minister of Piedmont, Massimo d'Azeglio, that 'we have made Italy; now we must make Italians', is, in some regards, still true. Due to its relatively late unification, Italy has had a much shorter time than both Denmark and the UK to develop a uniform political culture. Moreover, Italians have developed their democracy in the face of significant challenges. According to Vittorio Bufacchi and Simon Burgess (2001) 'it was always going to be difficult for a liberal political culture to flourish in a country held hostage by three great illiberal forces: Fascism, Catholicism and Communism'. These three forces have each placed their distinct marks on the Italian political environment. The fascist dictatorship—and the subsequent political reaction to it—is perhaps most evident in the Italian constitution. Having experienced fascist rule, those involved in drawing up the new Italian constitution made sure that the political elite was subjected to regular elections for a central parliament from which a government would be formed. Despite the electoral system initially being proportional, generally thought to favour parties with a geographically broad political base, Italian politicians maintained strong links with their local area. Regionalism remained important with the transformation to the Second Republic which was firmly established by the 1996 election. The collapse of the First Republic (which lasted, roughly, from the end of the Second World War to the late 1980s) also caused a restructuring of the political map with old political parties disappearing and new ones

mainly having a regional basis.¹ Historically, close links with the local area were vitally important for re-election and secured through preferential treatment and benefits to local interests (Hine, 1993, pp. 173-4). Politicians were able to obtain such benefits through legislation, making sure that programmes and projects benefited interests in their area. This process was aided by parliament predominantly legislating through its select committees, a situation which provided poor oversight and budget control, but permitting the fulfilling of multiple interests.

The Italian Parliament has thus been an important element in the development of Italy's own brand of democracy. It has survived the transformation from the First to the Second Republic relatively unscathed, while the executive and political parties have undergone significant transformations. Historically, the Italian parliament has been a strong legislature, although this status has, partly, been achieved due to a comparatively weak executive. However, the shift to the Second Republic may have altered this situation. As the executive is becoming more cohesive and political parties more unified, parliament as an institution may be losing in the inter-institutional relationship. One area in which this trend could be countered is European affairs, where the Italian parliament has gradually begun to realise the importance of oversight and scrutiny of the executive, activities which Parliament has begun to develop in recent years.

These developments make the Italian Parliament an interesting case study because of the way in which it has attempted to participate in European affairs. Legislation has been the primary focus—but legislation on implementation. Only very recently has it become apparent to Italian politicians that the pre-decision stage is of considerable significance and that scrutiny procedures addressing this stage of the decision-making process must be developed. When discussing parliamentary involvement with European affairs, Parliamentarians strongly emphasise the *legge comunitaria* (Community law), despite this annual piece of legislation only dealing with the implementation of European measures. MPs thus do not exercise any direct control over the content of the legislation, a fact that is slowly being understood and acted upon.

To fully understand existing scrutiny procedures in the Italian parliament, this chapter begins with a historical overview, examining Italy's development of the First Republic

¹ The transition from the First to the Second Republic was gradual, taking place over a period from the late 1980s to the mid-1990s. It did not involve a new constitution (as has been the case, for instance, in France), but has consisted more of a series of events (like the fall of the Berlin wall and the corruption scandals of the early 1990s) that contributed to the demise of the old political parties—and the emergence of new ones. With the new political parties (and the reformed electoral system) a political environment where one party did not monopolise being in power and real alteration between the political left and right wings have taken place, has emerged. This contrasts strongly with the First Republic which was heavily dominated by the Christian Democrats.

as well as the transformation from the First to the Second Republic. The Italian Parliament and its committee-based legislative procedures are investigated in order to assess whether its reputation as a strong parliament is justified, followed by examination of parliamentary methods of scrutiny. While the Italian parliament has the potential to influence its executive in this area it has largely opted not to do so. The historic legacy of a legislating parliament has been difficult to overcome, and has meant that scrutiny and oversight activities are poorly developed within the Italian Parliament. Moreover, the historic lack of controversy surrounding Italy's membership of the EU and the strong support for membership, from the political elite as well as the public, has also contributed to making EU a 'non-issue', making it difficult to develop interest in often very technical matters.

In the last section the relationship with the Italian administration will be analysed. Sufficient, timely and accurate information is of paramount importance if parliamentarians are to contribute productively in the European legislative process. However, the delivery of such information has proved difficult, due to both the government and administration being not just unwilling but also unable to provide it. One consequence is that the European committees in both chambers have become adept at obtaining information through other means, while also being strongly supportive of further cooperation between national parliaments. In order to fully understand these developments it is necessary to understand the constitutional foundation of the parliament and how the Italian political system has developed since the Second World War. These topics are therefore examined in the first section.

1. The First republic and its transformation

During the Second World War, most fighting undertaken to free Italy from fascist rule took place in Northern Italy where Italian resistance groups aided allied troops in the fighting. Some resistance groups developed in workplaces

but were mainly organised through the five parties of the Actionists, Socialists, Christian Democrats, Liberals and Communists, whose main unifying factor was their anti-fascism. While the military efforts of the resistance groups should not be underestimated, their main impact was, arguably, political. Most important was perhaps the development of a 'national unity', defined mainly as anti-fascism and the establishment of an idealised notion of Italy (largely) freeing itself from German occupation (Clark, 1996, pp. 315-6). According to Martin Clark, the Communists benefited the most from this development. The Communists had also contributed the most to the actual fighting and managed, during the course of the Resistance, to legitimise the *Partito Comunista Italiano* (Italian Communist Party, PCI) to a point where it became unthinkable for the PCI to be excluded from government talks after the war.

The Resistance, however, was exclusively a northern experience, and contributed significantly to post-War antagonism between Northern and Southern Italians, a schism that still exists today and which has had implications even within the political institutions—especially the executive administration.

Shortly after the war, on 2 June 1946, a referendum was held on whether Italy should remain a monarchy or become a republic. The Resistance was consistent in its support for the Republican cause, while the more conservative South voted mainly in favour of a Monarchy, again exhibiting the North-South divide within Italy. Overall, however, the outcome of the referendum was a rejection of the Monarchy. On the same day as the referendum, elections were held to the Constituent Assembly which was to settle the constitutional future of Italy. Of the 556 seats the Christian Democrats won 204, the Socialists 115 and the Communists 104. These three parties were to dominate Italian politics for the remainder of the 'First Republic', but their first task was to draft a new constitution for their country.

Having just fought to rid Italy of a fascist regime, a democratic foundation for the new republic was important to the drafters of the new constitution. Democracy is thus explicitly mentioned in Article 1 where sovereignty is also vested with the people. Furthermore, Article 11 rejects war as a means of settling international disputes, whilst also permitting the limitation of Italian sovereignty if this is necessary to ensure 'peace and justice among the Nations' (Republic of Italy, 2002, Article 11). Thus, Italy's was the first constitution in the world to permit the relinquishing of sovereignty.² Article 11 has, furthermore, been used as a base for continued participation in the European integration process. While parliament has been consulted by the government and has debated the various European treaties, on the basis of Article 11, it has not been considered necessary to consult the Italian public on the acceptability, or otherwise, of the deepening integration process. However, direct involvement by Parliament in the integration process has also been limited. Antonio Cassese writes that 'the President of the [Italian] republic—with a few exceptions—and Parliament have played the role of secondary *dramatis personae* in foreign policy' (1980, p. 104). As in most other member states, the Italian Parliament has tended to treat European affairs as foreign policy, accepting executive dominance in this area, with little parliamentary oversight or involvement.

Italian governments have historically been notorious for their inability to last, and are, Constitutionally at least, relatively weak. This is a factor some argue has contributed to

² Interview I-9.

Parliament's relative strength.³ One reason for the executive weakness is the Constitutional focus on the dispersion of power rather than an emphasis on policy-making, direction and guidance (Della Sala, 1998, p. 76). This focus is another outcome of deliberate constitutional engineering. On the whole, the Italian Constitution has very little to say about the Executive. The most important Article is number 94, which states that the Government must have the explicit confidence of both Houses and that a vote of no confidence is voted on by roll call. The last point is pivotal as, until 1988, most legislation was voted on by secret ballot that permitted factions within political parties to upset carefully negotiated compromises and indirectly causing government coalitions to fail. However, in a roll call vote such behaviour is not possible—a contributing factor explaining why votes of no confidence have played a minor part in bringing down governments.

With the onset of the Cold War, it became impossible for the PCI (the largest Communist party in the Western world and recipient of aid from the Soviet Union) to participate in governments, and from 1948 it became the permanent opposition party. The Christian Democrat Party ended up, uniquely in a Western democracy, as the permanent party in government (although almost always in coalition with other parties). The lack of party rotation at government level meant that, despite frequent government changes, a certain level of stability still existed within the executive. Party factions merely played a game of 'musical chairs', with candidates for ministerial posts being limited to a relatively small number of senior politicians.⁴

The relatively weak executive had a strong 'sparring partner' in the Italian Parliament whose constitutional basis is found in Part II, Title I of the Constitution which declares that it is to consist of two chambers, the *Camera dei Deputati* (Chamber of Deputies) and the *Senato* (Senate). According to Article 70 of the Constitution, the two chambers collectively exercise the legislative function. This means that legislative proposals have to be passed in both chambers—in identical wording. Until the early 1990s, the Italian parliament was elected using a proportional system that repeatedly resulted in high levels of fragmentation within both Chambers. A new electoral system, under which 75 per cent of parliamentarians are elected in single-member constituencies (in effect a First Past the Post system), was intended to reduce the number of parties, but has actually achieved the opposite due to electoral alliances being formed by very small

³ Interview UK-12.

⁴ It was not uncommon for politicians to be returned to a particular office after having previously lost it. Giulio Andreotti, for example, was thus Prime Minister of seven governments over a 20-year period between 1972 and 1992 (February - June 1972, June 1972 - July 1973, July 1976 - March 1978, March 1978 - January 1979, January - August 1979, August 1989 - April 1991 and April 1991 - June 1992) (Hine, 1993, pp. 345-6).

parties, causing a number of these to gain representation in parliament.⁵ The introduction of the new electoral system has therefore soon become associated 'more with confusion than with greater democracy' (Griffin, 1997, p. 150).

Due to this high level of fragmentation, Parliament became, and remains, an important actor in the formation of governments. Despite the high number of governments formed during Italy's 'First Republic', parliament in fact exhibited a significant degree of stability, with most executive crises being extra-parliamentary: on only two occasions did a government resign because it lost a vote of confidence in parliament. As an institution, Parliament has thus been important in developing Italy's particular brand of democracy and has survived the political crises of the 1990s relatively unscathed—unlike both the executive and the political parties (Della Sala, 1998, p. 73). Indeed, several authors have commented on the level of continuity within the Italian parliament. Luca Verzichelli and Maurizio Cotta thus argue that 'there is a lot of continuity in the experience of parliamentarism in Italy, before, during and after the *first republic*' and that 'most of the new political actors are somehow linked to the same "path dependency" characterising Italian politics during the *first republic*' (2002, pp. 24–5, emphasis in original). Mark Donovan (2003, p. 20) reports unexpected 'continuity in parliament's consensual legislative style' while Paul Furlong (2000, p. 11) writes that 'what many observers find surprising is how little change in parliamentary behaviour the new elites have brought about'.

Parliament has been dismissed as a relatively weak player on its own (Pasquino, 1996, p. 152), but is nonetheless a strong legislator, a role it predominately carries out through parliamentary committees. The role of committees is outlined in Article 72, which states that all bills must be submitted to and considered by a committee, while also permitting Committees to approve certain legislation on behalf of the Houses.⁶ This procedure suited the First Republic very well, as it provided politicians with excellent opportunities to broker deals of particular advantage to their electorates. With close to 70 per cent of legislation passed by parliamentary committees (Koff and Koff, 2000, p. 120), spending money became significantly easier than restricting the government's budget. On the other hand, European legislation, over which parliament had no direct influence, was given little consideration as it provided few immediate benefits to local constituencies.

⁵ For an analysis of the transformation of Italian political parties see James L. Newell (2000), especially Chapter six.

⁶ Referral back to the Houses can take place if ten per cent of the members of the House or 20 per cent of a committee's membership request it. In the cases of constitutional and electoral matters, the enabling of legislation, ratification of international treaties and the approval of budgets and accounts legislation is, as a matter of procedure, referred back to the Houses.

While the Italian Parliament of the First Republic can be described as a strong institution in relation to the executive, it can also be argued that it was more an arena for the political parties than an independent actor. Nonetheless, the emergence of the Second Republic (which began to emerge in the late 1980s, and was fairly securely established by the election in 1996) saw the disappearance of the old political parties and the emergence of new, mainly regional, parties. While alternation in government has taken place in recent years, parliament looks and acts very much like it did during the First Republic. For instance, legislation is still primarily passed in committees, where negotiations tend to be much less confrontational than plenary meetings in either house. This pattern has survived from the First Republic, when legislating through committees permitted deals to be made between different parliamentary parties, even facilitating the co-opting of the Communist Party into clientilistic methods of governance.⁷

In the Second Republic, it may also appear that the political parties have become more disciplined, acting more like the unitary actors taken for granted in the Danish *Folketing* and the UK House of Commons. If parties act in a more unified fashion this strengthens the (majority-based) executive's position as it makes it more likely that their programme and legislation will be passed, thereby weakening Parliament in the inter-institutional relationship. While this process arguably began as early as the late 1980s with the reduced use of the secret ballot, the effect on the executive-legislative relationship would have been somewhat reduced due to other crises.

One area in which the parliament has begun to reassert itself is European affairs. In recent years parliament has begun to show an interest in how the Italian government conducts itself at the European level and what the implications of membership of the EU are. Parliament's influence over European legislation has been minimal (even indirect through the executive), while MPs' interest in European issues has also been negligible. However, the Italian parliament is gradually developing new powers and methods of influence as it increasingly scrutinises European-level activities of the executive (and the administration).

As legislation has historically played such a significant role within the Parliament, it is no surprise that most parliamentarians place significant importance on the *legge comunitaria*, the annual law that implements European legislation into Italian law (see

⁷ The 'clientilistic' or 'spoils' system emerged when, to fund their party (and re-election), Italian politicians had to provide services to companies or interests, but these companies and interests had to 'bribe' the politicians to get the contracts or jobs they needed for their continued existence. The entire procedure, while being conducted outside parliament, was still aided by the fact that the majority of legislation occurred through parliamentary committees. Moreover, it has been claimed that because companies were permitted to increase their price on government contracts which, together with additional benefits, was enough to cover the cost of bribes necessary to obtain the contracts, the entire economic burden of the corruption system was carried by the state budget (Pasquino, 2000, p. 83).

below). Thus, despite being generally responsible for 'the legal aspects of the European Union's activities and the implementation of EU legislation and decision', the Italian Parliament has no scrutiny reserve power, with a request to postpone a decision in the Council carrying only 'political, but no legal force' (European Parliament, 2000b). Parliament therefore possesses the potential to exert significant influence over European matters but has historically opted not to do so. This conundrum will now be explored.

2. Parliamentary scrutiny of European affairs

The Chamber of Deputies

While equal in their legislative powers, the two Italian chambers have, until very recently, opted to treat European affairs very differently. In the Chamber of Deputies a committee on European affairs was established in 1971, a few years later than the Senatorial *Giunta* (standing committee). Reforms of the Committee were undertaken in 1990, 1996 and 1999.⁸ In 1996 it was decided that the Committee should become the Chamber's 14th select committee. Whereas the *Giunta* was only advisory, the committee in the Chamber of Deputies can conduct investigations and has the potential to interfere at the pre-decision stage, although here too this has to be done in conjunction with the specialised committees. In the year 2000 the committee also started examining the European Commission's work programme. However, as in the Senate, the European Committee in the Chamber of Deputies cooperates closely with other specialised committees, and although the European Committee examines the Commission's programme in its entirety, the other select committees examine the relevant parts falling within their remit.⁹ Furthermore, the remit of the European Committee only extends to the EU's first pillar, with the Foreign Affairs Committee being responsible for items falling under the second and third pillars. It can thus still be argued that the EU committee has very limited influence over the executive, relying on political pressure rather than institutional rules and regulations for influence.

In the Chamber of Deputies, it appears that conversion to a select committee has not influenced the work of the 14th committee significantly, and it seems that not until the 14th legislature has the committee undertaken a more substantial level of work. A member of staff in the Chamber of Deputies thus related how the 14th Committee during the 13th Parliament (1996 - 2001) examined seven proposals. During the first 15 months of the current 14th legislature, however, nine proposals were examined, which,

⁸ For the exact text of the Chamber's regulations on which the Committee is based, and how it has changed over the years, see the Chamber of Deputies' website:

http://www.camera.it/deputati/funzionamento/regolamento_capoXXVIII_art126_testoafronte.asp

⁹ Interview I-4.

as proudly pointed out by both the civil servant and the President of the 14th Committee, is more than in the previous five years put together.¹⁰

The obvious question is why these changes are taking place now. It is difficult to give definitive answers, but an increased awareness of European matters as well as a politically ambitious committee President (Giacomo Stucchi from *Lega Nord*) have been key ingredients. The European office within the Chamber of Deputies has been separated from a larger office dealing with international affairs in general, thereby making European affairs more 'visible'. A division in opinion between civil servants and politicians seems to exist, however, in that civil servants appear more aware of the impact that European matters have on the ability of Italian MPs to act at the national level, and of the importance of including a European dimension in all domestic legislation. However, as all the civil servants interviewed for this project were employed within units dealing specifically with European affairs, this point of view may be somewhat biased, as civil servants in other departments may not feel the same need to include the European dimension in their work.¹¹ Because both the *Giunta* and the 14th Committee have been forced to cooperate with the select committees in their respective chambers, MPs of the select committees do not have the excuse of MPs in both the British and Danish Parliaments: that is, that the European committee will deal with European matters. In the Italian Parliament, formally at least, responsibility for European affairs has always been shared between the European and the other committees. Nonetheless, civil servants were more alert to the need for developing scrutiny procedures than were politicians, who all looked to the *legge comunitaria* as the 'proper' way of involving Parliament in European legislation.

An interest in European affairs thus seems to be gradually developing (within both chambers of the Italian Parliament), especially amongst the younger parliamentarians. The perception of Europe, especially the European Parliament, as 'a graveyard for elephants'¹² is slowly disappearing. The elephants may not necessarily be old in years, merely old in mind; that is, stuck in old ways of thinking and conducting policy. In Italy this means focusing solely on the local level and protecting local interests at the national level, without being able to see the importance of how the European and, indeed, global levels impact on what is achievable and obtainable locally. Traditional Italian politics as conducted during the first republic are thus slowly being transformed, with membership of the EU arguably a significant factor in this change.

¹⁰ Interviews I-5 and 13.

¹¹ The difficulty in obtaining interviews with staff from committees not directly involved with European affairs illustrates this point. Despite numerous approaches no such interviews were conducted. The reaction is thus very similar to that of politicians described below where prospective interviewees referred to the 'experts' in the European committees.

¹² Interviews I-2 and 13.

While membership of the EU has provided Italian governments with ready-made excuses for implementing unwelcome measures (tough fiscal decisions necessary to become a founding member of the euro area being just one example), it may now also force parliamentarians to look farther afield than the path from their home town to Rome, and further into the future than the next election.

The Senate

The Senate has set up a *Giunta* (a standing, as opposed to a select, committee) on Europe during each parliament since 1968. However, close scrutiny of the Senate's 'Regolamento' (Rules of Procedure) reveals that on February 6 2003 the *Giunta* was changed into a select committee. It was not until October of that year that the change actually took place, and it is therefore difficult to evaluate the implications. An immediately obvious change is the make-up of the new, 14th committee's membership. It is customary that Italian MPs are members of only one select committee within parliament. However, members of standing committees are usually also members of a select committee as such membership carries more prestige, hence the norm of dual committee membership for members of the *Giunta*. Unprecedented, the new European committee reflects the realisation that European and domestic legislation can no longer be separated and that a new European committee would require the expertise of the select committees. In an interview, Senator Andrea Manzella expressed a wish that two members from each of the other select committees would be co-opted to the new European committee, thus providing the expertise which each of the specialised committees possess, while also bringing knowledge of European affairs to the specialised committees. On the current committee, in the 14th legislature, this wish has been fulfilled. The European committee has 30 members, two from each of the other 13 select committees, with the exceptions of Committees 1, 2, 3 and 5 (constitutional affairs, justice, foreign affairs and budget), all of which have contributed three members to the 14th committee. According to the committee itself, this ensures that MPs 'combine deep knowledge of European issues with good knowledge of matters within the terms of reference of the other committee they sit on' (Senato della Repubblica, 2004). The Italian Senate has thus institutionalised the integration of European and domestic affairs to an extent not seen in either the Danish or UK parliaments. When compared to most of its counterparts in Europe, the Italian parliament has a weak basis for scrutiny of its government on European affairs, yet it is perhaps also the parliament exhibiting the best understanding of the interrelationship between the two levels.

Within Italy, multitudes of rules and regulations regarding the treatment of European affairs have been developed and adopted without much success. However, as the rules

for the new 14th committee within the Senate are purely intra-institutional and have been under development for a considerable period of time, they may well stand a better chance of being successfully applied than most other inter-institutional rules. The success of the new rules depends, to a large extent, on whether European matters continue to be accorded a low level of importance. This attitude has been especially evident in the Senate, a situation reflected in and emphasised by the limited prestige associated with membership of the *Giunta*. As a standing committee the *Giunta* was unable to pass legislation on its own, operated in a mainly consultative role, and has been described as having 'minimal impact on parliamentary activities' (Bindi Callusi and Grasse, 2001, p. 302). Primary responsibility for European matters rested with the select, specialised, committees. In the cases where European legislation was transferred by the government to parliament, the specialised select committees were the main recipients, and the 'First Committee' (on Constitutional affairs) was generally considered to be the committee with primary responsibility for European affairs. In the words of a Senatorial employee 'The *Giunta* doesn't have legislative competences, it advises and can approve resolutions and can make reports, call people to give evidence etc.. They can do that, but they don't have competence in the legislative area.'¹³ Select committees could then write opinions on European initiatives, and only if they had not acted within a certain period could the *Giunta* adopt a resolution to submit its own report directly to the government.

With the establishment of the new 14th committee, all domestic legislation is scrutinised for compliance with Community legislation, and reports thereon sent to the relevant committee within the Senate.¹⁴ European legislation is also debated, and guidelines can be issued which the government 'may' follow (Senato della Repubblica, 2004). The emphasis, therefore, is opposite to that in most other national parliaments. In both Denmark and the UK, resources are spent mostly on ensuring that European legislation is acceptable to national politicians. In Italy, more resources appear dedicated to ensuring that national legislation complies with European legislation than to scrutiny of European legislation and ascertaining whether it complies with domestic Italian wishes and needs. While it can be argued that the parliament is focusing its (finite) resources on the area in which it can assert the most influence, it is perhaps more accurate to conclude that the Senate is responsive to a political culture in which

¹³ Interview I-1.

¹⁴ As explained by its staff, the European office in the Chamber of Deputies also undertakes this task (especially interviewees I-11 and 12). It prepares a dossier on each and every piece of domestic legislation, setting out the European dimension on this (information includes issues such as European activities in the area and whether the domestic legislative proposal contradicts European legislation). Dossiers are provided to all the select committees as well as the 14th Committee, as are regular summaries of legislative proposals as well as other activities such as the Convention. It is this activity the new 14th committee in the Senate is attempting to emulate and which may contribute to improving information about and interest in European affairs. Parliamentary staff thus spends time and resources gathering information their colleagues in Denmark and the UK expect their governments and administrations to provide.

legislation is considered far more important than oversight, as well as asking few difficult questions of Italy's membership of the EU, which remain much less controversial than in either Denmark or the UK.¹⁵

In the face of a historically low level of interest in European affairs, the Senate has increased its activities in this area in recent years. In a contribution to the Convention's Working Group on national parliaments (2002), Senator Filadelfio Basile (one of two secretaries of the European Committee in the Senate) mentions 'improvements' in procedures (transfer of documents from the government to parliament) in the immediate post-Amsterdam period. Between September 2000 and March 2001, Basile thus claims that the *Giunta*, in 'an unprecedented effort', considered approximately 70 documents and sent reports to the Government on these—independently of the select committees. It seems that at this point in time at least two factors converged to make the *Giunta* more active: information appeared to be making its way from the Government to the Parliament while the *Giunta's* President, Senator Tino Bedin, also recognised the importance of following activities on European matters, and, importantly, seemed able to motivate his committee to submit reports to the government independently of the select committees. However, removing any one—let alone both—of these factors always threatened to cause the work of the *Giunta* to collapse, and indeed it did. Basile's above-mentioned contribution thus reveals that with the new legislature (and government) in the spring of 2001, 'the flow of EU documents from the Government can be considered as substantially reduced' (Basile, 2002). While Basile mentions no further explanations for the more 'sporadic' nature of parliamentary examination of European legislation, it bears mentioning that in the new legislature Senator Mario Greco, with little experience in European affairs, was elected as new President of the *Giunta*. Although President Greco has worked hard to improve

¹⁵ While it is the case that Italy has historically been in favour of European integration, it is also evident that a more EU-cautious line has emerged with the regionally based political parties (especially those based in Northern Italy) and Silvio Berlusconi's government. A Senatorial employee (interview I-1) explained the situation by stating that

the government is less European and less European friendly than the opposition, even if, generally speaking, they are not against the Union, except a few particular cases like La Lega. The previous government was absolutely in favour of Europe, the present government is not so. Still, when we had our last important debate about Europe in the General Assembly, before Laeken, there was wide discussion, and the resolution approved was in favour of more integration anyway, and it was approved by the entire parliament, the government and the opposition. So, generally speaking, you could say that the parliament is more in favour of Europe than the government in some way, because of some ministers like Tremonti and Bossi—and the Lega of course.

Umberto Bossi is leader of *Lega Nord* and was Minister (without portfolio) for Reform and Devolution June 2001 – July 2004. Giulio Tremonti is a member of Prime Minister Berlusconi's party *Forza Italia* and was Finance Minister June 2001 – July 2004. Although rhetoric, especially government rhetoric, has altered with the Berlusconi government, indicating an end to Italy's 'permissive consensus' on the EU, it is more difficult to find firm instances of a more critical approach to European cooperation.

his knowledge on European issues,¹⁶ the committee's scrutiny activities inevitably slowed down considerably as a result of the change in Presidency.

The committee's other main task, provision of information about the European dimension of domestic legislation, is arguably made difficult by the 'ghettoisation' of European affairs. Members from select committees (other than Community committees) thus often referred to the European committees when asked for an interview about how the Italian Parliament handles European legislation. These MPs did not feel able to contribute to this research, stating that European affairs were not within the remit of their committee.¹⁷

While interest in EU affairs thus appear to be on the increase, this development seems limited to a relatively small number of parliamentarians with special interest or experience in the area—despite the above-mentioned formal sharing of responsibilities. The fact that Giorgio La Malfa (President of the Chamber of Deputies' Finance Committee in the 14th parliament and one of only two interviewees not directly involved with European affairs committees) had previously been an MEP is noteworthy. His understanding of the interplay between the national and European levels, and the impact of European integration on the work of his committee, was thus more informed (although also coloured by strong federalist views) than that of several of his colleagues.

Although it can no longer be doubted that contact between European and specialised committees is important, the new structure for the Senatorial European Committee still faces the significant problem of double committee membership. Due to the nature of Italian legislation, with a great deal of it being passed in the select committees, members generally carry a heavy workload. It is therefore very likely that a dual membership will be seen as a significant burden which only few Senators with a strong interest in European affairs are willing to take on. This is perhaps the greatest challenge for those dealing with European affairs within both parliamentary chambers: to make those MPs mainly involved with national legislation aware of the restrictions European legislation places on their ability to manoeuvre at the national level—and of the importance of close contact between the European committee and other select committees.

A further problem in this area is the limited number of staff available to the *Giunta* and Community activities in the Senate. In September 2002, two academic staff (analysts)

¹⁶ Interview I-3.

¹⁷ This was despite several approaches that included explanations of why their contributions would be of importance.

were available to the Senators with a further two medium-level staff. A number of secretaries also assisted with the collation and distribution of documents. The limited amount of support staff means that with the occurrence of 'extra' events like the Convention on the Future of Europe, other work is necessarily placed on the backburner. Indeed, as staff-members attempted to follow events at the Convention, scrutiny of European legislation was neglected. One employee in the Senate thus stated that 'we do what we can, because we are often in Brussels, and I was in Copenhagen for a preliminary meeting for the next COSAC. So we are really not here enough to regularly follow the *Giunta*, we can't make an impact'.¹⁸ Although the European office within the Chamber of Deputies in September 2002 undertook more work than the *Giunta*, it was in a better position staff-wise with three academics, 8 researchers and a number of secretaries. Still, a staff member here expressed the feeling that 'it is difficult to be everywhere at once, we have to choose which meeting to attend.'¹⁹

While scrutiny procedures are limited, a growing understanding that Parliament must direct efforts at the pre-decision stage is developing. However, despite this development the main emphasis is still on legislating on European affairs. Federiga Bindi Calussi and Stefano B. Grassi (2001, p. 299) thus write that 'Parliament acts as a legislator and neglects control and scrutiny functions', while Furlong (1996, p. 44) states that 'legislation is Parliament's privileged point of access to the political system, one to which it has always given priority, over other functions such as scrutiny and redress'. Parliamentary legislative activity on European matters centres on the *legge comunitaria*, part of the 'Legge La Pergola' (after the politician who initiated it), which will now be examined.

3. The *legge comunitaria*

The *legge comunitaria* is based on *Legge La Pergola*, Law 9 March 1989, n. 86. This law has as its purpose to facilitate the implementation of European legislation and to eradicate conflicts between European and Italian law, as well as to inform Parliament of European developments (Article 1). The way in which Parliament is involved in the process of implementation is detailed in Article 3(c), which lists the contents of the law, and dictates that Parliament authorises the government 'to implement, in a prescribed way, the directives or recommendations permitted by Article 4' (*Legge La Pergola*, Article 3, author's translation). It can thus be argued that one aim of the *legge comunitaria* is to provide Parliament with a means of institutional check on the executive. In fulfilling this aim, the Parliament has been 'significantly unsuccessful' (Fabbrini and Donà, 2002, p. 2), due largely to lack of interest on behalf of

¹⁸ Interview I-3.

¹⁹ Interview I-11.

parliamentarians. Article 4 outlines that directives to be implemented under Article 3(c) must be presented in a list contained within the annual *legge comunitaria*. The relevant select committees within both Chambers must then provide an opinion on these directives, with the European Committees drawing up final statements to be presented in the Chambers of Parliament.²⁰ As the *legge comunitaria* gathers together legislation in need of implementation, with parliamentarians limited to pronouncing on the way in which the implementation is carried out, the *legge comunitaria* 'is only partially an instrument for immediate implementation, but rather a device to programme and rationalise the various sets of implementing measures' (Bindi Callusi and Grasse, 2001, p. 306).

An explicit purpose behind, although not mentioned in, the *Legge La Pergola*, was the need for Italy to reduce its implementation deficit. While Italy's record on implementation has improved, the process of gathering together, on an annual basis, legislation in need of transposition has also had consequences at the domestic level—especially in the administration. Flaminia Gallo and Birgit Hanny (2003, p. 276) thus describe the *legge comunitaria* as 'a vehicle for further improvements to the structures and procedures of Italian administration and political units dealing with European affairs'. They continue:

[B]etween 1987 and 1997 there was no coherent adjustment of structures and procedures within the different administrative units involved in the national preparation and implementation of EC/EU policies. Rather, a complex patchwork of functions and competencies, of co-ordinating mechanisms and formalised information channels was put into practice... In the immediate post-Maastricht period, almost all Italian ministries had introduced special units dealing in some way with policies that were negotiated or regulated in EC policy cycles.

However, even with this increased attention to European affairs within the administration, it has been argued that the success of the Community law has simply relocated the problem. According to Furlong (1996, p. 43), the first five annual Community laws ensured that 600 directives were dealt with, which is 'nearly as many as in the previous 30 years'. This increased rate in parliamentary work has thus merely shifted the burden—and the backlog—to the ministries responsible for the actual implementation.

Being presented with one annual law permits the committees within Parliament to focus their attention on implementation of European affairs to a limited time of one - two months during the year, instead of having to address them on a continuous basis.

²⁰ During the existence of the *Giunta* in the Senate, it was only the First Committee (on constitutional affairs) and the European affairs committee who dealt with the *legge comunitaria*, whereas all relevant standing committees in the Chamber of Deputies are involved.

Politicians and civil servants interviewed for this project all spoke of this process as being advantageous. Furthermore, when asked about Italian parliamentary involvement in European affairs both politicians and civil servants often mentioned the *legge comunitaria* immediately. A difference between civil servants and parliamentarians could be detected, however, insofar as politicians often thought the annual law to be sufficient parliamentary involvement, whereas civil servants were more aware of how the limited involvement in the pre-decision stage restricted Parliament's influence over the decisions they later helped implement. To illustrate the point, Senator Manzella, a senior member of the *Giunta*, described the *legge comunitaria* as 'a very efficient instrument of control because we have the power to make amendments to the European laws'.²¹ This statement is obviously not true, as it is only the implementation process the *Giunta* can influence. Parliamentary staff are aware of this difficulty, one Senatorial employee thus stated that:

the real role should be in the creation of European law, not in the implementation of European law. Yes, the implementation is important, but not so important. On the contrary, the 90 per cent of our activities are on implementation, not on the creation [of law]. Because the creation is all in the government.²²

Another member of staff in the Senate similarly argued that:

the Italian parliament is essentially a legislative body, and the so-called control function is not in the DNA of the Italian parliament ... so if the most important function of the *Giunta* should be that of controlling the government I think this tradition will be a strong obstacle. It will take a lot of time before a control system will start to happen and work. That is our problem and I don't know what we can do.²³

It thus seems that, since the *legge comunitaria* conforms to the Italian political culture in which the Parliament legislates, it gives parliamentarians a feeling of participating in the European legislative process, albeit at the national level. The opportunity to legislate explicitly on European issues, coupled with a lack of scrutiny provisions and traditions, has created an environment where a further, and necessarily more technical, involvement in the pre-legislative stage has been difficult to develop. It can therefore be argued that the *legge comunitaria* has 'pacified' the Parliament, and thus, to a large extent, made it possible for the executive to develop and pursue its own strategies at the European level.

The 'pacification' of Parliament is not necessarily the result of planned action on behalf of the executive. Parliamentarians on European committees in both chambers

²¹ Interview I-9.

²² Interview I-5.

²³ Interview I-3.

repeatedly complained of a lack of interest in European affairs, whether through scrutiny or legislative measures.²⁴ One of the few opportunities for Italian parliamentarians to obtain information about European affairs and their impact on Italy is therefore lost and the *legge comunitaria* sometimes treated in a perfunctory manner. Sondra Z. Koff and Stephen P. Koff (2000, p. 199) actually claim that 'if there is other pressing business, [the Community law] receives cursory treatment to get it out of the way'. One explanation for this unwillingness to engage, even in a mode familiar to the MPs (legislation), is that European legislation can often seem very technical. Italian Parliamentarians appear to spend little energy investigating the effects European legislation and its implementation within Italy, may have on Italians. The availability of resources is obviously an issue, but a lack of interest seems to be a significant and fundamental factor.

Although the 'Legge La Pergola' requires the government to present Parliament with the *legge comunitaria* before January 31 in the year following the year for which the implementation procedures apply, this has rarely happened. For instance, in 2002, the *legge comunitaria* for 2001 was being examined by Parliament as it reconvened after the summer recess—in September and October 2002.²⁵ This further limits the ability of parliamentarians to keep up to date with events at the European level, while also placing them under pressure to implement directives before they will be brought before the ECJ.

A fundamental requirement for meaningful parliamentary engagement in the implementation process is adequate information from the government. However, this has consistently been lacking, a fact both politicians and parliamentary employees lament. The way in which information is gathered and presented to parliament will therefore be considered in the next section.

4. Parliamentary relations with government and the administration

The Italian executive is legally obliged to consult and inform parliament about European affairs. However, parliamentarians and parliamentary civil servants are often far from satisfied with the information provided by the government. Requests for information from (especially) the Chamber of Deputies will often result in information being provided, but it is not forwarded on a regular, automatic basis.²⁶ In fact, several

²⁴ Parliamentary staff (for instance interviewees I-3 and 5) commented on this too, although they also reported increasing interest by specialist committees.

²⁵ A staff-member in the Chamber of Deputies showed awareness of this problem when commenting that 'now we're examining it, and now we have September, so this is about last year.... It should be examined in February, that would be good, September is too late, it should be much earlier' (Interview I-4).

²⁶ As stated by, for instance, interviewees I-3, 5 and 10.

interviewees commented that the Italian parliament does not lack rules and regulations granting it access and rights to information, it is the implementation of these rules and regulation that has been problematic. In other words, the government has been unable and/or unwilling to enforce its own rules. Two problems thus arise: first, the executive's *willingness* to provide information; and, second, the executive's *ability* to provide parliament with information. A centrally placed parliamentary employee, who until recently worked on European affairs, described it succinctly as 'a matter of choice, they don't like to keep the parliament informed, and from another point of view I think it's a matter of [a lack of] organisation'.²⁷

A variety of views exist on the willingness of the executive to inform Parliament. To some extent, the executive does not see a need to inform parliament, with one official arguing that the current level of information is 'good enough'. The official went on to say that 'the Italian Parliament has all the tools it needs to control the Italian government—and does quite a good job at the moment'.²⁸ On the other hand, this official also maintained that if a government wishes, it can relatively easily avoid parliamentary scrutiny and that parliaments will never really know the extent to which compromises at the European level are necessary, or whether they are simply 'smoke screens' erected to avoid the involvement of national parliaments. The official's preparedness to discuss such a scenario suggests that this is not an unusual occurrence, thereby seriously questioning the Italian Government's willingness to keep Parliament informed about its activities at the European level.

MPs as well as parliamentary employees concur that the government lacks both the will and the ability to inform parliament, stating that government information was often non-existent or at best inadequate and seriously delayed.²⁹ According to a staff-member from the Chamber of Deputies two reasons account for this. Firstly, information can be seen as power, which the government is reluctant to relinquish. Secondly, the poor co-ordination within and between ministries exists because 'to give elaborate information means to study, to suffer, and to work a lot'.³⁰

The specific nature of the Italian administration is thus also important. Having largely resisted attempts at reforms it remains beset with problems, all of which are emphasised by its lack of integration 'into the social, economic and political fabric of the country' (Koff and Koff, 2000, p. 162). Such integration has been difficult, partly

²⁷ Interview I-1.

²⁸ Interview I-14.

²⁹ Claimed by, for instance, interviewee I-11.

³⁰ Interview I-11.

because the administration is mainly staffed by southerners.³¹ According to Sabino Cassese (1999, p. 63) this has had the implication that the (senior) civil service

mirrors the characteristics of Southern Italy which can be summed up as follows: (i) coming from regions characterized by unemployment, job security takes precedence over efficiency and service; (ii) coming from relatively non-industrialized areas (or where industry has not managed to establish firm roots in society and the economy), legalistic and formalistic attitudes tend to dominate, without reference to the objectives of public administration; the mentality is far from managerialist; there is a rejection of competition.

Cassese further argues that the civil service has preferred 'the bureaucratic supervision of secondary administrative management' to an autonomous policy-making role (1999, p. 63). With such entrenched opposition to changes in the administration, the implications for parliament's ability to obtain information are very serious. In addition, the implications for Italy's ability to negotiate well at the European level may also be affected. To scrutinise and assess European legislation effectively, cooperation will be required across traditional lines of division. For such cooperation to be successful, it is of paramount importance that new methods of optimising the processing and dispersal of information are found. Membership of the EU may thus also contribute, indirectly at least, towards reform of the Italian civil service.

A small measure of reform has, however, been undertaken as the administration too has separated out European affairs from international affairs, with a Department of European Affairs having been established. How much has changed as a result is questionable, as the ministry of foreign affairs still maintains a European section, which, according to a member of staff in the European Department, actually employs more staff than the Department of European Affairs.³² The same employee described the relationship between the two units as 'co-operative—but with some competitive elements'. It is clear that a certain rivalry exists, a situation that does not make it easier for Parliament to obtain information from the government. With the European Department relying on other ministries to prepare reports and memoranda on particular issues and the minister in charge of the European Department being a minister without portfolio, the Department is facing a serious struggle to gain recognition and respect.

For Parliament, the Department of European affairs presents a problem of who to ask for information. Parliamentarians must decide whether to go directly to the individual ministries or through the European Department—or indeed to the Ministry of Foreign

³¹ According to Koff and Koff (2000, p. 160) '70 per cent of public servants are southern in origin and of the highest ranking, the percentage rises to 90'.

³² Interview I-10.

Affairs. While the Minister of European affairs was commended for attending Parliament when requested to appear, he was also still regarded as 'weak'.³³ On the other hand, the division of labour between the European and Foreign Affairs committees within Parliament, resulting in the need for the Department of European Affairs to deal with four different committees on each issue, was described as 'leading to a lot of wasted time'.³⁴

While parliamentarians complained of how the European Department was competing with the Ministry of Foreign Affairs for competency, one civil servant described a similar competitive struggle between parliamentary committees.³⁵ This may be the symptom of an emerging process of scrutiny, where systems and competences are still being developed and divided. As long as the participants are still feeling their way through the process this is to be expected, and, if administrative issues can be overcome, may actually contribute to the Parliament's European committees' joint task of scrutinising the Government.

The lack of co-ordination within the administration is also evident in the way the government conducts its affairs at the European level.³⁶ According to a parliamentary employee, the lack of co-ordination and preparation represents a serious weakness for Italy, and has meant that Italy has not always achieved its potential in EU negotiations. This employee also argues that:

they go there, from the administration, not very prepared. Dossiers are not really prepared by the Italians. There is a general weakness in European affairs, not only in parliament, but also in government. We have a great interest in the main issues, the great issues, the Treaty of Nice, agricultural reform, but the day to day to work we are not used to follow, that is the reality.³⁷

Serious systemic problems within the executive and administration may therefore be hampering the government's work as well as parliament's scrutiny of it. Put differently, it can be said that Parliament has not been able to rely on the administration for information and support. Indeed, Calussi and Grassi (2001, p. 302) write that 'there is yet no formal, hierarchical inter-ministerial co-ordination on EU topics' and that Italy cannot 'count on an efficient bureaucracy'. Several civil servants

³³ Interview I-5.

³⁴ Interview I-10.

³⁵ Interview I-10.

³⁶ Federiga Bindi also writes of problems with coordination and transfer of information within and between administrative units. Indeed, she claims that the Italian Permanent Representatives 'has often become the center not only for negotiations, but even for the definition of national positions' (Bindi, 2002, p. 16).

³⁷ Interview I-5.

and parliamentary staff (always off the record), as well as politicians (frequently off the record too), spoke of a 'lack of coordination [on European affairs] in government'. They implied that this restricted the ability of government to prepare appropriate information and thus implicitly hampering Parliament's ability to properly conduct its work on European affairs. One politician prepared to speak out openly was La Malfa, who claimed that information from the government was always too little and the quality of it 'debatable'.³⁸

Strongly related to the lack of quality information is the lack of explanatory memoranda from the executive. Such memoranda are contentious within most member states. In Denmark the *Folketing* continuously attempts to pressure the government to improve these, and in the UK the House of Commons has worked hard to make the Government deliver its memoranda on time. In Italy, however, explanatory memoranda, even by the admission of the administration itself, are nonexistent. This point was brought up by several parliamentary employees,³⁹ and used as an argument to justify direct contact between the Italian Parliament and European institutions. It thus seems that the hope amongst members of Parliament and those working for the parliament was that if the European Commission was in charge of delivering new proposals directly to the national parliaments, national governments would 'only' be responsible for explaining the impact this legislation would have on the domestic situation, hopefully reducing the national administration's task to something manageable.

The view that Parliament is short of information is somewhat contradicted by officials in the Italian civil service who argued—independently of one another—that parliament has enough information.⁴⁰ Furthermore, they stated that MPs and their staff have the possibility to obtain further assistance from the special departments within both Chambers that deal with European affairs, the European institutions and official EU web sites.

Of the three case studies, the Italian parliament has shown the strongest support for direct contacts between national parliaments and European institutions. This may in large part be due to the inability of Parliament to obtain information from its own government. It is therefore interesting to note that when listing the main tasks of the European office within the Chamber of Deputies, a high-level member of staff ranked relations with similar offices in other countries as number one, with provision of

³⁸ Interview I-8.

³⁹ In interviews I-3 and 4, for instance.

⁴⁰ Interviews I-10 and 14.

information to MPs about EU activities as number two.⁴¹ It is also interesting to note that Italian MPs are keen participants at (and contributors to) COSAC, that the Italian parliament hosted the Assizes when this was held in Rome in 1990 (see Chapter eight for further details on both the Assizes and COSAC) and are generally strong supporters of parliamentary cooperation at the European level.

Conclusion

Compared to its British and Danish counterparts, the Italian parliament is the one most obviously guided by its political history in how it treats European affairs. The Italian Parliament has developed legislative procedures capable of accommodating all the political parties and their wishes, while also satisfying the need of parliamentarians to reward local interests for their 'sponsorship' of their (re)election. Based on constitutional rules, the parliament became a strong legislative force, although this has arguably been due mostly to a relatively weak executive. Because of the direct (and effective) involvement in legislation, the tasks of executive scrutiny and oversight were never well developed within parliament—a fact that is especially evident in European matters.

Several factors have contributed to the limited emphasis on European scrutiny. One is the recognition of Italy's new and developing democracy that membership of the EU provided (Pasquino, 1996, p. 160). Although the Communists were initially opposed to membership, it gradually became a 'non-issue' (Bindi Callusi and Grasse, 2001, p. 297), with the vast majority of Italian politicians being in favour of membership. Italian politicians and citizens were thus, in contrast to both the UK and Denmark, in agreement over membership of the EU. Although the number of Italians who see EU membership as a good thing has fallen over the years, as has the number of people who believe Italy has benefited from membership, Italians have still recorded some of the most positive feelings towards the EU, traditionally well above the EU average.⁴²

Secondly, while both parliamentarians and parliamentary staff involved in European affairs are aware that the Parliament's influence is limited at the post-decision stages, Italy's political culture has made it difficult to change legislation-focused practices that have been in existence for a long time. This is consistent with the third explanation, which is the lack of direct benefits to be obtained from the European level. As local

⁴¹ Interview I-11.

⁴² Support for EU membership peaked at just above 80 per cent in 1988, and has since dropped to 54 per cent in 2004, while the percentage believing that Italy has benefited from membership has dropped from just over 70 per cent to 49 per cent (also in 1988 and 2004). The EU average for membership support and belief in membership as beneficial was approximately 65 and 55 per cent respectively in 1988, and 48 and 47 per cent in 2004. Italian figures have thus come much closer to the European average, although especially so for the support measure (European Commission, 2004).

links and contacts are still vitally important for parliamentarians this is naturally where their efforts are concentrated. As a consequence, the EU is often perceived as being 'a long way away' with little relevance to everyday life.

The general treatment of Community matters within Italy can thus be described as very relaxed, even governed by a certain *laissez faire* attitude in Parliament, executive and administration. There are signs—including the establishment of a Department of European Affairs, an upgrading of the *Giunta* to a select committee and increased numbers of hearings on European matters in both Chambers—that this is slowly changing. Europeanisation is being felt in the Italian political system too.

Despite having been a member of the Community right from the outset, Italy is also the country whose parliament has the weakest influence on Community legislation of the three examined. The procedures currently emerging are sending mixed signals. On the one hand, both European committees seem to be developing a more specialist attitude towards the handling of European affairs, becoming more independent and undertaking more scrutiny. Against this, the institutionally secured cooperation with other select committees, and the double committee membership in the Senate, ensures that specialists in other fields examine European issues as well. The move towards specialisation is a development witnessed by both the British and Danish parliaments, while only the Danish EUC has also begun sharing the responsibility of scrutiny of European legislation with other specialist committees.

As in other parliaments, Italian MPs have to persuade their colleagues that European affairs are relevant to national-level politics, and this in the face of difficult working conditions. In the Senate problems include the double committee membership, while both Houses (but again especially the Senate) suffer from the difficulty in obtaining information on European matters from the Italian executive and administration. These are deep structural difficulties from which the Government also suffers, and which have proven difficult to tackle.

The continuing processes of integration and Europeanisation will, however, force changes on Italy—including the administration, as has already been seen with the shift of the implementation burden. These changes have the potential to bring more extensive change to the Italian parliament, as well as the rest of the political system, than have the last 20 years of electoral reforms and party restructuring. Finished dykes and embankments may yet be some way off, but tentative foundations have been laid for fuller parliamentary involvement in European affairs.

Chapter 6: United Kingdom

Sovereignty can be impotent. A man in the desert is free and sovereign. He is beyond the reach of any alien authority, but he is powerless. To have value, sovereignty must be capable of being used.

(Heseltine, 1989, p. 211)

Perhaps the greatest political challenge facing Britain in recent history has been its membership of the EU. British participation in a political environment where compromises are the norm and national sovereignty may seem to diminish has not been easy, owing mainly to its long history of political and territorial independence and unity, together with an electoral system in which the 'winner takes all'. With its unique geo-political, constitutional and historical position, this 'awkward partner' (George, 1994) has been severely tested by the integration process during its membership.

Because of how Britain's constitution is constructed, membership of the EU has impacted not just on policies and institutions, but also upon the British constitution itself. In contrast to both Italy and Denmark, Britain does not have a written, codified constitution. Various texts, conventions and institutions together provide the UK with a 'constitution', creating a very unique political environment for political actors to operate within. The core components and characteristics of Britain's political make-up are the Monarchy; parliamentary sovereignty¹ and cabinet rule; the rule of law; the use of First Past the Post (FPP) for general elections; a parliamentary institutional system that encourages a very adversarial political style and, increasingly, membership of the EU.

The Monarch is officially head of State, with Her Majesty's Government and Her Majesty's Opposition facing each other in parliament. Despite being head of State, any remaining governing-related official functions for the Monarch, such as presenting the annual legislative programme in the Queen's speech and signing all laws before they enter into force, are largely symbolic. However, drawing up, debating and scrutinising legislation are tasks carried out by the Cabinet and both chambers of Parliament. Parliament itself dates back to 1707 and the Union of the Crowns (between England and Scotland) although it has roots in the English Parliament whose origins can be traced to the mid-13th Century. This long history makes it one of the oldest

¹ It should be remembered, however, that 'parliamentary sovereignty developed out of the struggle over internal sovereignty between King and Parliament', although it has been an issue in debates on UK membership of the EU (Wallace, 1986, emphasis in original).

representative assemblies in the world, with the bi-cameral system developing during the 14th Century (The United Kingdom Parliament, 2003). Jointly, the two chambers (the House of Commons and the House of Lords) fulfill several functions: they make all British law, exact taxes, scrutinise the administration and government policy, examine European legislation, hear appeals (in the House of Lords) and debate the major issues of the day.

Actual legislation forms an important element of the British constitution, thereby marking a significant difference with most other constitutions found in the Western world. Whereas most constitutions are protected from any 'rash' alterations by, for instance, a Supreme Court or the requirement that any changes be passed by a significant proportion of MPs in two successive parliaments, no such mechanisms exist in Britain. Indeed, 'constitutional laws may be changed or abolished as easily as any other laws' (Weir, 1994).

Parliamentary debates constitute a very important feature of the UK political environment, and are often described as adversarial—especially those in the House of Commons. The FPP system, which ensures that a single-member constituency can be won with a plurality of the votes cast within that constituency, encourages a two-party system and thereby also a parliament in which one party is very likely to have a majority (see table below for relative party strengths). Due to strong whipping systems within the political parties, the passing of a government's legislative programme is virtually guaranteed. As a consequence, opposition parties have limited direct impact on legislation.

Table 6.1: Relative strengths of party representation (after 2005 election)

Party	Number of	Percentage	Number of	Percentage
	representatives at Westminster		representatives in the EP	
Labour	354	54.8	19	24.4
Conservative	196	30.3	27	34.6
Liberal Democrat	62	9.6	12	15.4
UK Independence Party		0.0	11	14.1
Green Party		0.0	2	2.6
Scottish National Party	6	0.9	2	2.6
Democratic Unionist Party	9	1.4	1	1.3
Sinn Fein	5	0.8	1	1.3
Plaid Cymru	3	0.5	1	1.3
Ulster Unionist	1	0.2	1	1.3

Independents	2	0.3	1	1.3
		0.0		
Others	8	1.2		
Total	646	100.0	78	100.2

The category 'Others' in the House of Commons consists of the following parties and individuals: Social Democratic and Labour (3), Respect (1) and the Speaker and three deputies.

One issue the traditionally very coherent parliamentary political parties have been unable to agree on is membership of the EU. Membership has been controversial since it was originally proposed and continues to cause rifts within the two main UK parties, with neither Labour nor the Conservatives being able to boast a unified front on European integration.² In contrast, the Liberal Democrats have consistently promoted pro-European policies, while the U.K. Independence Party (UKIP) is committed to withdrawing Britain from the EU. The scepticism voiced by some politicians³ is also evident in the British population. Eurobarometer figures (2003) show that 31 per cent of those asked see British membership of the EU as a good thing, while 30 per cent believe the UK has benefited from membership. These figures are significantly below the EU averages of 55 and 50 per cent respectively (European Commission, 2003).⁴

The widespread scepticism regarding Community membership has in many ways contributed to the development of current scrutiny systems for legislation originating at the European level, although elements of the British constitution have also limited the effectiveness of these systems. This chapter will therefore examine how the British parliament, especially the parliamentary committee system, has developed over the years. It will also look specifically at the European Scrutiny Committee (ESC),⁵ its remit, level of success and, a matter of increasing importance, its relations with other committees within the House of Commons. In the final section, scrutiny of European legislation within the House of Lords will be considered with particular emphasis on how it differs from the Scrutiny Committee in the House of Commons and the Lords Committee's ability to influence the European debate and legislative outcomes.

² For a brief overview of British EU-membership in a political context see, for instance, Armstrong and Bulmer (2003, p. 389) who argue that 'out of a highly contested situation the internal party factionalism on integration developed that has persisted in various forms to the present'. But see also Carter (Carter, 2001) for a description of how the UK currently appears to be undergoing a 'changed political climate' with regards to EU membership.

³ One example is Robert Kilroy-Silk from the UKIP, elected to the EP in the 2004 election, who expressed a wish to 'wreck' the European parliament (Tempest, 2004).

⁴ Membership was considered a 'bad thing' by 19 per cent of those asked, with 40 per cent being of the opinion that membership has not benefited the UK. The EU averages for these figures were 10 and 28 per cent respectively.

⁵ The ESC in the House of Commons should not be confused with the European Economic and Social Committee (EESC) that operates at the European level and has no specific parliamentary attachment.

As will become evident, the British Parliament has been affected by Europeanisation too, with EU membership affecting the activities of British MPs. However, in some aspects the development of scrutiny procedures for European affairs differ from the developments in the Danish and Italian parliaments. The ESC was in some ways a forerunner for other select committees within Parliament and although it adheres to the structures and conventions of other committees, it is also the only committee that, as a matter of course, deals with its subject matter *ex ante* rather than *ex post*. To fully understand the importance of these differences, the development of committees will be the initial focus of this chapter, together with the related development of the ESC in the House of Commons.

1. How Parliament has developed over time

Despite a significant increase in public business⁶ passing through Parliament, it was only in 1902 that changes were approved which prioritised government business, while the use of standing committees, on an *ad hoc* basis, was also introduced at this time (Norton, 1998b, p. 20). Despite the possibility of using committees in their scrutiny of government legislation, both the House of Commons and House of Lords have held on to their traditions of being debating chambers. Although debates in the House of Commons may have a long tradition, they are often seen as little more than formalised mud slinging matches with a certain amount of entertainment value. In contrast, debates in the House of Lords are generally considered more dignified affairs—and therefore potentially more constructive. Constructive debate on European legislation can be difficult to develop due to the often very technical nature of European legislation. Specialised, technical matters are likely to lead to dull debates in the house, and are therefore often better dealt with in committees.⁷

Because the executive has been given the legislative initiative, as well as considerable control over the parliamentary agenda, it can be argued that Parliament's ability to scrutinise and hold the government to account has been reduced. Indeed, Stuart Weir writes that '[t]he doctrine of "parliamentary sovereignty" cloaks the reality of executive supremacy' (1994, p. 18). Despite the development of executive power at the expense of parliamentary influence, institutional stability has remained important to MPs—even if changes may lead to improved scrutiny of the government. The development of committees has thus been slow, while modification of, for instance, the sitting hours in

⁶ Legislation initiated by the government as opposed to private members of Parliament.

⁷ However, even technical matters can become politicised, although the debate then tends to deviate from the original question. Examples of this can be seen in various referenda held on European issues throughout Europe, where specific debates, like the ratification of a treaty or participation in the Economic and Monetary Union (EMU) easily degenerate into arguments for and against the EU itself.

the House of Commons have also proved difficult (see for instance David Cameron MP, 2003; but also the appendices to House of Commons, 2002a).

Historically, the scrutiny role has mainly been exercised in debates on the floors of both Houses, although in recent years there has been a move towards more work being undertaken in select committees. The system of departmental select committees developed between 1966 and 1979, despite reformers having called for select committees to shadow the work of government departments from the middle of the nineteenth century (House of Commons, 2003a, para. 41). Their introduction has been termed 'the most important parliamentary reform of the [20th] century' (Norton, 1998b, p. 34). Norton explains the development of select committees as a product of the wish, by some MPs, to influence public policy without necessarily bringing about the Government's downfall (p. 30), and lists parliamentary specialisation as the main consequence of the introduction of select committees (p. 31). This view appears to be supported by MPs themselves. For instance, in a debate on select committees in 1995, the following views were expressed:

I am second to none in believing that the changes that we undertook nearly 15 years ago in the Select Committee system have been the biggest improvement in increasing ministerial accountability to the House, probably even this century' (Higgins, 1995),

and

15 or 16 years ago we voted on setting up the departmental Select Committees. I do not know how many hon. Members voted against setting up those Committees, but I was one of them. As I have said before, I did that because I did not believe that they would produce reports that were good enough and I did not believe that they would have sufficient teeth. On balance, experience has proved me wrong. They have provided hon. Members with a good oversight of the work of Departments which was not available to them before (Rooker, 1995).

Although committees have now become an important component of parliamentary activities, they still have not taken on the same importance (measured as either ability to influence legislation or the prestige membership carries) as committees within either the Danish or Italian parliaments.

The European Scrutiny Committee

In many ways the European Scrutiny Committee set a precedent for the establishment of other select committees within the House of Commons. An important element in the debate preceding British membership of the European Communities was the parliamentary interest in maintaining its influence over the Government's Community

policies, to which end the European committees were established. Two main issues contributed to this concern: the contentious nature of membership and the very old parliamentary tradition in the UK. Membership itself caused both inter- and intra-party conflicts, while parliamentary traditions were threatened by the loss of sovereignty. These points were also raised in Denmark and, to some extent, Ireland. In the words of Fitzmaurice 'the new member states [as of 1973], with long parliamentary traditions, with sensitivity to the democracy and sovereignty issues, with strong opposition to entry (within parties as well as between them), took more interest in safeguarding the prerogatives of their national parliaments than had the founder members' (Fitzmaurice, 1979, p. 203).

During a debate on EU secondary legislation in the House of Commons (21 December 1972), the issue of remit for the future select committee on European affairs was debated, as was that of parliamentary sovereignty. MP Peter Shore thus argued that the 'task of the Select Committee is to find ways, if possible, of making the Ministers taking part in the institutions of the European Community responsible to this House'. For his part, J. Enoch Powell wished to 'ask this Select Committee to survey the whole field of the knowledge and control by the House of all proceedings of the European Community which may result in commitments of law or policy binding upon this House' (House of Commons, 1972-73, Parliamentary debates, Vol. 848, columns 1743 and 1748). In response to these concerns James Prior, then Lord President of the Council and Leader of the House of Commons, stated that:

I think there would be general agreement that our procedures for scrutinising proposals for European Community secondary legislation most urgently need to be studied; that is, while this proposed secondary legislation is still in the draft stage ... it is in relation to the draft stage that we think most of the work by this Committee will take place. I think that should be the Committee's first priority (House of Commons, 1972-73, Parliamentary debates, Vol. 848, column 1749).

Prior furthermore argued that:

for the first time there will be an opportunity for draft regulations made by the Commission for recommendation to the Council of Ministers to be discussed by a Committee of this House. So the House will be able to make its views known before any decision is reached. That, I believe, in no way detracts from the sovereignty of Parliament. In fact, I believe that it adds considerably to its sovereignty, and certainly to the scrutiny powers of hon. Members (House of Commons, 1972-73, Parliamentary debates, Volume 848, columns 1750-1).

In the end both Houses of Parliament established separate committees on European affairs, each provided with a remit to 'scrutinize ways and means for Parliament to influence the legislation of the European Community'. The committees began work

between December 1973 and May 1974, well after Britain had joined the EU. The delay between membership commencing and the committees beginning work caused, especially in the House of Commons, a backlog of material to deal with.

The committee in the Commons was entrusted with the significant task of sifting through all legislative proposals from the European Commission,. When proposals were considered to be of political or legal importance the House was alerted—but the merits of legislative proposals were not to be commented upon. Despite this relatively limited remit, the committee was given the opportunity to involve Parliament in the pre-decision stage of the European legislative process, a situation referred to by Prior as contributing to Parliament's sovereignty, and one David Brew claims the House of Commons 'rarely enjoys in respect of domestic legislation' (Brew, 1979, p. 24).

Over time, attempts have been made at extending the involvement of the House of Commons in European affairs, especially so with the appointment (in 1997) of a Select Committee on Modernisation that (also) considered the work of the ESC (House of Commons, 1998b). Amongst other recommendations it was suggested that the name of the then European Legislation Committee be changed to 'European Scrutiny Committee', that the number of Standing Committees be increased to four or five, and that a Parliamentary office be established in Brussels. With the implementation of many of these recommendations, Caitriona Carter claims that the new Labour government 'appears to have heralded a new approach to scrutiny' (Carter, 2001, p. 438). The ESC is thus the first committee in the House of Commons to include the word 'scrutiny' in its title, although scrutiny is essentially the task of all select committees within the House of Commons.

Even after implementing these changes, it can be argued that the UK parliamentary scrutiny system is consistent with the treatment of domestic legislation. Indeed, Carter writes that, due to the strong notion of parliamentary sovereignty that exists in Britain, maintaining parliamentary control over Community affairs was 'in keeping with UK Constitutional tradition' (Carter, 2001, p. 440). However, it is also pointed out that the scrutiny powers accorded the ESC are significantly different to those held by other committees in the House of Commons, being *ex ante*, rather than *ex post* (Carter, 2001, p. 440), and thus—potentially—more influential. This potential is somewhat limited though, as the committee 'lacks the formal power to serve as anything more than a filter' (Millar, 1979, p. 195). Indeed, according to Anand Menon and Vincent Wright (1998, p. 54) 'the core executive has been granted a degree of freedom from Parliamentary scrutiny previously unknown within the British Parliamentary system'.

The inability to comment on the merit of European documents has reduced the impact of the *ex ante* scrutiny, thereby limiting the potential influence of the committee. Menon and Wright (1998, p. 64) argue that:

the UK denounces the 'democratic deficit' at the heart of the EU, yet it is reluctant to enhance the power of either the European Parliament or the House of Commons. Its decision-making processes are clearly relatively more 'coherent' because it is unencumbered by troublesome parliamentary committees or sub-national governments.

Being able to operate relatively unhindered by parliamentary activities has contributed to keeping disagreements (on European issues) within the main political parties manageable. If the ESC was able to expound on the merit of documents submitted to it, this would likely result in the ESC becoming highly politicised, as it would possibly attract MPs with strong (and opposite) opinions on the EU. Party whips would need to 'keep an eye on' these members, and party leaderships would wish to 'plant' trusted people on the committee.⁵ Party leaderships, as well as the government, are therefore likely to prefer to avoid granting the ESC the ability to pronounce on the merit of EU documents. Consequently, progress through disagreement is not an option, as inter-party disagreements would likely be too damaging.

2. Working methods of committees

Governments are also able to work relatively unencumbered by the work carried out in select committees. Work in select committees is still mainly carried out on a selective basis: committees act autonomously, carefully guard their autonomy and are very independent of each other as well as of the government. Committee members thus choose topics on which they wish to write reports, and can hold hearings, call witnesses and take other evidence in the process. In many instances an inquiry is held *ex post*, that is, after a piece of legislation has been passed, and may well focus on the implications, or unintended consequences, of that legislation. Scrutiny within the House of Commons thus cannot be seen to follow—on a day-to-day basis—the pre-legislative work of government departments in an effort to influence or improve this legislation. In contrast, the ESC is able to follow European legislation in its pre-decision stages, placing it at a distinct advantage in terms of potential influence.

However, since the 1990s it appears that a new focus on pre-legislative scrutiny has emerged in Britain (for an overview see Kelly et. al. (2003)). The House of Commons Select Committee on Modernisation (first appointed in June 1997) has published

⁵ Indeed, Jimmy Hood is suspicious that this takes place in other countries, citing the importance of European Committees as a reason why executives would want to place members on these committees (interview UK-10).

several reports for consultation as well as a reform programme.' In its 'First Report' from February 2002, the need for improved scrutiny procedures is recognised in the following statement: 'the principal objective of modernisation must be to improve the scrutiny of public policy. The programme of work of the Modernisation Committee is intended to enable Members of the House to be more effective in discharging their role of scrutiny' (House of Commons, 2002b, para. 1), thus recognising a need for improvement in this area. Of the many recommendations contained within the report there are several directly related to the House of Commons' ability to scrutinise the executive. On the principal objectives of departmental committees, the Modernisation Committee thus recommends that each select committee should consider major policy initiatives, propose policy changes where the Committee considers them to be required and conduct pre-legislative scrutiny of draft bills (House of Commons, 2002b, para. 34). These changes would require significant increases in resources available to select committees, an issue several of the report's other recommendations address.¹⁹ With the aim of creating a stronger parliamentary focus on scrutiny, the report thus also recommends that 'all investigative select committees should be named "scrutiny committees"' (para. 37), and that a parliamentary career devoted to scrutiny be made more attractive by providing chairs of 'principal investigative committees' with an additional salary (para. 41). In the conclusion it was argued that

select committees have served Parliament and the public well. They have enabled Members of Parliament to hold the Executive to account through more rigorous scrutiny than is possible on the floor of the House and they have brought before the public matters which otherwise might have remained concealed (House of Commons, 2002b, para. 59).

Taken together, the recommendations, if enacted, could alter the entire focus of the House of Commons, significantly reducing some of the criticisms voiced about its current abilities (or lack thereof) to scrutinise the executive. The recommendations can be seen as a step towards more scrutiny being carried out *ex ante*, although they still leave select committees in a largely reactive role, with the main emphasis being on inducing government departments to produce bills in draft. As long as this is not a requirement and common practice, select committees will likely still find it difficult to achieve any significant influence over the development of public policy. Furthermore, MPs only have a certain amount of time available to them, and may thus find it too

⁹ For a full list of reports see the committee's website:

http://www.parliament.uk/parliamentary_committees/select_committee_on_modernisation_of_the_house_of_commons/select_committee_on_modernisation_of_the_house_of_commons_reports_and_publications.cfm

¹⁹ The allocation of parliamentary resources is not simply a matter of a committee's ability to purchase expert knowledge or undertake visits to other countries or locations. MPs also strive to become reelected, and therefore necessarily devote attention to their constituency and constituents. A senior member of the House of Commons thus laments that 'MPs spend more time in their constituencies trying to get elected than here, trying to ensure that the legislation they have been elected to try and deal with is properly examined'. This MP further argued that recent increases in parliamentary funding were mainly allocated to constituency work, therefore not helping counteract this development (interview UK-9).

demanding to attend more meetings in select committees. Any proposal to spend more time in committee is likely to be resisted, especially as debating time has also been increased, with Westminster Hall opened for debates not requiring voting.¹¹

Although the Modernisation report focuses mainly on improving scrutiny through select committees, its final recommendation is that 'all reports of select committees should be eligible for debate in Westminster Hall after the closure of the two month period within which Government is expected to publish its response, whether or not such a response has been tabled' (para. 57). This is a clear recognition that debates remain an important element of how the House of Commons functions. However, the only way in which debates in Westminster Hall can contribute to scrutiny is through bringing issues to public attention, thus indirectly putting political pressure on the government. While these debates may contribute to the continuation of traditional parliamentary debates, they have not developed parliamentary influence or power over the executive.

The limited influence of select committees is further underlined by their composition. With the government founded on a majority in the House, it will also hold a majority of seats on the parliamentary committees, as seats are allocated on a proportional basis. The degree to which committees are likely to be critical of the government's policy is thus drawn into question, as is, consequently, the effectiveness of parliamentary scrutiny. Considering that the strong whipping system within British parliamentary parties tends to generate high levels of unity, the implications for effective scrutiny are obvious. British parliamentary political parties are generally characterised by a high level of cohesion that is crucial to a party's ability to hold on to power when in government, and of utmost importance to advancement within the party. Such unity, however, has been difficult to maintain on European issues, with the ratification of the Maastricht Treaty in the House of Commons an obvious illustrative example.¹² Christopher Lord (Lord, 1992, p. 435), writing specifically on British membership of the EU, mentions the 'constant search' for 'obfuscating formulæ to conceal divisions', and goes on to observe that party divisions are the 'main paranoia of British politics'.

The voting system in the House of Commons usually requires members to pass through the voting lobby in person, making any party division clear for all to see.

¹¹ Westminster Hall is a parallel chamber all MPs can attend. It debates matters referred from the House of Commons, and is situated in the Grand Committee Room, Westminster Hall. For more information see the Modernisation Committee's fourth report (House of Commons, 2000). Arrangements for Westminster Hall, previously sessional, were agreed by the House of Commons on 29 October 2002, taking effect from 1 January 2003 (Sear, 2002).

¹² The government of John Major only narrowly survived the two votes required to ratify the Treaty of Maastricht in November 1992 and July 1993. Despite the latter of these being a vote of confidence, the Treaty was so divisive that a number of Conservative MPs voted against their own government on the issue, nearly bringing about its downfall.

Divisions amongst committee members from the same party would also be very obvious, as meetings in select committees are commonly open to the public, with reports and evidence taken for these reports available to interested parties. In essence, the strong emphasis on party-unity is another factor that limits Parliament's ability to scrutinise the government and its policies.

European affairs may, however, be an exception to the pattern of strong party unity, as the EU provokes divisions within both the two main parties despite the constant search for 'obfuscating formulæ'. Moreover, the ESC stands out by conducting *ex ante*, as opposed to *ex post*, scrutiny. The word 'scrutiny' has been included in the committee's name since 1998, thereby setting it further apart from the remaining select committees. Rules regulating the work of the ESC are laid down in Standing Order number 143 which states that the committee is to examine European Union documents¹³ and 'report its opinion on the legal and political importance of each such document and, where it considers it appropriate, to report also on the reasons for its opinion and on any matters of principle, policy or law which may be affected' (House of Commons, 2003b). To this end the Government deposits the required documents with Parliament, complementing these with explanatory memoranda on each legislative proposal.

The committee can further demand that Ministers not give agreement to proposals still being examined by the House. The process of scrutiny can thus be described as paper-based, as opposed to, for instance, the Danish scrutiny system where oral evidence is taken from ministers immediately prior to Council meetings. The British system is thought by many of its participants to be superior to systems based on oral evidence, as the ESC is considered able to enter the debates at an earlier stage.¹⁴ However, having the scrutiny process based on the delivery of official documents also has its drawbacks. This is especially so when a final decision at the European level draws close, and one text may be rapidly replaced by another, making it difficult for the ESC to stay current with the exact negotiation situation. Although the committee can invoke the scrutiny

¹³ Standing order number 143 goes on to define 'European Union Documents' as:

- (i) any proposal under the Community Treaties for legislation by the Council or the Council acting jointly with the European Parliament;
- (ii) any document which is published for submission to the European Council, the Council or the European Central Bank;
- (iii) any proposal for a common strategy, a joint action or a common position under Title V of the Treaty on European Union which is prepared for submission to the council or the European Council;
- (iv) any proposal for a common position, framework decision, decision or a convention under Title VI of the Treaty on European Union which is prepared for submission to the Council;
- (v) any document (not falling within (ii), (iii) or (iv) above which is published by one Union institution for or with a view to submission to another Union institution and which does not relate exclusively to consideration of any proposal for legislation;
- (vi) any other document relating to European Union matters deposited in the House by a Minister of the Crown.

¹⁴ As expressed in, for instance, interview UK-8.

reserve power,¹⁵ it may still find it very difficult to monitor the exact wording of agreements, even where these have previously found to be of legal or political importance. Moreover, the scrutiny reserve power offers no provision for holding Ministers to the recommendations of the Committee. While ministers may be called upon to give evidence and explain their actions, the merit of documents remains beyond the committee with MPs unable to enforce opinions and recommendations diverging from those of the government.

To fulfill its role of scrutiny, the ESC has formulated three requirements that must be fulfilled before a document can be cleared: (i) the committee must be satisfied that it has enough information to process the document, (ii) it must decide whether it is politically or legally important, and (iii) it must decide whether it should be debated.¹⁶ These requirements pointedly avoid the questioning of a particular policy or a document's merit, which according to Jimmy Hood (chair of the European Legislation committee 1992 – 1998, and Chair of the ESC 1998 -), is a strength of the committee. Hood argues that:

the power of our committee lies in that we do not make such a merit decision, we don't say it is a good or a bad directive, we make a judgement about whether it is legally and politically important, and therefore doesn't need further scrutiny by parliamentarians, and when we come to that position, we then refer it to people who will look at the merits for and against.¹⁷

Put slightly differently, the committee is not in a position to withhold clearance of a document on the basis that it does not support its contents.¹⁸ The biggest criticism of the ESC may thus be that it has little, if any, real impact on European legislation. While it can be argued that the committee brings important issues to the attention of the House and lets the House debate these issues prior to decisions being taken, both the quality and quantity of such debates must be questioned. This is especially so considering how documents are dealt with by the ESC. The scrutiny committee receives approximately 1100 documents in a year of which approximately 600 are

¹⁵ In a resolution adopted by the House of Commons on 17 November 1998 the scrutiny reserve power states that, except in special circumstances,

No Minister of the Crown should give agreement in the Council or in the European Council to any proposal for European Community legislation or for a common strategy, joint action or common position under Title V or a common position, framework decision, decision or convention under Title VI of the Treaty on European Union

(a) which is still subject of scrutiny (that is, on which the European Scrutiny committee has not completed its scrutiny or

(b) which is awaiting consideration by the House (that is, which has been recommended by the European Scrutiny Committee for consideration pursuant to Standing Order No. 119 (European Standing Committees) but in respect of which the House has not come to a Resolution (House of Commons European Scrutiny Committee, 2002b, reproduced on p. 49).

¹⁶ Interview UK-8.

¹⁷ Interview UK-10.

¹⁸ Interview UK-8.

considered of legal or political importance. In recent sessions this number of important documents has given rise to 35 recommendation for debate with the vast majority, around 30, being referred to debate in a standing committee, leaving only five for debate in the House.¹⁹ Although all MPs can participate in all standing committee debates, the opportunity to participate in this form of scrutiny within the House of Commons is often not utilised, with many debates poorly attended.²⁰ Of the very limited number of documents recommended for debate on the floor of the House, many will be relegated to late evening debates and thus, frequently, receive a limited amount of attention by MPs and the media alike.

Technically, then, the procedures adhered to by the ESC fulfill the requirements for scrutiny, at least under the present system of scrutiny within the House of Commons. The documents received by the committee are examined, investigated and judged according to the criterion of whether enough information has been received, whether the document is of political or legal importance, and whether it should be reported for debate. Even if a debate is held, and a minister has to appear before a standing committee to explain specific actions by the government, the committee can only declare itself unhappy with the government's actions or decisions. Furthermore, because the ESC is not involved in overseeing the implementation of European legislation, scrutiny of this aspect of European legislation falls to other select committees within the House of Commons—should they choose to investigate a topic relating to the EU.²¹

3. European affairs in other select committees

Most select committees within the House of Commons do not write reports specifically on European matters. The only committee that routinely conducts inquiries into topics of a European character is the Foreign Affairs Committee whose remit extends to cover the European Union. The committee considers its 'role of supplying the House with the information it needs to act on European Union matters to be one of our most important tasks' (House of Commons Foreign Affairs Committee, 2003, para. 6). This informational task does indeed appear to be the most important element in the committee's work on the EU, as reports on European matters consist mainly of evidence taken by the committee, with very few accompanying comments.

¹⁹ Interview UK-8.

²⁰ Views supporting this argument were expressed in interviews UK-6 and 8 as well as in the ESC's own report (2002b). However, while it may be difficult to attract MPs to serve on committees, this has become less of a problem for the ESC. Committee members are also increasingly engaged in the work undertaken by the committee, reading their papers and asking questions of advisors (interview UK-6).

²¹ Despite not looking at the merit of proposed legislation, the committee is increasingly looking at potential implications (indicated by, for instance, interviewee UK-6). This is one way to further the influence of the ESC while staying within its formal remit, although one that is still under development.

Reports from other select committees will often include a European angle if relevant to the inquiry. One example from the more recent reports published by select committees is the Eighth Report of Session 2002-03 from the International Development Committee, which comments on the EU development fund (House of Commons International Development Committee, 2003, pp. 13-15). However, the treatment of the development fund constitutes only a small part of the overall report, with approximately one page from a total of 46 devoted to this topic. The report is thus a good example of how select committees will consider the European angle where relevant, but not often use a piece of legislation originating from the European level as its starting point for an investigation. The only committee to have done this is the Environment, Food and Rural Affairs Committee, which has published several reports based on European directives or policies. During the 2002-03 session, the committee's first, third and fourth reports thus dealt with the Common Fisheries Policy, the Common Agricultural Policy and the Water Framework Directive respectively,²² while most other reports incorporated a European angle where relevant. Unusually, however, David Curry, chair of this committee from 2001 - 2003, has had direct experience of 'Europe' and its institutions as a Brussels-based journalist and member of the European Parliament prior to becoming a member of the House of Commons. Curry, therefore, has been well placed to recognise the importance of European matters to the committee he chaired, while also being able to draw on resources at the European level in the investigative tasks of the committee.

Curry does not, however, wish to take instructions from the ESC regarding what topics his committee ought to investigate. He claims never to have received a request from the ESC to investigate a specific topic, and sees limited opportunities for collaboration with the ESC. When asked about further engagement with European affairs, he stated that

I don't think we would become more involved because the European Scrutiny committee would delegate to us, we would do it because we wanted to deal with those issues, and we would do it entirely from our own initiative. We already meet twice a week, and we can't take any more work, people wouldn't turn up, there isn't enough room in the week to do that. We must cancel other things to take things over from the European Scrutiny Committee, and we will not do it. We can't meet three times a week, we just couldn't do it, it's a question of time. There might be little odds and ends like some science programme, which doesn't feature very often, so they can send things of to the Science [and Technology] Committee, but the CAP, or fisheries? It's an enormous chunk of European business there! We want to pick and choose what we think is important,

²² For texts of these reports see the committee's website:
http://www.parliament.uk/parliamentary_committees/environment__food_and_rural_affairs.cfm

and I suspect we would always make sure we included the European perspective.²³

Despite this unwillingness to take instructions from the ESC, Curry and other MPs still insist that adequate scrutiny cannot be undertaken by a single committee within each chamber in a national parliament.²⁴ The diversity of legislation emanating from the European level means that generalists are never going to be able to deal with everything in a qualified manner. Indeed, Curry argues that one committee will never be able to cope with the 'gargantuan' amounts of European legislation on its own.

Taking this argument to its logical conclusion, and permitting specialists to partake in the scrutiny of European affairs, the involvement of committees like the Environment, Food and Rural Affairs Committee would become an important element in the overall scrutiny process. However, without further cooperation between the European Scrutiny Committee and other select committees the danger exists that topics may be overlooked (thereby missing an opportunity to exercise parliamentary influence) or even investigated in both the ESC and another select committee (which would be a waste of resources). Whether any further cooperation can be established depends on how select committees within the House of Commons develop in general, but also on the personalities on each committee. It is thus conceivable that if committee chairs were in agreement, cooperation could develop without the need for any formal alteration of rules.

Curry is not alone in raising issues about the current scrutiny system. Michael Ancram (shadow Foreign Secretary 2001 - 2005) also insists that the scrutiny process within the House is a process 'which cannot cope with even five per cent of the flow of information'. Although advocating a general reform of the committee structure within the House of Commons, and wishing to make it better able to deal with the large volume of legislation originating at the European level, Ancram still claims that 'within the small area [the ESC] manages to deal with, it does the job parliament is supposed to do. My criticism is not of it, it is that it is too small and there is too much work for it to do to be effective across the board'.²⁵ However, members of the ESC themselves disagree on how the committee should be developed. MP and member of the ESC Michael Connarty, in contrast to his chairman, would like to see a stronger emphasis on the substance of the documents dealt with by the committee, a 'qualitative assessment that is politically important'.²⁶ In contrast, Jimmy Hood, chair of the ESC,

²³ Interview UK-7.

²⁴ Interview UK-7.

²⁵ Interview UK-1.

²⁶ Interview UK-6.

argues that 'to be effective, we have to be selective', and that the British system of scrutiny is the best within the EU.²⁷

Two significant problems for the development of scrutiny thus exist within the House of Commons. Firstly, the autonomy of select committees inhibits cooperation on scrutiny. This prevents MPs with a more specialist knowledge in a particular area from assisting those knowledgeable on European affairs in the task of scrutinising European legislation, but also precludes a sharing of the workload imposed by the significant number of documents originating from the EU. To a large extent, this process is hampered by the limited knowledge of the impact European legislation has at the national level, and exemplified by the lack of willingness shown by chairs of select committees to discuss their committees' role in the scrutiny process.²⁸ Moreover, it is only very recently that the ESC has begun to fully understand its potential importance, usefulness and powers. Off-the-record comments by several MPs suggest that the committee is keen to maintain its powers for itself, thereby further hampering cooperation with other select committees.

Secondly, if the House of Commons wishes to develop the scrutiny process further, to a point where the House can be said to have a tangible influence on the Government's activities at the European level, significant changes in the interpretation of 'scrutiny' within the House, as well as a change in how select committees operate and cooperate, would be required. Not only would departmental select committees have to undertake European inquiries on a regular basis, they would have to alter operational procedures substantially in order to follow legislation through the department within their remit better. Such changes would radically alter the House of Commons and the working life of MPs (making them more specialised) while also altering the balance between constituency and scrutiny work. This would very likely meet with substantial resistance, as it would fundamentally alter the way an MP's role is perceived. Moreover, if the House of Commons were to embrace a more qualitative scrutiny of European legislation, it could also be argued that they would encroach on an area hitherto exclusive to the House of Lords.

²⁷ Interview UK-10.

²⁸ Several MPs approached for interviews declined for a variety of reasons. Several claimed to simply be too busy, while others did not feel they could contribute anything to an EU-related topic, referring instead to the scrutiny committee. One MP (the current speaker) did not wish to give an interview for the reason that the author is not a constituent of his. The highest number of refusals was received from MPs in the House of Commons, with Lords being more forthcoming with their time—while also exhibiting a better understanding that the fact their committee did *not* participate actively in the scrutiny of European affairs was of interest.

4. The European Scrutiny Committee in the House of Lords

Whereas the ESC in the House of Commons scrutinises every document submitted to it, the European Union Committee in the House of Lords is more selective. The ability to be more selective is based on the committee's terms of reference, which stipulate that it is to 'consider European Union documents and other matters relating to the EU'. How documents are considered is thus up to the committee itself, with no requirement to assess documents according to their political or legal importance. The freedom this has allowed the committee has meant that submitted documents are initially sifted by the chair of the committee who, in cooperation with the clerk of the select committee and the clerks of the sub-committees (who carry out the majority of the committee's work),²⁹ decide what documents will be passed on to the sub-committees for either information or further scrutiny.³⁰

The sub-committees can elect to treat the information received by taking note of the documents, ask for more information, or, if they consider the matter important enough, conduct an inquiry on the issue. Although investigations are undertaken and reported on by the subcommittees, they are published in the name of the main committee and widely distributed. While reports are, officially, intended either purely for the information of the House of Lords or recommended for debate, they are also forwarded to relevant institutions within both Britain and the EU. Both the European Commission and the EP thus receive such reports as a matter of course.³¹

The emphasis on detailed—and opinionated—reports, rather than broad coverage of all documents, is the main difference between the work of the European committees in the Lords and Commons. A second difference concerns the respective committees' memberships. According to Lord Brabazon (chair of the European Committee in the House of Lords 2001-2002) the committee involves approximately 70 members in its work, approximately ten percent of Lords members (or roughly 20 per cent of the active members depending on how 'active' is defined).³² This contrasts with the House of Commons where the ESC only draws on a small fraction of the MPs in the House. The structure of membership, which permits members of the Lords to join one of the EU sub-committees without being a member of the EU select committee itself, means

²⁹ The number of sub-committees has varied over time. Currently seven exist, covering (A) Economic and Financial Affairs, Trade and International Relations; (B) the Internal Market; (C) Foreign Affairs, Defence and Development Policy; (D) Environment and Agriculture; (E) Law and Institutions; (F) Home Affairs and (G) Social Policy and Consumer Affairs.

³⁰ Interview UK-4.

³¹ Members of the European Union Committee often proudly relate favourable comments made by, for instance, members of the European Commission as an indication of both the quality of the work carried out by the committee and the wide readership its reports have (e.g. interview UK-4).

³² Interview UK-4.

that a considerable proportion of the House's total resources³³ are taken up by European matters.³⁴ As the committee has commanded its share of resources for a significant number of years, it can only be concluded that most Lords are in favour of the allocation—despite the difficulties associated with measuring influence as stemming from the reports.

It is thus clear that, although the European committees in the two Houses operate in different ways, many of the problems facing the ESC in the Commons also challenge the Lords. The 'ghettoisation' of European issues takes place in both chambers and, as in the Commons, there is very little contact between the European and other committees in the Lords. Committees in the Lords feel fully justified in dealing with European matters if the topic falls within their remit, in much the same way as their counterparts in the Commons, although here too the approach is to include a European angle, rather than take specific European legislation as the starting point for a report.

While acknowledging the importance of the interrelationship with the European committee, Lord Peston, chair of the Economic Affairs Committee, asserted that 'if we joined the EMU my successor would clearly look at the ECB on a regular basis, and I would regard that as being within my committee, rather than with the European committee'.³⁵ Equally, Lord Oxburgh, chair of the Science and Technology Select Committee, has no hesitation in addressing EU matters if relevant. He also believes that 'we will necessarily have more and more to do with people in Brussels and people in European countries', although currently 'such contacts are not shaping up in any institutionalised way'.³⁶ Both chambers can therefore be said to treat European affairs in isolation from domestic legislation, arguably depriving themselves of both specialised policy and more generalised EU-knowledge that might contribute to better scrutiny of the government.

However, such scrutiny is of little use if the government does not feel obliged to follow any recommendation the EU committee may make. As in the Commons, the issue of impact on government policy is perhaps of most concern. The Lords too is a debating chamber, with less emphasis on committee work than in most other legislatures. In its own review of how European legislation is scrutinised in the Lords (2002), evidence suggesting both 'unquestionable' and 'ephemeral' influence is cited. Acknowledging

³³ Resources are here taken to mean not only human resources, as in active members of the House participating in the committees' work, but also resources allocated to travel, expert assistance etc. Reports from the EU committee constitute a significant proportion of the total number of reports published by the House of Lords. In session 2001-02 the EU committee thus published 38 of the 80 reports published by the House of Lords, while the figure for session 2002-03 was 20 from a total of 42 (House of Lords, 2004).

³⁴ Leicester (1997, p. 3) suggests that 'some two thirds of the resources available for committee work in the House of Lords are engaged in the European select committee and its sub-committees'.

³⁵ Interview UK-14.

³⁶ Interview UK-13.

that influence is difficult to measure, the review then states that '[c]ontributing to a climate of opinion forming is a key way in which we can have an impact, by analysing issues and presenting a range of evidence combined with our own conclusions on it' (House of Lords Select Committee on the European Union, 2002, paras 136-140). More candidly, a parliamentary member of staff working for the Scrutiny committee opined that 'even if the government changed from A to B—and we've recommended changing from A to B—we can't prove it is because of the committee, it could be coincidence, it could be because it's Friday'.³⁷ For the Lords committee, developing its powers of scrutiny any further may, however, be problematic due to its unique constitutional position. Its current lack of democratic legitimacy³⁸ and the resultant political constraints makes it unlikely that, in its present form, it will be anything more than an advisory body.³⁹

Conclusion

Understanding the workings of the British Parliament is obviously important when attempting to understand how it scrutinises European affairs—but committees, especially in the House of Commons, have also looked to the ESC for inspiration, meaning that influence has flowed both ways. With a few important deviations, the British parliament handles European affairs according to long-standing parliamentary traditions. As in other member states, parliament has treated European affairs much like foreign affairs, delegating them to a single committee, rather than integrating them into the every-day work of all select committees. The ESC conforms to British parliamentary traditions in the sense that it cannot act on behalf of the House. The notion of the sovereign parliament is strictly upheld, hence the importance of referring issues to the House for debate. However, given the general lack of interest in these very infrequent debates, the impact of the committee must be questioned.

In contrast to many other parliaments, where committees dealing with European affairs have tended to adhere to already established practices, the ESC has in many ways been a forerunner of committee development in the House of Commons. Not only was it established prior to the permanent establishment of select committees within the House of Commons, it is also the first—and so far the only—committee to include the word 'scrutiny' in its name. Moreover, it is the only committee to undertake

³⁷ Interview UK-4.

³⁸ The Labour Party has initiated significant reforms of the House of Lords, beginning with the banishment of 600 hereditary peers. Proposed reforms have been controversial—in both the House of Lords and House of Commons. The initial document detailing suggestions is the Wakeham Report (2000), but see also the government's White Paper, reports from the Joint Committee on House of Lords Reform as well as consultation papers from the Department on Constitutional Reform, all available from the Department's website on: <http://www.dca.gov.uk/constitution/holref/holrefindex.htm>

³⁹ Interviews UK-12 and 14.

ex ante, as opposed to *ex post*, scrutiny of government activities. Despite this pioneering role, the impact of the ESC remains limited, as its remit does not permit it to pronounce on the merit of documents submitted to it. Instead it is only able to decide whether documents have legal or political importance. Despite being involved in the legislative process prior to a final decision being taken, influence over European legislation, as well as over British participants in European-level decision-making processes, is minimal. This minimal impact is also due to the sheer number of documents submitted to the committee. One potential weapon in the ESC's armoury is the scrutiny reserve power. However, despite being able to impose the scrutiny reserve power, the committee still cannot hold the Government to account for executive actions at the European level. The ESC can ask ministers to appear before it and question them on their conduct, but ultimately has no way to sanction either disregard of the scrutiny reserve power or decisions the committee does not agree with.

An important question is thus whether European matters would be better scrutinised as part of other select committees' workloads. During interviews with British politicians this idea was rejected. MPs from non-EU committees argued that their existing workload was already too heavy, and that they always had the option of looking at issues from a European angle when conducting investigations. Members of the ESC thought EU issues were best considered by MPs who had built up a considerable knowledge of EU affairs and procedures, seeing no need for the involvement of non-EU specialists. The issue of committees cooperating on European matters is especially pertinent considering the ESC's severe workload. The problematic situation regarding cooperation is well illustrated by the fact that one of the few reports on a European issue to capture the public's imagination (on the 'fridge mountains')⁴⁰ was not published by the ESC but by the Environment, Food and Rural Affairs Committee (House of Commons Environment, 2002).

However, under current rules the *ex ante* involvement would disappear if European legislation was considered solely in departmental select committees. From the perspective of improved scrutiny, the ideal position may be some form of cooperation between the ESC and departmental select committees. Such a move would depart significantly from traditional procedures that maintain strict independence of select committees. Furthermore, any cooperation between the ESC and other select committees would take time to develop, as trust between committees, fundamental to such relationships, currently appears to be absent.

⁴⁰ On January 1 2002, new rules for the disposal of CFC-containing foam from refrigerators came into force although, in Britain, equipment to deal with the new requirements was insufficient. This caused significant 'mountains' of fridges to build up throughout Britain, at an estimated cost to taxpayers of £40 million. For further details see the report from the House of Commons Environment, Food and Rural Affairs Committee (House of Commons Environment, 2002).

Nonetheless, the greatest hindrance to influence on European legislation may, however, lie in the relatively late involvement of the two Houses through the ESC and the European Union Committee. It is often the case that by the time the Commission puts forward a legislative proposal, very little remains for negotiation (Peterson and Bomberg, 1999, see especially Chapter two; 2000). To maximise influence, early involvement is considered desirable by the chairs of both committees, but difficult to obtain under current rules and practices. Although the Government may fulfill treaty requirements in terms of providing parliament with documents, it means that the ESC relies heavily on explanatory notes from the Government, with few independent sources of information and analysis. This too hinders efficient scrutiny. If either chamber, but especially the House of Commons, were to influence European legislation in a more substantial manner, several changes would be required. Not only would the ESC have to follow proposed legislation over a much longer time-scale, beginning with the consultation processes undertaken by the Commission. It would also require the involvement of other select committees from the House as well as the development of procedures binding the Government to certain decisions. All these suggestions, however, run contrary to British parliamentary traditions and political culture.

The ESC is an unusual committee within the House of Commons due to its *ex ante* involvement in the European legislative process. Extending this prerogative to the remaining select committees would be a significant departure from existing practices. Moreover, under its current remit, the ESC fulfils its role of scrutiny fairly adequately. By bringing issues 'to the attention of the House' its role is completed, and it then remains for the House to decide how to proceed.

With the often very technical issues covered by the ESC, it is not difficult to see why European legislation has not captured the attention of the public. The very adversarial style of debates in the House of Commons does not lend itself to technical debates, a contributing factor in keeping European matters within a single select committee. The 'ghettoisation' of European issues has contributed significantly to the limited knowledge amongst other MPs and the public in this area. A limited understanding of how membership of the Community has impacted on domestic legislation, and therefore on practices and procedures within Westminster itself, can also be attributed to the lack of cooperation between select committees as well as to the small number of debates on European issues within the House. However, even very technical issues can become politicised, as the issue of the fridge mountains proves. Such politicisation has not been in the interest of political party leaderships, and it would therefore be

interesting to investigate the extent to which European issues have been kept technical, thereby avoiding politicisation of unwelcome issues.

It is evident that if MPs (and Parliament as an institution) are to gain further influence over the government on European issues, a substantial departure from existing traditions and practices is required. The greatest obstacle is likely to be the principle of parliamentary sovereignty, a core component of the British constitution. At present, no single individual or committee can represent the British parliament: for a matter to be vested with parliamentary legitimacy, it has to be put before both Houses. Whether this concept of parliamentary sovereignty remains a realistic prospect merits further consideration. In this context William Wallace's (1986, p. 369) continuum of independence, dependence and interdependence may be useful. Maintaining strong parliamentary sovereignty (independence) would appear impractical if the British Parliament wishes to engage further with the substance of European legislation in a manner that has the potential to influence government policy and behaviour on European issues.

Despite these reservations, it is obvious that membership of the EU has influenced activities in the British Parliament. Both scrutiny committees are well established and considered important components of the tool-set allowing parliamentarians to carry out their duties. Moreover, membership has forced a debate, even if within a limited circle, of what 'scrutiny' constitutes and whether the same rules apply for scrutinising European and domestic legislation. Although EU membership is beginning to impact on parliamentary work beyond EU committees in all of the case study parliaments, in Britain this influence goes beyond the topics dealt with in committees, potentially impacting on the basic workings of committees too.

Chapter 7: Political culture and scrutiny

European integration leaves national identity and political culture by and large untouched, while Europeanisation involves mutation of national identity and political culture.'

(de Beus and Mak, 2003, p. 2)

Scrutiny procedures have little meaning when examined in isolation, making it important to place them in context. Variance in social and cultural factors which help determine political behaviour and attitudes, or political culture, in turn determine the framework within which political institutions—including national parliaments—operate. National political cultures influence how scrutiny is carried out within national parliaments. Political cultures obviously differ from country to country, and can therefore be a useful concept to employ when attempting to explain the different approaches to parliamentary involvement in European matters. If scrutiny procedures are seen as a compromise between national political cultures and the pressures of Europeanisation they acquire more meaning.

This chapter will therefore look at, firstly, the concept of political culture, establishing its explanatory value as well as its shortcomings—specifically how the concept is not particularly helpful when it comes to explaining change. The three case studies will then be examined in this context, assessing how scrutiny procedures have been adapted to accommodate change at the European level while still respecting the specifics of national political cultures.

The 'political' in political culture is relatively easy to define, whereas the 'culture' aspect is more slippery and perhaps best expressed as 'a social process through which people reproduce together the conditions of intelligibility that enable them to make sense of their worlds' (Wedeen, 2002, p. 717). In the political context, that which enables people to make sense of their worlds often involves the specific political institutions and practices, including national parliaments, which have developed within their nation states. Scrutiny of European politics is thus reflective of norms embedded in specific political cultures—although because of its historic isolation within domestic political structures the culture surrounding European affairs might be more accurately described as a subculture.

As European cooperation has developed, so too has its impact on the national level. Changes have thus been undertaken in national parliaments to improve scrutiny of

European legislation in recognition of the fact that the distinction between European and domestic legislation is becoming difficult to maintain. National political cultures thus do not prevent change (in general or specifically in parliamentary scrutiny procedures). Instead, by providing an overarching framework within which changes can take place, they direct these change in certain, country-specific directions, making it possible for national parliamentarians to 'make sense' of EU membership.

In the three case studies, the process of change has been undertaken in very different ways. While all three parliaments have introduced changes to their scrutiny procedures, the speed and manner in which these changes were undertaken have varied significantly. Parliamentary scrutiny in Denmark, through the increased involvement of specialised committees, has evolved organically from the existing scrutiny system. While the essence of the original scrutiny system remains in place, it has developed into a closer system of cooperation with specialised committees, bringing the scrutiny of European legislation significantly closer to procedures employed for national legislation. In Britain, parliament has also been involved in European affairs since the UK joined the Community, and Europeanisation has changed the character of scrutiny here too. The ESC is thus the only committee in the House of Commons to include the word 'scrutiny' in its name, and ministers have found that they may be called to account for their actions at the European level. These features of the ESC set it apart from other select committees within the House of Commons, with European legislation in some ways treated very differently to legislation originating at the domestic level. Both the ESC and the European Committee in the House of Lords operate differently to other committees due to their ability to carry out *ex ante* scrutiny—but are also similar to other committees insofar as they have maintained their strong autonomy and do not cooperate on scrutiny with other committees. In contrast, the Italian Parliament is developing (and institutionalising) cooperation between European and other select committees, although it may also be some way off from having an answerable executive and an administration that delivers the documents required of it.

MPs in the three countries have essentially responded in very different ways to both the initial challenge of being involved in European affairs and the subsequent, and perhaps even greater challenge, of Europeanisation. In the Danish *Folketing* the challenge of Europeanisation has perhaps caused the fewest problems, as adaptations to scrutiny procedures have involved more openness and involvement of parliamentarians, already prominent features of the Danish political culture. In both Italy and the UK, however, the process has been more challenging, with more fundamental underpinnings of national political cultures being tested.

1. The concept of political culture

Political culture as a 'mediating' (not 'determining') variable in comparative politics began to develop with Gabriel A. Almond and Sidney Verba's book on civic culture (1989 (1963)). In this work Almond and Verba describe political culture as 'political orientations—attitudes toward the political system and its various parts, and attitudes toward the role of the self in the system' (1989 (1963), p. 12). When discussing the political culture of a society, Almond and Verba refer specifically to 'the political system as internalized in the cognitions, feelings, and evaluations of its population' (1989 (1963), p. 13). Dennis Kavanagh also employs these concepts, describing political culture as 'a short-hand expression to denote the emotional and attitudinal environment within which the political system operates', later narrowing it down to '*orientations towards political objects*' (1972, pp. 10-11, emphasis in original). As further explanation, utilising the three concepts from Almond and Verba, Kavanagh (Kavanagh, 1972, p. 11) writes that

Orientations are predispositions to political action and are determined by such factors as traditions, historical memories, motives, norms, emotions and symbols. We can break down these orientations into their component parts as follows: cognitions (knowledge and awareness of the political system); affect (emotional disposition to the system); and evaluation (judgement about the system). Political objects include such parts of the political system as the executive, legislature and judiciary, the political parties and pressure-groups, the individual's view of himself as a political actor, and his views of other citizens.

David J. Elkins and Richard E.B. Simeon put it slightly differently, arguing that political culture is 'a short-hand expression for a "mind set" which has the effect of limiting attention to less than the full range of alternative behaviours, problems, and solutions which are logically possible' (1979, p. 128). Because individuals make presumptions they are limited in the choices they will entertain and the political culture will therefore 'predispose individuals in certain directions' (1979, p. 133).

However, these definitions expose the conceptual difficulty of political culture in explaining or predicting change. Because political culture predisposes or steers decisions in a certain direction, outcomes can be expected to always remain fairly similar. Political culture therefore does not explain how the desirability of particular outcomes may alter—with new ones replacing previous ones. As has been mentioned above, most national parliaments within the EU have historically treated European matters as foreign affairs, permitting a small group of MPs to become specialists in this area, in effect creating a European 'sub-culture' within national parliaments. Increasingly, however, European affairs are seen as a matter for all MPs to incorporate into their daily activities.

The process of integrating European affairs into the general activities of national parliaments also highlights the problem associated with causality when using political culture as an explanatory variable. As political culture is concerned with attitudes and orientations, it becomes a tool that contributes to our understanding of a particular decision at a particular time. It can help explain specific political episodes, but does not contribute significantly to an understanding of evolutionary developments that take place over time. Elkins and Simeon (1979, p. 141) describe this characteristic of political culture by including 'stability' in their list of system characteristics that may be better understood by employing the concept of political culture. The cause of changes in national political institutions or procedures resulting from membership of the EU can thus not be explained with reference to national political cultures. However, the specific nature of changes may be (partially at least) explained by the concept of political culture as attitudes and orientations towards political systems establish parameters within which these can develop. As a 'mediator' (see Kavanagh, 1983, p. 59) between Europeanisation and specific demands placed on scrutiny procedures, political culture contributes to our understanding of the specific institutional constructs that have developed for the purposes of scrutiny within the EU member states.

A further problem with political culture is that it has been used to explain 'anything and everything'. Indeed, Stephen Welch (1993, p. 159) writes that the concept 'is more widely used than ever, and has perhaps reached the stage of conceptual maturity, where debates over definition are no longer prominent, and it is routinely invoked as if there were no question as to its meaning or usefulness'. Kavanagh (1972, p. 55) was perhaps one of the first to voice his concern, stating that the political culture approach 'has been used to cover so many disparate phenomena that it is easily used as a residual factor'.¹

One of the most recent criticisms of the historical use of political culture comes in an article by Lisa Wedeen (2002). Describing how earlier criticisms accused the approach of having 'tendencies toward cultural essentialism' and being 'either fundamentally tautological or empirically invalid', she also blames these theorists of 'having responded to genuine explanatory needs by reviving an outmoded and unhelpful understanding of the concept' (2002, p. 714). Partial explanations have been achieved through the acknowledgement and use of ethnographic research and the use of symbols although, mainly because of the work of Clifford Geertz, culture 'became not only what a group has—beliefs, values, or a symbolic system—but what a group is'.

¹ Chapter six of Kavanagh's book 'Political Culture' is thus entitled 'Problems and Shortcomings', and covers issues such as cause and effect, subcultures, management of micro-, meso-, and macro-levels (including observational standpoint) and links between values and behaviour (Kavanagh, 1972, pp. 55-69).

Moreover, '[m]ost political scientists continue to think of culture as connoting fixed group traits' (Wedeen, 2002, p. 716). In contrast to this approach, Wedeen would like to adopt a system of analysis in which culture is viewed as a set of practices of 'meaning-making' or 'meaning-creation', by which is meant 'a social process through which people reproduce together the conditions of intelligibility that enable them to make sense of their worlds' (Wedeen, 2002, p. 717).

For national parliamentarians to make sense of their worlds it is increasingly necessary that they include the European dimension in their work. Although all EU national parliaments have a committee with the specific remit of following European matters, such 'ghettoisation' of European affairs is becoming recognised as unsatisfactory due (partially) to the very technical nature of European legislation (which makes it necessary to draw on the expertise found in other select committees). As a consequence, national parliaments have been forced to adopt new practices of meaning-making and -creation. Scrutiny of European legislation is becoming integral to national parliamentarians if they wish to make full sense of their work. However, national political cultures are still distinct, as evident in the different ways national parliaments have chosen to scrutinise European legislation. For instance, what has made Italian MPs believe they influence European legislation when passing the *legge comunitaria*, and what has made them focus more on the pre-decision stage? What has caused—and maintains—the strict separation of work carried out by the European scrutiny committee in the House of Commons from work by this chamber's other committees? And why do Danish MPs seem to readily accept, embrace even, wider parliamentary involvement in European affairs?

Perhaps the most important question is whether convergence can be detected in how national parliaments scrutinise European affairs and whether this can be ascribed to the effects of Europeanisation. The opposite question, whether differences are due to different political cultures, therefore also needs to be asked. With Europeanisation impacting on governance, institutionalisation and discourse (Radaelli, 2004, pp. 10-4), critical elements of national political culture are affected. Specific systems of governance and political institutions contribute significantly to how a nation (or at least its political elite) defines itself, while national discourse helps to explain and make sense of activities within these political systems and institutions. However, generally held beliefs about national political institutions and systems also help determine the extent to which changes in institutions and procedures can take place. For example, the sovereignty of the British Parliament is such an important element of British political culture that it, presently, seems very unlikely that a single committee will ever be permitted to commit the entire House from which it is drawn in a manner similar to

that of the Danish EUC. National political cultures can thus be said to limit the extent to which Europeanisation impacts on the national level.

Although the impact has been described as 'fuzzy', Europeanisation has altered both state policy and machinery (Bulmer and Burch, 1998, pp. 602-3). Consequently, national parliamentarians have been challenged by membership of the Community, as have their political orientations and attitudes towards the political systems they operate within. In order to carry out their jobs adequately, it is no longer sufficient merely to concentrate on activities at the national level. MPs from national parliaments have therefore, at times reluctantly, re-evaluated their role within a wider European context. Having done so differently in different countries, it may be argued that national political cultures can affect how Europeanisation affects national institutions and procedures. Consequently, convergence in scrutiny procedures caused by Europeanisation should not be considered a certainty.

Wedeen does not see culture as a set of fixed practices. Indeed, she writes that 'a dialectical understanding of culture allows us to view meaning-making activities as being both stable and changeable, not a single system and internally various and conflicted'. Although a requirement of intelligibility is established, this 'does not imply that linguistic or semiotic meanings are stable, but it does require at least enough stability so that what one actor learned still applies when another speaks' (Wedeen, 2002, pp. 720 and 722). Brian Girvin has expressed a similar position when stating that a political culture is 'a shared pattern of beliefs within which there may be many subcultures but a common source of values which inform those beliefs'. Although the common values may alter, change 'need not endanger the long-term stability of a political system if a mechanism is available for internalizing change without endangering the maintenance of core values' (Girvin, 1990, p. 34). The implication of both the intelligibility requirement and long-term stability is that parliamentary scrutiny systems can be altered if changes are undertaken in a manner consistent with the overall national political culture. As will become evident in the case studies below, this is indeed what has tended to occur.

2. The case studies

Denmark

It has been said that no (violent) revolution would ever take place in Denmark as the Danes would want to go home and 'sleep on it' before deciding what to do. Then, after a sound night's sleep, they would discuss the issues in an attempt to find a peaceful solution, rather than resort to the extremes of (for example) the French Revolution.

Indicative of this approach is Denmark's transition to constitutional democracy in 1849 when the then King, Frederik VII, voluntarily signed Denmark's first constitution that limited his own influence and handed political power to the electorate. This event is one example of how political change in Denmark tends to take place by peaceful means through deliberation and discussion. Openness, the involvement of as many interested parties as possible and broad debates have become essential to the conduct of every-day politics as well. Larsen-Jensen describes the Danish political system as a very 'democratic democracy' where the distance from the top to the bottom of society is not that great.² A highly-placed source within the Danish Ministry of Foreign Affairs also considers it 'natural' that the *Folketing* mandates Danish ministers (and civil servants) negotiating at the European level as 'we are a democracy that stretches quite far in the direction of *folkestyre*³ and need good control, also over foreign policy—and if not with all aspects of foreign policy, then at least European policy'.⁴

Direct participation by Danish citizens takes place at elections and referenda that see high levels of participation. Public participation in elections conducted using a proportional electoral system ensures that the *Folketing* closely reflects public opinion, although the system also tends to deliver somewhat fragmented parliaments. Fragmentation has been especially evident since the election in December 1973⁵ when several new parties gained representation in the *Folketing* and has necessitated frequent (minority) coalition governments.⁶ It can thus be argued that virtue and necessity coincide. While it is necessary for Danish governments to cooperate widely in order to pass policy, this also fits well with the consultative political culture in Denmark. Work within the *Folketing* also reflects the need for anchoring policy in public opinion. By concentrating their work in committees that follow the work of individual ministries, Danish parliamentarians ensure that a broad range of opinions are heard and are able to influence policy—including foreign policy, traditionally considered the domain of the executive.

² Interview DK-16.

³ The word 'folkestyre' is best translated by 'democracy'—but as in the ancient Greek interpretation of 'government by the people' or 'people's democracy'. Direct democracy is, obviously, not practical, with public participation in politics mainly taking place through organised interests' involvement in the legislative process as relevant.

⁴ Interview DK-17.

⁵ In the December 1973 election Danish voters expressed their frustration with the established political parties who never seemed to fulfil the promises made during election campaigns. Five new parties were elected to the *Folketing*, taking away 60 mandates (from a total of 179) from the established five parties, but not ousting any of these.

⁶ The government is not required to obtain a vote of confidence in the *Folketing*; it merely has to ensure there is no majority *against* it. This negative investiture is found in Article 15, para 2 of the Danish constitution, which states that 'If the Parliament passes a vote of no confidence in the Prime Minister, the Prime Minister shall ask [the King] to dismiss the Ministry [of the Prime Minister], unless a general election is called' (Folketinget, 2001b).

Strong parliamentary involvement is also a necessary component when it comes to 'making sense' of Denmark's involvement at the European level. The EUC's ability to mandate Danish ministers can thus be seen as an expression of the belief that strong control with European legislation is necessary and best undertaken by parliamentarians—except when fundamental changes at the European level take place in which case referenda are called for. Larsen-Jensen argues that the strong involvement of the EUC has meant a co-responsibility for European policy, while also ensuring that 'fundamental changes to Danish EU policy do not take place'.⁷ However, the historic isolation of EU matters within the EUC has created a European sub-group within the *Folketing* while day-to-day politics contain little reference to EU affairs. This aspect of the relationship between the Danish public and their politicians is well illustrated by the various referenda held on EU issues in Denmark where support for European measures has been significantly higher amongst members of the Danish elite.⁸ A divide has developed between 'an elite culture, and a culture for the "common voter"' (Larsen and Ugelvik, 1997, p. 226).

The *Folketing* is attempting to eradicate the internal divide by involving select committees more in the scrutiny of European affairs, a situation which has been strongly supported in theory,⁹ although there have also been problems in developing a horizontal layer of scrutiny within the *Folketing*.¹⁰ However, Europeanisation has impacted on parliamentary procedures to the extent that Danish parliamentarians not directly involved in the EUC are beginning to realise that they too need to be involved in European legislative activities, and that legislation originating at the European level significantly determines the room available for (legislative) manoeuvring at the national level. Closer involvement of select committees is thus developing and has required the allocation of further resources in the form of support staff dedicated to assisting select committees in their work on European affairs. Moreover, support from the administration has been crucial—but also possible due to what Pedersen describes as an 'exceptionally' strong democratic culture within the Danish administration.¹¹

The overriding notion that (the people's) democracy should involve a strong element of scrutiny by parliamentary representatives has been a powerful factor in inducing

⁷ Interview DK-16.

⁸ The first referenda on Community matters, whether to join or not, was held in 1972, with 63.2 per cent of those voting doing so in favour of membership. In subsequent referenda, support for the Single European Act (SEA), the Maastricht Treaty, the Maastricht Treaty with Edinburgh exemptions, the Amsterdam Treaty and membership of the euro has been 56.2, 49.3, 56.7, 55.1 and 46.9 per cent respectively (Laursen, 2001, p. 107). However, the various treaties and measures have consistently been supported by approximately 80 per cent of parliamentarians.

⁹ Expressed by, for instance, interviewees DK-3 and 26.

¹⁰ Reluctance is mainly based on the fact that the significant amount of work required does not result in the ability to mandate Danish ministers which remains the prerogative of the EUC in order to ensure overall coordination of the *Folketing's* EU policy.

¹¹ Interview DK-23.

structural changes within the *Folketing* in response to Europeanisation. By further developing the parliamentary involvement in European affairs, engagement in the European integrative process (in a manner conforming with the values endemic to Danish political culture) has been achieved. Support for the strong parliamentary scrutiny is thus found amongst parliamentarians, in the administration and by those who have had to obtain mandates from the EUC. Although varying degrees of criticisms were expressed with regard to the Danish scrutiny system, there have been no suggestion from civil servants, ex-ministers (including ex-Prime Minister Poul Nyrup Rasmussen) or speakers of the *Folketing* that the *Folketing's* involvement in EU affairs should be diminished. Danish political culture, as expressed through political institutions and procedures, has helped ensure that stability has been maintained. Altered institutional arrangements for scrutiny of the Danish government's activities at the European level have not threatened, and may indeed conform more closely with, Danish political culture.

Italy

Unified only in 1861, Italy has had a much shorter period than both Denmark and the UK in which to develop a national political culture. Since unification Mussolini's fascist rule, Italy's experience of the Second World War and the subsequent writing of a new constitution, have all contributed to a political environment where strong regional affiliations, an emphasis on single issues rather than broad political doctrine and a widespread lack of trust have developed. One of the few occurrences of Italians joining forces in order to achieve one particular outcome took place during Mussolini's reign. His attempt to politicise Italians failed, as the majority of Italians remained unsympathetic to fascism. However, Richard Griffin (1997, pp. 144) points out that '[t]he supreme paradox of Mussolini's attempt to make Italians was that it did finally have the effect of launching a powerful movement of national solidarity - one aimed at destroying fascism for ever'.

Subsequent to the overthrow of fascism, a new constitution was drawn up. The new constitution explicitly mentioned a democratic foundation for the new republic in Article I, vesting sovereignty with the people (Republic of Italy, 2002). According to Senator Manzella, the Italian constitution was the first in the world to permit the relinquishing of sovereignty.¹² Article 11 thus renounces war as a way to settle

¹² Interview I-9.

international conflicts while also permitting the ceding of sovereignty,¹³ and can be seen as yet another expression of political experiences gained during Italy's earlier history. However, the willingness to cede sovereignty may also have other origins. It may well be argued that limited identification with the Italian state and nation, and the seemingly stronger connection with the regional level, has meant that no real affinity is felt for the Italian nation or state. Umberto Melotti thus writes about Italian political culture that 'the first trait to single out is its concept of the nation, which is weak and even ambiguous'. Moreover, 'the national sentiment, according to the latest research, is far weaker than in any other European countries' (2000, pp. 7 and 8).

The continued importance of regional affiliations is well demonstrated in the support for regionally based political parties such as *Lega Nord* (Northern League). Politicians with an interest in European affairs therefore have a significant task in bridging the gap between the local and European stages, a task that is made more difficult due to the Italian Parliament's focus on legislation rather than scrutiny and oversight.¹⁴ According to a member of staff in the Chamber of Deputies 'there is a difficulty with imagining the effect of future legislation'.¹⁵ Although the domestic impact of European legislation being investigated by European committee staff (with dossiers distributed to all select committees), Italian parliamentarians generally appear remarkably unconcerned with European legislation. It can therefore be argued that Italian political culture is focused mainly on the national level, and that the importance of considering European legislation (prior to decisions being made at the European level) is not commonly recognised.

Despite the Italian Parliament's relative institutional strength, several factors have contributed to a situation where Community matters are often not scrutinised in any significant way. Firstly, Italy's motivation for joining the European Community was political in nature rather than economic. Membership was seen as recognition of Italy's new and developing democracy (Pasquino, 1996, p. 160), and although the Communists were initially opposed to membership it gradually became a 'non-issue' (Bindi Callusi and Grasse, 2001, p. 297). Italian politicians and citizens were thus, in contrast to both the UK and Denmark, in agreement over membership of the EU, with neither inter- nor intra-party disagreements on the issue. Although the number of

¹³ Article 11 states that 'Italy rejects war as an instrument of aggression against the freedom of other peoples and as a means for the settlement of international disputes. Italy agrees, on conditions of equality with other States, to the limitations of sovereignty that may be necessary to a world order ensuring peace and justice among the Nations. Italy promotes and encourages international organisations having such ends' (Republic of Italy, 2002).

¹⁴ The importance placed on legislation within the Italian parliament is well illustrated by the chair of the EU committee in the Chamber of Deputies who declared that 'I think the European Parliament must make law. Today the European Parliament cannot make law, so it is a strange parliament. A parliament makes law!' (Interview I-13).

¹⁵ Interview I-11.

Italians who see EU membership as a good thing has declined over the years, as has the number of Italians who believe Italy has benefited from membership, Italians have still recorded some of the most positive feelings towards the EU, traditionally well above the EU average (European Commission, 2003, p. 42).¹⁶

Secondly, a parliamentary tradition focusing on legislation, rather than oversight and scrutiny, has developed. Although both parliamentarians and parliamentary staff involved in European affairs are aware that the Parliament's influence post-decision is limited, the traditions embedded in Italian political culture are powerful, making it difficult to change attitudes developed over a long period. This ties in with the third explanation, which is the lack of direct (political) benefits to be obtained from the European level. As local links and contacts are vitally important for Italian politicians, this is naturally where their efforts are concentrated, with the consequence that EU seems 'a long way away' without much relevance to everyday political life.

Italian Parliamentary involvement in Community affairs is, accordingly, mainly limited to the annual *legge comunitaria* (see Chapter five). Although this annual bill permits Parliament to legislate on European matters, it does not provide the Parliament with any influence over European legislation. The general treatment of Community matters within Italy can thus be described as very relaxed, even characterised by a certain *laissez faire* attitude in Parliament, the executive and the administration. The Italian parliament, despite having been a member of the Community right from the outset, is the weakest in terms of influence on Community legislation, of the three parliaments examined. This is despite signs (including the establishment of a department of European affairs, an upgrading of the *Giunta* to a select committee and increased numbers of hearings in both Chambers) that things are slowly changing.

Owing, perhaps, to Italy's complex political history and many unpleasant memories and consequences of both the Fascist period and the First Republic, it has been argued that Italian political culture 'has been the subject of very few studies. The theme itself seems to have become a sort of taboo, perhaps because of the Fascist ideological exploitation of the Italian national idiosyncrasies' (Melotti, 2000, pp. 6-7). The predisposition to international cooperation (expressed through Article 11 of the constitution), a strong focus on the local level and a parliamentary unwillingness to engage in scrutiny are all factors that have influenced how Italian MPs have incorporated European matters into their daily work. However, it appears that

¹⁶ Eurobarometer figures cover the years 1981 - present for the question of support for European Union membership and the years 1984 - present for the question of whether Italy has benefited from membership.

institutional practices (altered in response to Europeanisation) have been less of a hindrance to greater parliamentary involvement in European affairs than have general and cultural attitudes towards Europe. Both parliamentary chambers have exhibited (institutional) flexibility in the way they involve themselves in European affairs, an indication that, due to the relative youth of the Italian state and political system, there may be more of a willingness to change practices and institutional habits.¹⁷ Indeed, with the Senate's new 14th Committee on European affairs (see Chapter five) tying all of the select committees together by making dual membership a requirement, the Italian Senate is, in a clear departure from traditional procedures, the chamber with the strongest institutionalised cooperation on scrutiny of European affairs. However, it remains difficult to interest MPs in European work, a sign that Community issues still do not contribute significantly to the meaning-creation of politics at the national level.

United Kingdom

Europeanisation has also been a significant challenge in the UK where no written, codified constitution exists that may provide guidance in its relationship with the EU. Various texts, conventions and institutions together provide the UK with a 'constitution', creating a very unique political environment for politicians to operate within. Although the UK has always been a country with extensive international links, the fact that it is an island has also contributed to British national culture and self-image.

British identity, the factors that put flesh on the bones of 'Britishness', have historically (see Eatwell, 1997, pp. 52-3) been considered to consist of Protestantism, a belief in the superiority of the British Parliament (a symbol of liberty), demonisation of the 'other' (especially France), identification with moderate and pragmatic thinking and association with trade and prosperity. Almond and Verba (1989 (1963)) identified similar traits in the British society emphasising homogeneity, consensus and deference. However, Roger Eatwell (1997) argues that these identifiers have lost most of their relevance. British homogeneity has thus obviously decreased with the process of devolution, while the UK has also become more multi-ethnic.¹⁸ Socialisation (of a less authoritarian and more inclusive variety) saw deference becoming a 'more marginal feature' (Eatwell, 1997, p. 64) of British culture. Meanwhile, inter-party divisions on issues such as fox hunting and the war on Iraq have shown that consensus is not

¹⁷ Discussing the regional level, Robert D. Putnam describes how politics have been transformed by the establishment of regional governments, teaching councillors 'the virtues of patience and practicality and reasonableness' (Putnam, 1993, p. 38).

¹⁸ Although the proportion of ethnic minorities in terms of population may still be relatively small (7.9 per cent in the 2001 census), the existence (and electoral success) of the British National Party together with a focus on terrorism which is strongly related to Islam, helps give the impression that the proportion of ethnic minorities is greater and that it is causing problems for Britain and British identity.

necessarily a defining characteristic of British politics any longer—although membership of the EU is perhaps the best illustration of this point.

What has remained as one of the most fundamental components of Britain's political culture is the sovereign Parliament. However, the notion that Parliament is 'the supreme, and indeed only, law-making body in the UK' (Pilkinton, 2001, p. 78) has been challenged by Britain's membership of the EU. The initial Treaty of Accession signed in 1972 was a 'massive' breach of constitutional convention, as the then government 'tacitly accepted as part of British law some forty-three volumes of European legislation ... that became binding upon the peoples of the United Kingdom, despite that law never having been scrutinised or debated by the British parliament' (Pilkinton, 2001, p. 78). It can be argued that because Parliament had to ratify the Accession Treaty, it has not ceded sovereignty unknowingly. Indeed, Andrew Geddes writes that 'by ratifying the accession Treaty that took Britain into the EC then it is possible to say that the British Parliament *self-limited* its sovereign authority because in some areas supranational institutions such as the council of Ministers and the Commission make laws' (Geddes, 2004, p. 39, emphasis added). Despite the self-limitation on its powers, the British parliament has remained a starting point for other characteristics of British politics such as respect for the rule of law and pragmatism.

Respect for the rule of law is evident in the importance placed on debate within both the House of Commons and the House of Lords and—to a lesser extent—on scrutiny of legislation. The sovereignty of Parliament is reflected in the fact that no individual or committee can act on behalf of or commit a Chamber. As a consequence, debates have traditionally been considered the most important feature of parliamentary work, with committees only developing relatively late in the Parliament's history.¹⁹ In this respect the UK Parliament therefore differs significantly from both the Danish and Italian parliaments where committees are relatively more influential.

Since the 1990s, however, a new focus on pre-legislative scrutiny has emerged (for an overview see Kelly et. al (2003)). In this context the House of Commons' Select Committee on Modernisation (first appointed in June 1997) has thus published several reports for consultation as well as a reform programme.²⁰ In its 'First Report' from February 2002, the Modernisation committee published a list of 11 recommendations to select committees, one of which is 'to conduct pre-legislative scrutiny of draft bills'

¹⁹ Select Committees are, however, considered increasingly important, with debates in the Chamber described as 'I won't say useless, but on many cases it is little more than a cabaret or low drama. ... Most of the time what happens in the chamber is extremely perfunctory, and does not amount to anything like proper scrutiny' (Interview UK-7).

²⁰ For a full list of reports see the committee's website:
http://www.parliament.uk/parliamentary_committees/select_committee_on_modernisation_of_the_house_of_commons/select_committee_on_modernisation_of_the_house_of_commons_reports_and_publications.cfm

(House of Commons, 2002b, para. 34). Pre-decision scrutiny of European legislation has taken place since the UK became a member of the EU. The powers of the ESC are thus, according to Carter, 'in keeping with UK Constitutional tradition', but, being *ex ante*, rather than *ex post* potentially more influential (2001, p. 440). This point has also been raised by Parliament itself. In a report on the legislative process in the House of Commons from the Chairmen's Panel, a hope is expressed that 'the present system - which contrasts so unfavourably with the arrangements for debating European legislation - will be replaced at the earliest opportunity' (House of Commons, 1998a, para 29). However, it has also been indicated that the European Scrutiny Committee 'lacks the formal power to serve as anything more than a filter' (Millar, 1979, p. 195), thereby questioning the extent to which it can be considered more effective than other select committees within the House of Commons.

While select committees are considering alterations to their procedures, they have done so for domestic reasons and are yet to establish methods for cooperation amongst themselves and with the ESC. To date, committees (including the ESC) have worked autonomously, with joint reports or committees being the exception rather than the rule. This approach to scrutiny appears particularly, and increasingly, anachronistic when it comes to dealing with European affairs. As the integration process has developed to cover more and more areas of policy traditionally considered domestic policy, select committees find themselves including a European angle when preparing reports. Furthermore, the ESC has found that it is increasingly important to establish the domestic impact of European legislation, something that is often difficult to do without the expertise found in select committees. As a result of the separation, the British Parliament too has developed a sub-culture of parliamentarians who are particularly knowledgeable on the EU developing.

It is yet to be established whether European scrutiny is developing together with or separately from Parliament's scrutiny of domestic legislation. It seems certain, however, that changes to select committee procedures have been initiated from the domestic level, although the extent to which Europeanisation has had an impact on the particulars of suggested changes is difficult to assess. Scrutiny conducted *ex ante* in select committees certainly appears to have become more acceptable despite it being a significant departure from traditional culture within the British Parliament, making it difficult to ascertain how far select committees may be 'permitted' to develop.

As one of the enduring expressions of British political culture, the British Parliament is facing a significant challenge in European legislation. While the British administration has proven adept at gradually adapting to membership of the EU, the UK Parliament has had more difficulties. In order to adequately conduct scrutiny it may therefore

have to re-examine fundamental aspects of its operational environment. The interplay between Europeanisation and British political culture is difficult to assess with certainty as cause and effect are hard to establish with precision. What can be ascertained with confidence is that membership of the EU has forced the two European committees—in a novel development—to undertake pre-decision scrutiny. It has taken close to 30 years for select committees to consider and accept the benefits of this method of scrutiny. It thus appears that British political culture is more resistant to change than those of either Denmark or Italy, making Europeanisation a generally more daunting challenge for the British parliament—and the UK in general.

Conclusion

National parliaments could (initially) allow themselves to think of Community affairs as foreign policy because of the Luxembourg Compromise: if a proposed policy was considered unsatisfactory—and important enough—it could be vetoed in the Council. As such, European legislation was considered distinct from domestic legislation. Despite this difference, scrutiny procedures developed from existing procedures for dealing with domestic legislation (the UK parliament being an exception). Parliamentary institutional structures for Community affairs were thus very similar to those for foreign affairs: specialised committees were established whose members became experts on the topic but did not involve parliament in any significant way beyond that. The consequence of this was the development of subcultures with specialists on EU affairs, leaving little need for the wider political culture to adapt to membership of the EU. As membership is increasingly felt across all policy areas, it has become recognised that members of EU committees need the expertise of other specialist MPs to assess the impact of European legislation.

With the initial involvement by national parliaments in European legislation, the building blocks for greater involvement were laid. As a consequence, it became easier to expand the parliamentary role at a stage when politicians began to acknowledge the significant impact Community matters has on the framework within which domestic policy is carried out. The emerging broader parliamentary involvement has therefore challenged national political cultures and forced the development of scrutiny procedures. Plenary debates, a potential method for greater involvement of national parliamentarians and especially important in the UK, have occurred only rarely in all three case studies, with debates generally limited to significant issues such as ratification of new treaties.

The inherent contradiction in Community legislation (is it domestic policy or is it foreign policy?) is important to bear in mind. At present it is neither—or rather both. It

is domestic policy because it is being implemented at and affects the national level. European legislation is being transposed into national legislation, has direct effect in the EU member states, and can therefore be considered national legislation. Community legislation is not, however, negotiated or finally decided at the national level by nationally elected parliamentarians in national parliaments. It is still negotiated between government representatives at the European level, increasingly in cooperation with the European Parliament, and can therefore—also—be considered foreign policy. While all member state parliaments have realised this, it is also evident that their responses have varied.

To date, developments in scrutiny procedures have been relatively country and time specific, although nowhere has the entire parliament been involved in scrutiny. European issues have generally been left to the care of a small sub-group of parliamentarians. As a consequence, sub-cultures have developed with specialised expertise on the EU and which parliamentarians, government representatives, civil servants and certain members of the national elite inhabit. European affairs have therefore not become an integral element of overarching political cultures.

Wedeen's emphasis on meaning-creation thus becomes relevant, as EU membership is made meaningful by adapting to demands made on the country's domestic structures and procedures (including scrutiny procedures) in a manner that 'makes sense' to national political actors—a process that, in effect, amounts to Europeanisation. A country's specific reasons and prerequisites for membership, as well as the consequences of membership (including parliamentary involvement in the procedures for European legislation), only make sense when incorporated into already existing practices and political cultures. Europeanisation affects political cultures, practices and institutions, but the limits imposed by national political cultures ensure that overall stability is maintained. Changes prompted by Europeanisation have at times been slow and reluctant, which may be because the wider political culture, not just the parliamentary environment, has been affected. It may well be that it has been more acceptable for parliaments to respond to changes in the national political environment rather than feel they are responding directly to events at the European level (events in the UK seem to illustrate this point).

Although national parliaments have acted independently of one another when responding to Europeanisation (resulting in a wide range of scrutiny systems, see Chapter three), convergence can still be detected in the common trend towards the broad involvement of increasing numbers of parliamentarians in European affairs. Within the three parliaments studied, convergent developments have come from different directions. In Denmark and Italy greater involvement by select committees

has been driven by the European committees, while in the UK it has more been a case of committees other than the EU committees increasingly including a European angle in their work. This development has been most evident in the House of Lords, but is also taking place within the House of Commons. The overall trend therefore, in all three case studies, is for wider inclusion of parliamentarians in the consideration of European legislation—or at the very least an increasing awareness of how legislation from the European level impacts on domestic legislation.

However, significant challenges for national political cultures in relation to the European level remain. As European integration is increasingly driven by decisions taken by QMV, it is no longer possible for individual national parliaments to veto decisions taken at the European level (assuming that parliaments have been invested with this power). As a result of the inability to ultimately control their national executives' actions at the European level, national parliaments have also had to develop a certain degree of inter-parliamentary cooperation. National parliaments have traditionally been very autonomous actors. Having to cooperate with other parliaments in order to carry out their work effectively has consequently presented (further) great challenges. As will become evident in the next chapter, the development of inter-parliamentary cooperation has been hampered by significant difficulties, producing little besides non-binding declarations, and with (usually small) steps towards further cooperation all driven by national parliaments themselves.

The extent to which inter-parliamentary cooperation will succeed may well depend on how far national political cultures evolve in the direction of a 'permissive consensus' that allows longstanding parliamentary traditions to adjust to Europeanisation. In Italy, the willingness to cooperate at the international level is substantial, owing mainly to past political experiences and ideological motives behind Community membership. In the Danish *Folketing* inter-parliamentary cooperation is similarly considered in a positive light if it can further aid the process of parliamentary scrutiny of European legislation. In Britain, however, European-level cooperation is considered more problematic, mainly due to the sharp divisions between committees within the House of Commons, and the inability of any one parliamentary committee to commit the entire House from which it is drawn. However, it can still be argued that the EU is increasingly given meaning and made understandable in similar ways throughout national parliaments even if differences in national political cultures clearly still exist and continue to impact on scrutiny procedures as well as parliaments' willingness to undertake collective activities.

One reason why parliamentarians may have different views on their parliament's role in European affairs is the shift from European integration to Europeanisation. As was

indicated in Chapter one the two concepts are related but separate, as 'European integration leaves national identity and political culture by and large untouched, while Europeanisation involves mutation of national identity and political culture.' (de Beus and Mak, 2003, p. 2). Citizens in EU member states may also begin to feel the effects of Europeanisation if parliamentarians, as a part of their daily work, increasingly engage in dialogue about Europe as part of everyday political discourse. Because the European dimension is becoming more important as a determinant of domestic policy, Europeanisation can only be expected to increasingly impact on citizens as well.

Membership of the EU has placed national political cultures under pressure. As European legislation and activities influence parliamentary activities at the domestic level, national parliaments may appear to have fewer ways in which to justify their existence. However, the new European level of political activity can still not be considered a polity in its own right, and is therefore reliant on indirect legitimacy, essentially provided by national parliaments through their support for their executives' activities at the European level. To provide such legitimacy, national parliaments must involve themselves in European legislation as effectively as they can. Due to the vibrancy of decision-making structures at the European level, national parliaments have increasingly become aware that they must cooperate, amongst themselves and with the EP, in order to influence European decisions better. Such inter-parliamentary cooperation has posed yet further challenges to parliaments, and will be discussed in the next chapter.

Chapter 8: Inter-parliamentary co-operation within Europe

We must now come to the balance sheet of the 'European experiment.' The most visible aspect is the survival of the nations.

(Hoffmann, 1966, p. 889)

In recent years national parliaments have gained an ever-greater prominence in the discussion of Europe's future. National-level support for decisions made in the Council are necessary for these decisions to be legitimate (for a discussion on international parliamentary cooperation in general see Slaughter, 2004, Chapter three). The lack of national-level support contributes to the 'double democratic deficit' (Lodge, 1996a, p. 190) and has supported the notion that the democratic deficit cannot be eradicated by parliamentarisation at the European level alone. It has become recognised that national level actors, especially national parliaments, must become involved in European matters—at both the national and European levels.

The Maastricht Treaty thus (in attached Declarations 13 and 14) 'encourages greater involvement of national parliament in the activities of the European Union' and provides for the possibility of holding Assizes.¹ Furthermore, the Nice treaty, in its outline of what the 2003 IGC would consider, specifically mentions the role of national parliaments, as did the 2001 Laeken Declaration. While only one Assize has ever been held, it can be argued that the role it was intended to fulfill has instead been borne out through the participation of national parliamentarians in the Convention on the Future of Europe.

The third stage of Norton's outline of national parliamentary involvement at the European level is currently taking place (see Norton, 1996b). This stage sees national parliaments as integral to addressing the democratic deficit.² However, simply because there is agreement on the fact that national parliaments are important to European democracy does not equate to agreement on the most appropriate way(s) for national parliaments to contribute to the development of Europe. Table 8.1 is adapted from a submission Norton made to House of Lords Select Committee on the European Union

¹ The Assize was a conference where the participants were members from the EP and EU member state parliaments.

² The first stage is (by Norton) characterised as having no parliamentary involvement—and no desire on behalf of national parliaments to be involved in European affairs, while the second stage sees adaptation and strengthening of parliamentary procedures to accommodate European affairs. Paradoxically the first stage coincides with the time where MEPs were seconded from national parliaments, whereas the second stage, in many cases prompted by the SEA, only begins to develop after this direct link has been broken.

(House of Lords Select Committee on the European Union, 2001, p. 15), outlining the main options that have been or are being discussed by national parliaments.

Table 8.1: Involvement by national parliaments in European affairs

	Advisory	Formal Powers
Individually	Better supply of information	Mandating Ministers
	Scrutiny committees	Scrutiny reserve
	Offices in Brussels	Nominating members of Commission
Collectively	Greater role of Assizes	Powers for Assizes
	Greater role of COSAC	Powers for COSAC
	Conference of speakers	Second chamber
	Consultation process	Joint committees with EP

In theory, the main options for national parliaments are thus to act individually or collectively, in either an advisory or formal capacity. However, in reality, not all of these options are open to all parliaments and indeed may not be suitable. Using the above table as a starting-point, this chapter investigates the collective options for national parliaments that have been explored by national parliamentarians in the past or are currently under consideration. This includes the Assize (which was held in 1990 and has never been repeated) and the Conference of Speakers of European Parliaments, although the main focus of the chapter will be on the Conventions and (especially) the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC).

COSAC has traditionally been considered a ‘talking shop’, with no ability to take decisions or contribute significantly to debates on European integration. While decisions are still not binding on anybody, the very focused debate on the role of national parliaments in the European integration process that has taken place since 2000 has forced national parliamentarians to consider their own role with regard to scrutiny of European legislation. Moreover, debates on specialised COSAC meetings could mean a significant leap for inter-parliamentary cooperation. Not only do specialised COSAC meetings provide MPs with an opportunity to discuss policy in a European context, they also demonstrate to European governments that national parliaments have become an integral part of the European legislative process. This involvement was further underlined by national parliamentary involvement in the Conventions (and thereby in preparatory work for the 2003 IGC), making it inconceivable that national parliamentarians would be excluded from similar treaty-

writing or –amending work in the future. However, as the Assize was one of the first forums in which national parliamentarians met, this is where the chapter will start.

1. The Assize

The Assize was originally proposed by the then French President Francois Mitterrand, who argued that national parliaments should become more involved in the development of Europe and its governing institutions. Held over the last four days of November 1990 and hosted by the Italian *Camera dei Deputati*, the Assize had as its theme 'the future of the Community; the implications, for the Community and the Member States, of the proposals concerning Economic and Monetary Union and Political Union and, more particularly, the role of the national parliaments and of the European Parliament' (European Parliament, 2000c).

The context for the Assize is important to fully understand the results—as well as why it was held and how it was conducted. In the late 1980s, significant parts of Europe (especially to the Community's south and east) were in turmoil, the European Economic Area had been conceptualised and Austria had applied for membership of the Community (Westlake, 1996, p. 171). 'Eurosclerosis', as experienced in the 1970s and early 1980s was a thing of the past, and the Community was developing at a significant pace, with the IGCs preceding the Maastricht Treaty due to commence in December 1990. Europe seemed on the move, and the potential impact on national parliaments was significant. National parliamentarians realised that the involvement of parliaments, national as well as the European Parliament, was necessary to legitimise deepened integration, but were also uncertain about how to respond to these developments. Their uncertainties were evident in the convening of the conference as well as the concluding documents.

Formally the title of the Assize was 'Conference of the Parliaments of the European Community', with the actual convening of the conference left ambiguous. The ambiguity was wholly intentional, with most parliaments believing the conference to be "'self-convened" by all the parliaments collectively' (Corbett, 1998, p. 297). Details for the event were discussed at COSAC, although the majority of preparations were carried out by Presidents of the participating parliaments (Corbett, 2002). Mitterrand's proposal to discuss the Community's future, based on his interest in involving *national* parliaments in the development of the Community and its institutions, initially met with scepticism on the part of the EP. However, the EP soon realised that 'if it wished to lessen any "threat" from national parliaments, it would be best advised to take in its charge the organisation of the *Assises*' (Corbett, 2002). It thus proceeded to shape the

conference in a fashion suitable to its own agenda, seeing it as 'a joint parliamentary preparation for the IGCs [resulting in the TEU]' (Corbett, 1998, p. 296).

Delegates to the conference were members of European parliaments (173 in total) and the EP (85). At the outset of the conference, delegations from each parliament were seated together, the EP's delegation sitting in the centre of the chamber with its delegates grouped according to political affiliation. However, in the first session of the Assize, a vote was passed for all delegates to sit according to political affiliation, a move some delegates found contrary to their interests as national representatives and an attempt by the EP to 'hijack' the event. While the EP successfully produced a forum where its ways of conducting business were dominant, national delegations (especially the British and French) were 'less enamoured with the experience and the outcome of the *Assises*' (Westlake, 1996, p. 171). This feeling may have been furthered by the fact that the political groupings held meetings around the sittings of the Assize where facilities were provided by the secretariats of the political groups in the EP. Furthermore, 'the core of MEPs within each grouping, having the best international contacts and, frequently, the best linguistic skills, were often among the key actors in such meetings' (Corbett, 2002). Each of the participating parliaments (but not all chambers) delivered written submissions, with the EP's submission being its proposed amendments to the TEU. The final declaration, although adopted by a majority of the delegates (150 to 13), was remarkably similar to the EP's submission, 'echoing all of the European parliament's main proposals for treaty revision' (Corbett et al., 2000, p. 300):

The declaration endorsed the objective of remodeling the community into a European Union on a federal basis and backed a single currency governed by an autonomous central banking system, taking the view that this required stronger instruments of economic and social cohesion. It supported the incorporation of the [European Political Cooperation] in to the Community structures and the inclusion of European citizenship and fundamental rights in the Treaties. It backed extension in Community competences in the social and cultural fields, and also endorsed the EP 's institutional requests concerning co-decision on legislation, appointment and term of office of the Commission, right of initiative, scrutiny powers and assent procedure for Treaty modification. It called for the EP and the national parliaments to prepare a constitution, with the Commission becoming the executive and Parliament and Council exercising legislative and budgetary functions.

Provisions for further Assizes were written into the TEU, but the experiment has never been repeated. Although not all participants were satisfied with the Assize, it at least brought an understanding that interparliamentary relations could be useful and would have to be developed further if parliaments were to participate actively in the shaping of European integration. It was also realised, however, that the Assize might not be the best forum for such co-operation. One chamber, the British House of Commons, declared its preference for 'a series of bilateral contacts between the European

Parliament and each national parliament and the further development of national parliaments' pre-legislative role' (cited in Westlake, 1996, p. 172). This well illustrates how national parliaments still considered European affairs as foreign policy and therefore not a matter for parliaments as institutions. National parliamentarians did not appear, at this stage, to be prepared to engage in European matters on a party-political basis, instead preferring an institutions-based approach. The preference for national and institutional representation was satisfied with COSAC, another forum for inter-parliamentary cooperation, which had already begun to operate and permitted national parliaments to regain the initiative in inter-parliamentary cooperation.

2. COSAC

The Conference of Community and European Affairs Committees of Parliaments of the European Union (usually known by its French acronym COSAC), is a bi-annual event that, since 1989, has been hosted by the parliament whose country holds the EU Presidency. Delegations from national parliaments consist of members of parliamentary committees dealing with Community issues together with civil servants responsible for Community affairs. The EP delegation usually includes at least one of the two Vice-Presidents responsible for relations with national parliaments.

Although a wide range of issues is discussed, COSAC's main aim remains as stated in the 1996 Dublin conclusion (2000d): 'National Parliaments have their own role to play [within the European Union] to strengthen democracy and improve the efficiency of the Union. COSAC, through its work, will give a high priority to the pursuit of these aims'. The move to write COSAC into the Amsterdam Treaty in 1999 was seen as strengthening national parliaments whose role in and contribution to the Union thereby would become better recognised.

The task of COSAC is two-fold, with representatives from participating parliaments having agreed to a) intensify the exchange of information; and b) meet twice a year to discuss issues of common concern (European Parliament, 2000a). Over time, the agenda of COSAC meetings has developed to focus mainly on institutional questions and matters relating to particular policy areas. However, as COSAC has traditionally been perceived as a forum for the exchange of information, no binding decisions are taken. Concluding 'contributions' are addressed to EU institutions, but 'shall in no way bind national parliaments or prejudge their positions' (COSAC, 2003c).

In a process that began at the Lisbon COSAC meeting in May 2000, the conference has refocused its attention on the role of national parliaments in the European context. The Lisbon debate on interparliamentary co-operation was relatively short, consisting

mainly of the Portuguese *rapporteur* presenting results from a questionnaire circulated to national parliaments and the EP prior to the Conference. In the results MEPs predictably confirmed that their links with national level politics were stronger through their political parties than through institutional contacts such as committees of scrutiny. The fact that national political parties elect candidates for the EP was revealed as an important factor in interparliamentary relations, with party links one of the most important means of contact between the two levels of parliament.³ In the report, the *rapporteur* also reiterated that national parliaments are vital to the European integration process, and the possibility of COSAC emerging as the embryo of a new European parliamentary chamber was (again) aired. The important issue of relations between national parliaments and the EP was thus raised. COSAC meetings have aided this relationship by serving as a formal forum where MPs and MEPs—who have a complex relationship which at times has been more acrimonious than co-operative—can meet to discuss their different contributions to the European integration process.

Both MPs and MEPs consider the meeting of the two levels important. While MPs mainly emphasise what they can learn from other national parliaments, MEPs tend to place more importance on the mutual benefits of networking, learning about respective as well as mutual concerns, and working collectively as parliaments, not as opponents from different levels of governance.⁴ COSAC has been described as a good opportunity for sharing of information, although the inability to take binding decisions, and the only recently revoked requirement for unanimity has also attracted a certain amount of ridicule with some MEPs and MPs describing it as a 'talking shop' of little consequence.

Parliamentarians differ somewhat with regard to how they envisage COSAC's future development. MEPs see the exchange of information as an appropriate function for COSAC, with no need for further decision-making bodies at the European level,⁵ whereas many national-level parliamentarians would like to see COSAC develop and strengthen further. Italian politicians and civil servants have thus floated the idea of developing COSAC into an institution in which national parliamentarians met to ensure the principle of subsidiarity was upheld in European legislation.⁶ Danish MPs have also discussed this idea, but have been more supportive of the development of new, specialised, COSAC's, each with a remit roughly corresponding to that of select committees within national parliaments.⁷ Specialised COSAC meetings were seen as

³ The last paragraph of the conclusion from the Lisbon COSAC stated that '[i]n the absence of a public European domain, MEPs are elected from national parties, although they represent all the interests of European citizens. MEPs and national deputies are therefore not competitors, but rather partners, acting only at different levels of representation' (COSAC, 2000b).

⁴ Interview B-2.

⁵ For instance interviews B-2, 5 and 6.

⁶ For instance interviews I-4, 13 and 14.

⁷ For instance interviews DK-1, 13, 16 and 30.

having the potential to inform national parliamentarians not involved in European committees about European-level activities within their policy area, while also permitting debates on how other parliaments are handling scrutiny of these issues. The overall effect might be a reduction of the perceived difference between European and domestic legislation and, consequently, an improvement in national-level scrutiny.

The concept of COSAC as a second—or as some see it, a third—European chamber has also been discussed at COSAC meetings.⁵ Debate on transforming COSAC into a legislative chamber was a significant feature of discussion on the role of national parliaments in European affairs that continued at the October 2000 Versailles COSAC. Again the debate was based on a questionnaire circulated prior to the conference. In the main, delegates were opposed to the idea of developing COSAC into a second chamber, citing issues such as increased complexity in decision-making procedures and operational issues (one argument was that delegates to such a chamber would primarily be concerned with domestic issues, especially at times of national elections which do not all occur at the same time). It was also pointed out that a second chamber was not necessarily the best method for achieving increased contact between national parliaments. Instead, the challenge was to ‘reach a better interconnection between the European Parliament and the national parliaments in order to make European construction more democratic’. Furthermore, it was argued that national parliaments ‘must express the aspirations and concerns of peoples. For that purpose, and to help European citizens to better understand what is at stake, it is essential that [national parliaments] have easier access to the decisions that are taken’ (Mr Antonio Nazaré-Pereira (Portugal) COSAC, 2000a, p. 49). The final text adopted by the Versailles COSAC contained two elements specifically relating to national parliaments in the European arena: firstly, it mentioned the ‘useful’ procedure used in negotiating the Charter of Fundamental Rights and, secondly, outlined three issues for inclusion in the IGC then underway.⁶ However, the final contribution also recalled that ‘no provision of this protocol can jeopardise the competences and prerogatives of each national Parliament as provided by its national constitutional arrangements’ (COSAC, 2000c), thereby limiting its potential impact.

By the time of the Versailles COSAC meeting, the role of national parliaments was not just a matter for inter-parliamentary discussion, but had become an important component of the European agenda. The COSAC meeting held in Copenhagen in

⁵ Opponents of a second chamber often talk of it as a third chamber, arguing that the Council and the EP, in effect, make up two legislative chambers at the European level. The term ‘second chamber’ will, however, refer to a second chamber consisting of parliamentarians.

⁶ The three issues covered early transmission of documents and proposals from the Commission to national parliaments; an increased period for consideration of issues to be applied under title V of the TEU; and a minimum period of time between final reading of a text by COREPER and the Council decision.

October 2002 reflected this development, being devoted solely to discussion on the role of national parliaments. At this meeting a multi-pronged reform programme for COSAC was begun (COSAC, 2002c). The reform programme included a move away from unanimity when adopting the final contribution of COSAC meetings and the establishment of a common secretariat for COSAC, while also mooting closer co-operation with EU institutions. A working group was established to further consider eight issues of significance to COSAC:

- a code of conduct;
- new voting rules;
- establishment of a secretariat;
- further interparliamentary cooperation and networking;
- COSAC's work on subsidiarity and proportionality;
- a new name;
- cooperation between various bodies at the European and national levels and
- cooperation between EU's institutions (COSAC, 2002a).

Although COSAC for a long time had the option of setting up working groups, they have only been used infrequently. It was thus significant in itself that a working group was trusted with the examination of the issues detailed above. At previous COSAC meetings concerns had been voiced about the establishment of working groups, mainly expressing fears that such a move would institutionalise COSAC in an undesirable manner. At the Copenhagen meeting, such fears had largely been replaced by a feeling that to take inter-parliamentary cooperation further, the establishment of a secretariat and sectoral COSACs might be necessary. Furthermore, it was thought that initial discussions on how to develop COSAC were best undertaken in a smaller working group, rather than in the full plenary of a COSAC meeting.¹⁰

COSAC is one of the few collective forums where national parliamentarians can discuss their own role in the European integration process. However, as it cannot make any firm and binding recommendations to anybody, COSAC is still hampered in its

¹⁰ Author's own notes from COSAC meetings. The results of the working group's deliberations were discussed at the COSAC meeting held in Athens, May 2003. New rules of procedure were adopted allowing for contributions to be passed with a 75 per cent majority of votes cast (which must also constitute at least half of all votes, with each voting delegation having two votes) (COSAC, 2003c, Art. 10.5 and 10.6). Furthermore, it was decided to establish a common Brussels-based secretariat before the end of 2003 (COSAC, 2003d). A further element in the reform of COSAC was the publication of the 'Copenhagen Parliamentary Guidelines' in the Official Journal of the Union, C Series, on 2 July 2003. These guidelines were presented as entirely voluntary, but set out 'instructive minimum standards' for relations between governments and parliaments on Community issues (COSAC, 2003b). Included in the guidelines were desirable standards on the quantity and quality of information, the timing of information exchange and the opportunities for national parliaments to influence Community policy. Gisela Stuart (chair of Working Group 4 at the Convention on the Future of Europe), tabled an amendment to the Convention's draft treaty, wanting to include the Copenhagen guidelines in the text. The issue had not been debated in the working group, and did not gain the necessary support.

effectiveness. The most significant outcome of COSAC conferences may therefore be an increased understanding of the work members of different national parliament perform on European matters, as well as of problems common to them all. Such understanding is, however, as much a result of informal discussions and contacts as formal discussions during conference debates. While the above developments may seem small and relatively insignificant, the establishment of a secretariat still represents a substantial deepening of co-operation between national parliaments. Moreover, the development of desirable minimum standards for relations between parliaments and government has shown that collective activities can affect events at the national level. Over a prolonged period, COSAC has thus prompted parliamentarians from national parliaments to consider procedures regulating their own involvement in European affairs.

The involvement in COSAC has, however, been limited to politicians directly involved with European committees, and has thus reinforced the false, and increasingly impossible, separation of European and domestic affairs. While members of standing committees other than European committees do conduct meetings at the European level, such contacts have not been institutionalised to the same extent as has that of European committees through COSAC. COSAC delegates, however, have recognised the problem, and 'task d' of the Copenhagen working group therefore included an examination of how sectoral select committees might develop meetings similar to COSAC meetings. The report from the working group highlights that meetings between select committees already take place, but that it would be 'possible to achieve even better results and form a more general view of the efforts of the parliaments if this cooperation were coordinated with the work in COSAC. COSAC could support such a development by making itself available as a supporting structure for the sectoral standing committees of the parliaments' (COSAC, 2002b).

While members of select committees have been reluctant to include the European dimension in their work (and the increased workload this would bring), European committees in national parliaments are slowly accepting that, to scrutinise European legislation properly, they need the cooperation of other select committees in their parliaments. However, there are also country- and sector-specific differences. The areas most influenced by European cooperation, such as agriculture or environmental affairs, are thus the areas that show the most activity with regard to co-operation and meetings at the European level. David Curry, chair of the Environment, Food and Rural Affairs Committee in the House of Commons 2001-3, thus indicated that it would be useful to him if the chair and deputy chair of committees with a similar remit met to discuss topics of mutual concern. He also, however, emphasised that the

number of participants would have to be limited and discussion kept to general issues, with no binding decisions to be taken.¹¹

Politicians involved in areas less directly influenced by decisions taken at the European level, such as social matters, see less of a need for contact with other committees working with a similar remit. Members of these committees also express more concerns about the time such activities will require and the need to avoid further institutions at the European level. This opinion was, for instance, expressed by Tove Videbæk (chair of the Social Affairs Committee in the Danish *Folketing* 2001 – 2005), who believed one annual meeting at the European level to be more than sufficient for discussing affairs covered by her committee's remit. Videbæk was also concerned that European-level activities would take up too much time compared to domestic work.¹² Although national parliamentarians accept that inter-parliamentarian cooperation may be of benefit to their work at the national level, their comments also reveal that the distinction between national and European affairs remains strong. Participants at current COSAC meetings may have benefited in their own work from the COSAC meetings and therefore be able to see the potential benefits in sectoral COSAC-like meetings. However, they may also find it difficult to persuade their colleagues in national parliaments to undertake the work required in making such meetings work.

A further area in which COSAC has been active in recent years are the Conventions convened to draw up the Charter of Fundamental Rights and the Convention on the Future of Europe. COSAC has consistently supported the work of both the Conventions, as well as the way in which national parliamentarians have been involved. Conclusions from various COSAC meetings are evidence of this, with the Rome meeting in 2003 being no exception. In this conclusion the first point states that COSAC '[w]elcomes the results of the Convention and recognises the historical importance of the Convention as a method enabling parliaments to contribute to the definition of the draft treaty establishing a Constitution for Europe before approval by the IGC and ratification by National Parliaments.' It goes on to state that the text produced by the Convention 'represents a fundamental step forward for the European construction and should be the basis for the IGC conclusions', but also calls for 'a closer coordination between parliaments in the European debate' (COSAC, 2003a). While COSAC thus sees a role for itself within the European architecture, it also recognises that national parliaments must continue to work individually at the national level, as well as in other forums such as the Conventions, which will be examined in the next section.

¹¹ Interview UK-7.

¹² Interview DK-30.

3. The Conventions

Apart from the Assize, the first opportunity for members of national parliaments to participate directly in decision-making procedures at the European level was at the Convention convened to draw up the Charter of Fundamental Rights of the European Union.¹³ Although this Charter was not initially granted legal status, it quickly became an important document in European legal practice, with the ECJ referring to it repeatedly in its first years of existence (Menéndez, 2002).

At the time of the first Convention, the involvement of MPs at the European level was very much an experiment. The Charter was not expected to be granted legal status and the participation of national parliamentarians thus did not intervene in *intergovernmental* work. It was still, however, the first time parliaments, including the European Parliament, were directly involved in a process to draw up text which could, conceivably, end up as part of the Community treaties. While it was becoming increasingly difficult for European governments to exclude the EP from matters of significant importance, a Danish official claimed that many questioned the fact that national parliaments were included.¹⁴ According to this source, some argued that national parliaments were represented by national governments and thus did not need to be directly represented. However, the same source also pointed out that national parliaments are often more used to criticising than to proactive and positive engagement. The Convention was thus a chance for national parliaments to become directly involved and therefore also, ultimately, co-responsible for the outcome.

The second Convention on the Future of Europe also involved national parliamentarians, giving them co-ownership of the final result. However, at the IGC following the second Convention (described as a 'second round', see below) no parliamentarians, from either the national or European level, were present. Instead, government representatives, behind closed doors, renegotiated the openly agreed document, which the Convention delivered, causing scepticism to develop about the sincerity with which they supported the openness of the Convention method. Such impressions were not helped when Giuliano Amato, vice-chairman of the second Convention, stated that 'I told myself that they [national governments] are only this positive because they know there is a second round [an IGC], they're not convinced supporters', while Iñigo Méndez de Vigo, the EP's observer at the 2003 IGC fumed that 'they [national governments] are going to destroy our work' (Nielsen, 2003, author's translation). Government representatives may not have re-opened a majority of the

¹³ This Convention held its constituent meeting in December 1999 and adopted its draft text in October 2000.

¹⁴ Interview DK-17.

articles in the Convention text, but the relative importance of the topics renegotiated during the IGC left little doubt as to who the final decision-takers were.¹⁵

The situation at the Convention on the Future of Europe was significantly different to the first Convention. Because the second Convention 'only' delivered recommendations to the IGC following the Convention, MPs were still not active in an area previously the domain of national governments—but they *were* actively involved in deliberating on and making proposals for the future direction of the European integration process. Because of the potential impact of the second Convention, it was perhaps even more important for national parliaments to be represented here than at the first. Not only had they become an important part of the European agenda, they were also beginning to realise that, as pointed out by the Danish government representative, the relationships and divisions of power between institutions can rarely be read directly from the text of a treaty. Instead, they develop over time (a good example of this is the development of the EP's powers), making it important for national parliaments to be part of this process.¹⁶ By participating in both Conventions, but perhaps especially the second, national parliamentarians achieved a significant step in this direction. Being able to influence the draft treaty directly, and having to ratify the final outcome of the 2003 IGC, gave MPs the opportunity to assemble an overview (institutionally at least) of the process, something they have often found difficult to achieve with previous treaty negotiations—or indeed European legislation.

At the second Convention, national parliamentarians again made up a plurality of the participants,¹⁷ although this time they were also part of the agenda, with Working Group IV (chaired by British MP Gisela Stuart) dealing specifically with the role of national parliaments. Other working groups dealing with the topic of national parliaments were Working Group I (examining the application of the principle of subsidiarity) and Working Group X (on freedom, security and justice).¹⁸ Especially Working Group I had overlapping issues with Working Group IV, to the extent that they held a joint meeting discussing these. Moreover, their contributions to the final draft treaty (protocols on the application of the principles of subsidiarity and proportionality, and on the role of national parliaments in the European Union respectively) were also examined together in the plenary session taking place on 17

¹⁵ On institutional matters participants in the IGC especially debated the structure of the Council, with its formation, the rotation of the presidency, its size and how votes were weighted were the thorniest issues. A Minister of Foreign Affairs also caused much discussion, while contentious areas of policy were mainly those of defence and the finances and budget of the EU.

¹⁶ Interview DK-17.

¹⁷ The 102 members consisted of 15 representatives of heads of state or government from member states, 13 heads of state or government from applicant states, 30 representatives from parliaments in member states, 26 representatives from parliaments in applicant states, 16 representatives from the European Parliament and two representatives from the European Commission.

¹⁸ See Francesco Rizzuto (2003) for a more detailed description of how these two working groups dealt with the issue of national parliaments.

and 18 March 2003 in order to give delegates a better overview of the issues, as they are so closely related (The European Convention Secretariat, 2003b).

In the mandate set out for Working Group IV by its Chair, three areas were identified for the group's attention (The European Convention Working Group IV, 2002b, p. 6):

- i) the consideration of existing scrutiny and consultation mechanisms of national parliaments at national level, with a view to drawing attention to those systems which work best
- ii) examination of those aspects of legislative procedures and working practices at European level which may create difficulties for national parliaments attempting to carry out effective scrutiny of their governments' activities
- iii) reflection on the role we believe national parliaments could/should play [and] identification and evaluation of the different means by which we enable parliaments to fulfill this role in the future by examining the proposals made by Convention members and others for formal and/or informal involvement of national parliament at European level.

Although the group took evidence on the performance of scrutiny systems within several of the member states, the topic of which systems work better did not contribute significantly to the final report (see The European Convention Working Group IV, 2002a, section III). However, information gained through submissions on national-level scrutiny systems gave rise to the highest number of recommendations (10 from a total of 19, spread over 4 sections). Despite the list of recommendations, it is still stated in the final report that 'it would not be appropriate to prescribe at European level how the scrutiny should be organised' (The European Convention Working Group IV, 2002a, p. 3). This statement reflects a general unwillingness on behalf of national parliamentarians to be tied by decisions (when these relate to their own activities) taken at the European level. The importance attached to being independent actors at the national level was similar to that expressed at COSAC meetings, reaffirming national parliaments as both national and independent actors.

During the Convention on fundamental rights it was claimed that the behaviour of MPs fell into three categories: they either showed no interest in the work of the Convention, shielded behind their government representatives whom they believed to represent their views anyway, or spent so much time talking at meetings that everybody became fed up with them.¹⁹ While it has been suggested that parliamentary and government representatives from the same countries often followed the same line

¹⁹ Interview DK-17.

of argument in the second Convention too,²⁰ MPs still distinguished themselves from other representatives by having regular meetings on their own, while also meeting with the Presidium as a separate group. Indeed, Norman claims that the political 'families' were used 'as a conduit for transferring know-how and back-up resources from the well organised and well endowed European parliamentarians to their like-minded but less well resourced colleagues from the national capitals' and that 'Giscard's consensus was based on a coalition of parliamentarians' (2003, pp. 325 and 338).

However, interparliamentary cooperation at the European level is still considered to be useful and COSAC was mentioned in Working Group IV's final report as a vehicle for further exchange of information and experience. The possibility of expanding COSAC's role to sectoral select committees from national parliaments was also mentioned, but the Working Group stopped short of recommending that COSAC be developed into a forum where national parliamentarians could scrutinise European legislation or apply the principle of subsidiarity. Indeed, Working Group IV 'found it difficult to see how the creation of any new institution could assist the process of simplification [of decision-making and institutional structures at the European level] (The European Convention Working Group IV, 2002a, p. 7).

National parliaments are mentioned several times in the draft treaty, but are discussed most directly in the protocols on the principles of subsidiarity and proportionality and the role of national parliaments. In the protocol on subsidiarity and proportionality, national parliaments are given the right to submit reasoned opinions on whether a piece of legislation complies with these principles. In cases where the Commission has to review its position, it must provide the reasoning behind maintaining, amending or withdrawing its proposal. However, even if the Constitutional Treaty becomes ratified, national parliaments will still not be permitted direct access to the ECJ to test whether a piece of legislation conforms with the principle of subsidiarity. Article 7 of the protocol on subsidiarity and proportionality gives member states the right to do this, in accordance with rules in Article III-270, or as 'notified by them in accordance with their legal order on behalf of their national Parliament or a chamber of it' (The European Convention Secretariat, 2003a, p. 231). National rules thus determine whether a member state, in effect the executive, is to take a case to the ECJ and parliaments still operate individually at the national level. While national parliaments can coordinate activities in an effort to obtain enough votes to force the Commission to review its position (see Article 6 of the protocol for the exact rules), there is still no direct or collective way for MPs to express their concerns at the European level.

²⁰ Interview I-14.

The emphasis on national parliaments as individual actors is also evident in the protocol on the role of national parliaments in the European Union where it is stated that 'the way in which individual national Parliaments scrutinise their own governments in relation to the activities of the Union is a matter for the particular constitutional organisation and practice of each Member State' (The European Convention Secretariat, 2003a, p. 226). The protocol outlines how national parliaments are to receive legislative proposals and other information directly from European institutions, while also setting down a period of six weeks between a legislative proposal being made available and the date when it is placed on the Council agenda. However, national parliaments are already able to find this information on the internet and are increasingly aware that it is often too late for them to alter anything meaningful in the text at the post-initiative stage. Furthermore, many MPs point out that the most useful information is not necessarily the legislative text itself, but the accompanying explanatory notes from the national executives.

For parliamentarians to have a meaningful influence on European legislation they must involve themselves in the pre-initiative stage. To date, most parliaments have been reluctant to involve themselves at this early stage as their primary role has been to scrutinise their governments' behaviour at the European level, not involvement in the drafting of European legislation. Ideas on what constitutes appropriate involvement at the European level for national parliaments may thus have to develop beyond mere scrutiny of executive activities if national parliaments are to legitimise European legislation in a meaningful way.

While the draft treaty has significantly improved the visibility of national parliaments in the European context, it can also be argued that by denying them a direct voice at the European level, and by refusing to lay down rules or minimum requirements for procedures at the national level, the draft treaty has done little to clarify the position and role of national parliaments within Europe. There is nothing new in the fact that national parliaments should operate, and do operate most efficiently, at the national level. Indeed, this is what the majority of national parliamentarians themselves have been saying for several years.

Because of the emphasis on activity at the national level it would be improper for the European level to impose rules or standards on parliamentary behaviour at the national level. Although this too is a well-recognised fact, it does leave national parliaments with the problem of how, individually, to place their mark on European legislation through their governments. Because national parliamentarians see themselves as national operators, many have been opposed to the idea of a second parliamentary chamber at the European level, although such an institution has been

proposed as a possible solution to the dilemma of national parliaments not being effective at the European level.

4. A second chamber?

Perhaps the first to mention a second parliamentary chamber was Michael Heseltine (1989). Heseltine's justification for a second parliament at the European level was two-fold. Firstly, he perceived a need for reconciling national and European interests and, secondly, saw it as a democratic way of doing so. He took the American Senate and German *Bundesrat* as models on which the second parliament could be based, asserting that '[t]he direct involvement of national parliaments in the democratizing of the community can be effected by creating an upper House of the European Parliament *from within the membership of our national parliaments*' (Heseltine, 1989, p. 35, emphasis in original).

More recently the idea of a second parliament has been floated repeatedly by heads of state or government. The aim of a second chamber would be to bring Europe closer to European citizens, and improve the legitimacy of decisions taken at the European level. A second chamber was thus mentioned both by Joschka Fischer²¹ in a speech at the Humboldt University, May 2000, while British Prime Minister Tony Blair also spoke of a second chamber in a speech to the Polish Stock Exchange in October 2000. In his speech Fischer (2000) stated that 'nation-states are realities that cannot simply be erased, and the more globalization and Europeanization create superstructures and anonymous actors remote from the citizens, the more people will cling on to the nation-states that give them comfort and security'. Blair, too, acknowledges that 'the primary sources of democratic accountability in Europe are the directly elected and representative institutions of the nations of Europe – national parliaments and governments', and that '[w]e need to get the political foundations of the European Union right. The foundations are rooted in the democratic nation state' (2000).

While executives have tended to favour the notion of a second chamber, parliamentarians have been much more opposed to the idea. A second chamber has been discussed at COSAC meetings, the Speakers' Conference (see below) and the second Convention. The Spanish Chair of the 2002 Speaker's Conference thus, in the summary issued after the conference, stated that '[i]n spite of the fact that some of the Presidents do not totally reject the possibility of a second Chamber in the European Parliament, most of the participants prefer to avoid complicating the European Union institutional structure' (Conference of Speakers of the European Parliaments, 2002).

²¹ German Foreign Minister, although on this occasion speaking in a personal capacity, and not as a representative of the German state or government.

One significant objection is thus that a further institution at the European level will cause more confusion and complicate decision-taking procedures more than it will contribute legitimacy.

David Martin (vice-president of the European Parliament with responsibility for relations with national parliaments 1989-2004) has outlined three main issues with the idea of a second chamber.²² Martin argues, firstly, that the idea of a second chamber is based on a misconception. Even if comprised of national parliamentarians, the fact that it operates at the European level will mean that it ceases to be national and instead becomes European in nature. One way to overcome this problem, according to Martin, is to bring the EU to the national parliaments rather than the other way round. He argues that national parliaments are more focused on at the national level, with better press coverage for instance. Especially the improved press coverage at the national level could help develop knowledge of European affairs amongst European citizens. Martin's second and third points concern practical issues a second chamber would face. An indirect problem is that there would be no stable majority as national elections, all held at different times, would interfere with the flow of work. Martin sees this as a serious problem if a second chamber was to be given any real power. The third point is to do with competence: what, exactly, would a second chamber do? If it was to be a direct participant in the legislative process it would further complicate an already complex process. Moreover, ensuring that the principle of subsidiarity is properly applied does not seem to require a separate institution unless dealing with details of legislation rather than general principles. A further possibility is for a second chamber to operate post-legislation, but Martin argues that this is the role of the ECJ.

Martin's analysis thus raises the issue of whether decisions by a second chamber are to be binding. If national parliamentarians working in a second chamber find that Community legislation does not, for instance, comply with the principle of subsidiarity, what would they be able to do about it? If the second chamber is given recourse to the ECJ, then legally binding documents would have to be the basis for the work of the chamber, something to which most proponents of the idea seem opposed. Moreover, appeals to the ECJ would impact significantly on the legislative process, making it both more cumbersome as well as significantly less transparent. Citizen reaction would have to be gauged, especially in relation to whether it would improve their understanding of the Community, its legislative processes and actual legislation. On the whole the issue of a second parliamentary chamber at the European level raises more questions than it answers, the idea was rejected by the House of Lords in its report on the issue (2001), and it is no great surprise that such an institution has not been introduced into the European decision-making process by the Convention.

²² Interview B-9.

5. Other initiatives

Conference of Speakers of the European Parliaments

The conference of speakers is perhaps the oldest form of formalised contact between national parliaments, as they have held regular, annual meetings since 1975. According to Article 1 of the guidelines for the Conference, members are speakers of the national parliaments in the EU member countries and the President of the European Parliament, who all participate in meetings on an equal basis (Conference of Speakers of the European Parliaments, 2001b). As with COSAC, the Conference of Speakers is a forum for 'exchange of opinions, information and experiences, as well as for the promotion of research activities and common action, among the Speakers, on topics related to the role of Parliaments and the organisation of parliamentary functions, also with respect to the forms and tools of interparliamentary co-operation' (Conference of Speakers of the European Parliaments, 2001b, Article 2).

However, as the mandates of the speakers of the European parliaments vary, Article 1 also protects the 'autonomy and constitutional position of each participating Speaker'. To ensure that this principle is not violated, no formal conclusions are issued from the meetings. Instead, the chair issues a 'Chairman's Summary' based on the discussions held during the meeting. Although it is generally respected that no declarations or statements can be issued, certain speakers find it necessary to reiterate the fact that they are unable to do so. Accordingly, at the 2001 meeting held in Sweden, the deputy speaker from the British House of Commons, Sir Alan Haselhurst, made the '*traditional disclaimer* that as an individual parliamentarian he could not speak for Parliament' (Conference of Speakers of the European Parliaments, 2001c, p. 15, author's emphasis).

With the increased interest in the role of national parliaments in European decision-making, this topic has naturally also been discussed at the Speakers' conferences, especially since 2000. From this point in time it has been repeatedly underlined that national parliaments are important in the European architecture, and that cooperation between them must be strengthened (Conference of Speakers of the European Parliaments, 2000, 2001a, 2002). Although the speakers see a purpose for their own meetings, a report prepared by Ivar Hansen (former speaker of the Danish *Folketing*) states that '[o]n the European scene, COSAC is the most important forum for co-operation between the national parliaments' (Hansen, 2002a, p. 13). The relationship between the Conference of Speakers and COSAC is, indeed, very close, with the Conference of Speakers having founded COSAC in 1989.

The benefits obtained from having the Speakers' Conference are similar to those of COSAC, although not all participants willingly set aside the time required for participation. A British MP, speaking off the record but with extensive experience of the Conference, thus stated that 'if it was up to us there wouldn't be any meetings at all', but also continued to say that 'we just find it valuable from the point of view of personal contact'.²³ The latter viewpoint is echoed by Ivar Hansen (2002b) who experienced a 'constant exchange of new ideas and a coordination between parliaments about certain aspects of parliamentary work'. He further felt that good contacts between parliamentary administrations contributed significantly to the exchange of experience and knowledge. Although no formal decisions are taken, the debates and personal relations no doubt contribute to discussions at the national level where speakers may be able to influence how their parliament addresses European issues. This is obviously more difficult in parliaments where the speaker's role is separated from that of leader of the legislature, as is the case in the UK, and in such cases the influence may be more limited, unless committees dealing with European affairs take a more direct interest in the work of the Speaker's Conference.

Other meetings and contacts

According to Hansen's report to the Speakers' Conference, several standing committees from national parliaments already hold regular meetings. This includes committees on development and aid, defence and the environment (2002a, pp. 15-6). An official from the European Parliament²⁴ also mentioned round-table meetings, as well as meetings between select committees—in effect specialised COSACs. National parliamentarians admit to being invited to these meetings, but frequently, and usually off the record, state that the time required could be better spent at the national level. Although many parliamentarians believe that committee work benefits from contact with other parliaments, the reluctance to become involved in European affairs remains strong. Erling Olsen, former speaker of the *Folketing*, believes that the limited participation by Danish parliamentarians in the first Convention can be explained by the fact that such work, in the main conducted abroad, goes unnoticed in the MP's constituency. Thus, 'if a person [MP] is to use a lot of energy on foreign affairs, it demands a very solid foundation in their constituency'.²⁵ This implies that even if MPs understand the importance of the European dimension, their voters often do not. MPs are therefore forced to consider the electoral impact when choosing where to utilise their resources, rather than merely what they consider to be important. The problem of parliamentarians' reluctant participation in joint meetings is further compounded by

²³ Interview UK-9.

²⁴ Interview B-7.

²⁵ Interview DK-22.

practical issues as outlined by the EP official: because the European Parliament has constant access to simultaneous translation this is most frequently where joint meetings are held, giving the impression that the EP is 'pushy'.²⁸ Memories of the Assize easily come to mind, and national parliamentarians' feelings of limited influence on procedures and the organisation of meetings may thus actually prevent them from taking place.

6. Conclusion

When considering the development of national parliaments' collective activities, a clear progressive development over time is evident. Inter-parliamentary cooperation has evolved gradually, with national parliaments increasingly taking charge of and pushing co-operation in directions they consider most useful. The Assize, whose organisation as well as final output was strongly guided by the EP, is a good example of inter-parliamentary cooperation that has little to offer national parliaments. Although relations between the EP and national parliaments are improving, national parliaments are still only discovering their potential when it comes to engagement in European policy. On the other hand, European legislation is the sole focus for the EP, leaving national parliaments with agendas (including institutional) that differ significantly to that of the EP.

To develop inter-parliamentary cooperation (which the Assize at least established could be useful) COSAC was established. In this forum national parliamentarians are more fully in control of the agenda and the institutional arrangements and although development of COSAC has been slow, it has now reached a point where a common secretariat has been established with further, specialised, COSACs under discussion. For national parliaments to arrange and host several COSAC meetings would be a difficult undertaking, especially so with the requirement of simultaneous translation into all EU languages. Such practical issues may help overcome the aversion of national parliamentarians to conduct meetings in the EP. However, the first step is to persuade members of select committees that it is important they too examine European legislation. In order to achieve this, European scrutiny committees would have to surrender their monopoly on scrutiny of European legislation. Furthermore, it must become commonly accepted that European affairs are no longer foreign affairs, but that many areas of 'domestic' affairs are heavily influenced by what takes place at the European level. The work of COSAC, the Speakers' Conference and the Conventions has contributed to the linking of the two levels within national parliaments, while also making it generally accepted that national parliaments have a role in the European decision-making process—even if this is indirectly through their executives.

²⁸ Interview B-7.

During the two Conventions, national parliaments were participants in the process of these events, while in the Second Convention (on the Future of the Union) they were also part of the agenda. Working Group IV considered both scrutiny at the national level and European procedures that may impede scrutiny by national parliaments, while also reflecting on the role national parliaments could or should play within Europe.

How, precisely, the involvement of national parliaments develops remains uncertain and, although considered an important issue at the Convention, relatively little was done to clarify the situation. All inter-parliamentary cooperation emphasises the fact that conclusions from meetings are non-binding on participants and that national parliaments remain independent and autonomous actors. The lack of binding collective decisions at the European level makes it unlikely that national parliaments will work in anything but an advisory capacity at this level. However, following the relative success of the second Convention and its preparatory work of the IGC completed June 2004, it seems inconceivable that national parliaments would be excluded from any future treaty (re)negotiations. National parliaments have thereby succeeded in carving out a distinct role for themselves at the European level, although treaties will likely be finalised at IGCs where parliamentary representatives have no direct role.

Because national parliaments are independent actors unwilling to become bound by common decisions from a forum such as COSAC, it has been difficult to discuss specific policies at these gatherings. Not only do national parliaments hold different attitudes towards policy issues, they also, institutionally, address them in different manners. National differences and emphasis on independence led to, especially, COSAC being labelled a 'talking shop', with participants debating topics such as 'Enlargement and Employment' or 'the EU's priorities in the area of freedom, security and justice, including the preparation of the EU Charter of Fundamental Rights'. While these issues are of obvious importance to national-level politicians, they are also too unwieldy for anything more than general debate. However, as both the Speaker's Conference and COSAC have undertaken work with a more institutional direction and discussed the role for national parliaments at the European level, the road for more specialised debates (if not necessarily legislative work) has been paved.

While nobody disagrees that national parliaments must be involved with European affairs, the nature of this involvement remains an issue—especially activities at the European level. Scrutiny undertaken within national parliaments at the national level are purely a matter for parliaments themselves to determine, a situation that reflects their status as independent and autonomous institutions, while also allowing

individual political cultures to influence the scrutiny procedures. While individual scrutiny activities can present problems for the individual parliaments, these are of a somewhat technical nature that can be overcome by the alteration of rules and structures within national parliaments.

However, collective activities present problems of a different nature, mainly to do with the nature of national parliaments rather than that of the EU. Institutionally, national parliaments have a particular—national—focus, with national parliamentarians expected to defend and protect the interests of their—nationally based—constituents. Operating at the European level in anything but a non-binding manner would therefore be impossible, as the activities of national-level actors would be compromised by binding decisions at the European level, even if these were taken by unanimity. Moreover, in parliaments such as the British, no individual (or committee) can commit either of the Houses, let alone the entire Parliament, to a decision taken outside the British Parliament.

While national parliaments of the EU may benefit from common discussions of topics of concern to all of them, the benefits achieved are therefore likely to be most acutely felt at the national level. National governments may negotiate on behalf of the member state at the European level, but parliamentarians legitimise these decisions by supporting them in the national parliaments. Nevertheless, procedures for scrutiny may develop as a result of discussions with other parliamentarians, and awareness that scrutiny of European legislation is an important task to be undertaken may also develop as a result of collective actions. The inter-relationship between the collective and individual levels is thus important, and better knowledge of this may contribute to an improved understanding of scrutiny at the national level.

Currently, much more information is available about what is formally possible (such as the Rules of Procedure for COSAC or formal instructions on how European committees in national parliaments work), than about what actually takes place. This is the case for both collective and individual parliamentary activities, which itself begs a number of questions. For instance, why has COSAC developed the way it has? Why has a further Assize never been held? And how, exactly, has interparliamentary cooperation fed into activities at the national level? More research is needed to fully understand inter-parliamentary cooperation—but especially the interplay between collective and individual actions.

Chapter 9: Conclusion

As the European Union has developed, so has the role of national parliaments within it. Initially expected to

do little more than ratify treaties that national governments had negotiated, parliaments have become increasingly involved in EU decision-making through scrutiny procedures of varying complexity. Most academic work on European integration has largely ignored national parliaments, and although they are included in the Constitutional Treaty, no previous EU treaty mentions national parliaments. This contrasts with the European Parliament, which has been given specific (and expanding) roles in each treaty ratified since the EU was founded. Integration theorists, even writers on multi-level governance, view national parliaments mainly as supporters of national governments and their policies on the EU. When national governments could veto decisions in the Council, national parliaments could still, formally, be considered sovereign. However, as the integration process has deepened and the impact of European legislation has become more widely felt at the domestic level, national parliaments have found that their room to manoeuvre has shrunk. National parliaments have become part of a multi-level system of governance and can no longer, singularly, determine the parameters within which they operate.

The aim of this thesis has been to develop a better understanding of how national parliaments are involved with European legislation. Central to the problem of how national parliaments engage with European affairs is the contradiction of *national* parliaments dealing with *European* legislation. However, the increased involvement in EU decision-making by national parliaments, at both the national and the European levels, reflects the fact that, while legislation may originate at different levels, both are being implemented at the national level, making it important that the views of national parliamentarians are taken into account during the decision-making process.

The three main findings of the thesis all link to how membership of the EU is causing changes at the national level. Firstly, it has been established that Europeanisation has caused changes within national parliaments. These changes are detectable in both governance, institutionalisation and discourse. Secondly, parliamentary developments have occurred within the framework of each parliament's own national political culture. Existing rules for dealing with national legislation have most frequently been adopted for EU legislation and national differences in how scrutiny procedures have developed can therefore be traced to different parliamentary approaches to domestic legislation. A certain level of convergence can, however, be detected. This has, to some

extent, been due to the third finding, that inter-parliamentary cooperation has been of some importance to national procedures, although the exact extent to which national parliamentarians let other parliamentary procedures guide them is difficult to gauge.

It can, however, be firmly concluded that adjusting to the new international system of governance has not been easy for national parliaments. Many parliamentarians are still finding it difficult to grasp the importance and impact (domestically) of European cooperation. Typically, small groups of parliamentarians within national parliaments (usually the members of committees charged with examining European matters) have developed a significant knowledge of European affairs and the implications of European legislation at the domestic level. In contrast, parliamentarians who are not members of European committees (a significant majority) often have no involvement with European affairs on a regular basis and do not automatically consider the European dimension in their daily work. Increasingly, this situation has become untenable. EU specialists are unable to provide the expertise on all areas covered by European integration and increasingly need expertise from other committees within national parliaments to perform their scrutiny adequately. For a coherent parliamentary stance to develop on EU matters, it therefore seems to make institutional sense to maintain EU committees as coordinating bodies—even in parliaments that do not mandate their ministers.

Despite the variety of political cultures and systems within which the national parliaments of the EU operate, it can be argued that they have followed a similar developmental path in terms of their involvement with European affairs. The first section of this concluding chapter will therefore examine the connection between national-level scrutiny and Europeanisation. In an attempt to bridge a seeming contradiction, it argues that although there is an international element to national scrutiny of European cooperation, support for stricter scrutiny has mainly developed from the national level. The second section will look specifically at developments at the national level, followed, in the third section, by a closer look at the convergent movements that can be detected in the evolving scrutiny procedures.

1. Europeanisation

Academic debate on Europeanisation¹ has developed to the extent that Europeanisation has become a phenomenon to be explained (explanandum) rather

¹ Defined in the introduction as:

than the explanation itself (explanans) (Radaelli, 2004, p. 8). Employing Europeanisation as an explanandum, this research becomes a 'bottom-up' study. Again drawing on work by Radaelli (2004, p. 8), a bottom-up study can be defined as research where

the starting point is a system of interaction at the domestic level. By using time and temporal causal sequences, a bottom-up approach checks if, when, and how the EU provides change in any of the main components of the system of interaction. Finally, "bottom-uppers" try to measure the consequences of all this in terms of change at the domestic level.

Scrutiny systems within national parliaments have been altered as a direct consequence of EU membership. These changes have significantly affected interactions between national parliaments, executives and administrations, all of which can be considered 'main components' of national systems of governance. Although there is a developing element of international cooperation in parliamentary scrutiny of European affairs, the main thrust has occurred at the national level, with national parliaments developing their internal procedures and structures to integrate and scrutinise European legislation more effectively. It can therefore be argued that the 'story' of parliamentary scrutiny begins and finishes at the national level, although Europeanisation has influenced these changes which can be measured in a 'before and after' fashion, as well as in a comparative manner. Both types of comparisons are important, as 'snapshots' of individual parliamentary scrutiny capabilities do not promote our overall understanding of the role of national parliaments within the European governance structure.

When used as an explanatory tool in the analysis of national parliamentary adaptation of scrutiny procedures, Europeanisation covers all three of Radaelli's types of 'deep interrogations': Europeanisation as governance, institutionalisation and discourse (2004, pp. 10-14). As has become evident in the three case studies, membership of the EU has caused changes (albeit to varying degrees) to governance in all three member states; institutions have altered and discourse has both expanded and (partially) reconstructed.

It can be argued that membership of the EU has altered governance within the member states, but also that increased national parliamentary involvement in European affairs in turn has impacted upon governance at *both* the national and European levels. Membership initially reduced the role of national parliaments, thereby shifting the

Processes of a) construction, b) diffusion and c) institutionalisation of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things' and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic (national and sub-national) discourse, political structures and public policies.

inter-institutional balance, redistributing power and influence between national parliaments and their executives and administrations. As the involvement of national parliaments in European affairs develops, this balance is continuously being addressed as well. National parliaments have ceded power to the European level on a permanent basis, and, using the definitions of power and influence from the introductory chapter,² will only be able to regain a certain level of influence over European decisions.³ As the three case studies have clearly shown, the extent to which national parliaments pursue this influence varies considerably, with the Danish *Folketing* at one end of the continuum and the Italian Parliament at the other.

A question raised by Radaelli (2004, p. 11) is whether Europeanisation produces 'good and legitimate' governance in Europe. Almost by definition, greater scrutiny of European affairs by national parliaments can only lead to more legitimate governance within Europe. It should be recognised, however, that legitimacy and efficiency might work in opposite directions. While national parliamentarians may improve the legitimacy of European legislation by engaging in EU decision-making, the efficiency with which legislation is being produced may suffer to the extent that decision-making becomes slow and difficult, potentially reducing the benefits of legitimacy originally conferred by parliamentary involvement.

National parliamentarians are generally considered to be closer to European citizens and therefore also more aware of and sensitive to the wishes and interests of the citizens. While it is important that decisions taken by executives at the European level are supported by national parliaments, in the eyes of member state citizens such decisions may appear more legitimate if they have been scrutinised by parliamentarians at the national level. Any increase in legitimacy may be due to the perception that national-level political institutions are more legitimate than those at the European level, but may also result from expectations that national parliamentarians examine European legislation from a national perspective—and therefore protect national interests.

As scrutiny procedures have evolved to include more national parliamentarians from outside European committees, they have developed to include a specialised aspect (through MPs from other select committees) that complements the European expertise. Europeanisation has thus caused institutional adaptation throughout EU member state

² Influence was defined as policy-shaping, whereas power was described as policy-setting. Using these definitions it is possible to have influence without power, while power may bring influence as well.

³ It may be argued that the Danish scrutiny committee exercises power over the domestic aspect of European decision. However, as the committee operates on the basis of a political agreement and does not formally have the legal right to mandate the executive, it is, technically, more correct to describe its activities as *influencing* decisions, rather than exercising *power* over these. Moreover, as the mandates it provides can be voted down at the European level, there is no guarantee that the committees preferred options are achieved, thereby limiting it to attempts at influencing the final outcome.

parliaments as, at the domestic level, scrutiny procedures have been reassessed and European committees established or strengthened, while parliamentary cooperation at the international level—especially through COSAC—has also been developed. Arguably, parliaments can therefore be described as fulfilling the second condition in Börzel and Risse's argument that

Europeanization must be "inconvenient", i.e., there must be some degree of "misfit" or incompatibility between European-level processes, policies and institutions, on the one hand, and domestic-level processes, policies and institutions, on the other. This degree of fit or misfit constitutes adaptational pressures, which is a necessary but not sufficient condition for expecting change. The second condition is that there are some facilitating factors – be it actors, be it institutions – responding to the adaptational pressures (Börzel and Risse, 2000, p. 1).

While national parliaments have altered procedures and re-assessed their activities in relation to the European level, this has not necessarily been a response to adaptational pressure from the European level. Indeed, pressure from domestic audiences and actors, based on requirements other than perceived misfits between the national and European levels, may in many cases have been more significant than pressure from the European level.

However, the notion of pressure from the European level warrants further reflection. Although European-level actors have long argued that national parliamentary involvement would benefit the legitimacy of European legislation, agreement on the nature of such involvement has been illusive. New institutions at the European level have been deemed undesirable, while European-level actors have also been hesitant to dictate solutions for the national level (as evident in the proceedings of Working Group IV at the Convention on the Future of the Union). Beyond guarantees regarding delivery of documents and time for national parliaments to examine them, few initiatives have been discussed, and fewer still come to fruition.

The EP has realised that national parliamentary scrutiny of European legislation is a necessary step if the EU (and therefore also the EP as an institution) is to gain greater legitimacy. Its response has been to invite national parliaments to multi-lateral meetings of specialised committees, while also taking a strong interest in COSAC. However, it has never made suggestions for scrutiny procedures at the national level. National parliaments have determined their own systems for scrutiny of European affairs. While national parliaments still differ significantly with respect to their levels of ambition and individual procedures, increased attention to the EU and European legislation has, at the very least, had the consequence of inducing most national parliamentarians to consider the appropriate level of their involvement.

Even within national parliaments, several distinct types of participants in such debates can be identified. The most obvious line of division is perhaps that between supporters and opponents of further European integration. Less visible, but likely to prove more important, is the distinction between MPs frequently involved with European affairs and those who only rarely engage with the European dimension. Comprehension of the multi-level system of governance that national parliaments increasingly operate in is becoming ever more important for parliamentarians to carry out their work effectively. More of a continuum than a dichotomy, the latter distinction has parliamentarians active in European scrutiny committees at one end and MPs serving on committees with a remit not much affected by EU legislation (such as social affairs) at the other.⁴ In between these two are MPs serving on committees whose remits, to varying degrees, are affected by European legislation.

All these participants bring their own sets of ideas and language to debates and interactions on parliamentary involvement in European affairs and the appropriate methods of scrutiny, thus becoming purveyors of Radaelli's third understanding of Europeanisation: that of discourse. According to Radaelli, discourse is both 'a set of ideas and an interactive process' (2004, p. 14, emphasis in original), with the former being the process of making sense of and judging reality, while the latter covers policy formulation and communication with the public. In the three case studies, Europeanisation as discourse can therefore be interpreted as debate on how national parliaments are to be involved with European affairs and how they can incorporate the need for scrutiny of European legislation into already existing national political cultures. All participants in this debate can utilise (selective) elements in their communications with the public, claiming, for instance, that European legislation is being subjected to greater scrutiny, and therefore kept under better (domestic) democratic control, or improved for the benefit of all Europeans.

National parliaments, through their internal discourse, may also communicate more about the EU to their voters. Where this takes place, it can be argued that 'Europeanisation is a process through which the EU gains its own autonomous meaning and self-validation within the logics, cognitive frames, and norms of behaviour of domestic actors' (Radaelli, 2004, p. 13). In other words, the fact that national parliaments engage in debates on the most appropriate level of involvement in European affairs to some extent legitimises the EU and the legislation it produces. However, the projected legitimacy is not dependent on a specific output (such as the achievement of a particular result at a Council meeting). The mere fact that parliaments

⁴ In the UK House of Commons, the point furthest away from the ESC would be not serving on a select committee at all, and in no other way being involved with work at the European level as, for instance, a Speaker of the House involved in the Speakers' Conference.

discuss how to involve themselves more at the European level, individually as well as collectively, confers a degree of legitimacy to the European level of cooperation.

In national parliaments' debates on scrutiny procedures, it is therefore possible to find all three of Radaelli's aspects of Europeanisation. National-level discourse assesses the situation, and establishes parameters for responses that are acceptable to both politicians and the public. These responses often require alterations of existing procedures, if not the institutional setting, and will in turn affect governance. Over time, the adaptations required in both institutions and governance take place at the national as well as European levels. Scrutiny procedures impact directly on inter-institutional relations at the national level—and indirectly on governance at the European level through the European Council. Moreover, events like the Convention on the Future of Europe, where national parliamentarians were involved to such a degree that their exclusion from any future Conventions would be inconceivable, are evidence that national parliamentarians are involved in the negotiation of the fundamental agreements on which future European integration is to be built. The circle has thus been closed: national actors are involved in negotiating the conditions under which European cooperation will take place, cooperation which in turn influences discourses, institutions and governance at the domestic level, again feeding back into structures and debates at the European level.

2. National parliaments in the EU

The second major finding of this thesis is that national parliaments have largely adopted (and adapted) procedures for scrutiny of domestic legislation for scrutiny of European legislation. This process has taken into account specific domestic political cultures and requirements. Despite this finding, it is also largely true that national parliamentary participation in the European legislative process has passed through three stages (as described by Norton). During the first stage 'parliaments were accorded no formal role in the process of supranational law making, and they had little inclination to seek such a role. ... A policy inimical to the national interest could be killed off in the Council of ministers. There appeared little reason for national parliaments to get involved' (1996a, p. 177).⁵ During this initial stage, European affairs were considered foreign policy and therefore a matter for the executive, with national interests amply protected through the right of veto. Furthermore, even in the countries most skeptical of European cooperation (notably Denmark and the United Kingdom) the emphasis was on economics, with the promise of an 'ever closer Union' yet to

⁵ Of the three case studies both the Danish *Folketing* and the British Parliament can be considered as exceptions to this statement, due to their emphasis on parliamentary scrutiny from the outset of Community membership.

develop into the Maastricht Treaty. Economic cooperation was thus looked upon with approval but it avoided closer national parliamentary scrutiny by being dressed up as foreign policy.

Despite the right of national veto on most important issues, the Community was not a static entity during the early years of cooperation.⁴ Changes in European structures and activities meant that national parliaments became aware of the importance of involving themselves in Community issues and attempted to adapt. While the European-level changes encompassed growth in size as well as scope for the Community (thereby extending its operations into many new fields of cooperation), for national parliaments the main impetus for change was the SEA and the White Paper preceding it. These documents made it clear that European Cooperation was no longer simply about a free(er) internal market and that even the undertaking of an internal market would impinge seriously on what had previously been exclusively domestic policy—and therefore the domain of national parliaments.

The move towards a single market brought with it a considerable increase in the number of legislative acts originating from Brussels, a significant factor contributing to a raised awareness amongst national parliamentarians of European issues. Moreover, altered decision-making procedures at the European level (mainly involving a significant increase in the use of qualified majority voting) meant that national interests could no longer be protected as previously. These developments further marginalised national parliaments in the European legislative process, a connection that was weakened even more as the direct link between national parliaments and the European level was severed when direct elections to the EP began in 1979. MEPs were now directly elected and no longer seconded from national parliaments, with an ever-diminishing number of MEPs holding a 'double mandate'. During this same period the EP's influence grew significantly—granted, ironically, by national parliaments ratifying consecutive treaties.

However, the power accorded the EP did not match that ceded by national parliaments, a process that contributed to the democratic deficit. In the words of Juliet Lodge

neither [national parliaments nor the EP] can exercise effective control over either what national governments do in the EU or what the EU executive

⁴ J. H. H. Weiler (1999, p. 16) has argued that 'from a legal-normative point of view, the community developed in that first phase with an inexorable dynamism of enhanced supranationalism. European legal integration moved powerfully ahead. From a political-decisional-procedural point of view, the very same period was characterized by a counter-development towards intergovernmentalism and away from European integration'. Weiler (Weiler, 1999, p. 96) further states that both processes were necessary, with each 'conditioning' and 'explaining' the other.

does. National governments were responsible for this situation and deliberately engineered a situation whereby national parliaments were denied effective controls over national executives. This made it easier for national governments, working within the council, to escape national as well as European parliamentary scrutiny and control. Thus, allegations that the European Parliament was engaged in an exercise to increase its powers at national parliaments' expense were based on a false premise: national governments, not the European Parliament, were the beneficiaries of parliamentary weakness at both national and EU level (1996a, p. 188).

The Council's ability to evade the control of both national parliaments and the EP is described by Lodge (1996a, p. 190) as a 'double democratic deficit', which became recognised at both the national and European levels, and seen as requiring addressing at both levels. Although, technically, it is possible to democratise the European level by granting the EP additional legislative power (which has happened with every new treaty since the establishment of European cooperation), this solution on its own is politically untenable. In attempting to overcome the democratic deficit it has been necessary simultaneously to Europeanise the national level, a process that has taken place through national parliaments becoming increasingly engaged in scrutiny of European legislation.

National parliaments adapting to the changes occurring at the European level are described by Norton as the second stage in the developing relationship between national parliaments and Europe:

The national parliaments could not rely solely on the European Parliament to scrutinise EC documents and hold the Commission and Council of Ministers to account. ... The result has been that, in the field of EC affairs, national parliaments have exhibited, from the mid-1980s onwards, three distinct characteristics: (i) greater specialisation, (ii) greater activity, and (iii) some attempts to integrate MEPs into their activities (Norton, 1996a, p. 179).

Moreover, according to Neunreither (1994, p. 303) 'national parliaments underestimated very much, for a long time, the impact of the EC's evolution on their own political functions. ... Only with considerable delay did parliaments start to think about specific internal structures which could help them to fulfill their role'. The continued lack of influence led Norton (1996a, p. 182) to declare that 'national parliaments not only remain marginalised within EC/EU law-making but are increasingly marginalised'. Much earlier, Michael Niblock (1971, p. 34) had similarly concluded that 'the initiative lies elsewhere than with the national Parliaments which have no obvious part to play except to be compliant in the face of diminishing authority'.

National parliamentarians have taken somewhat longer to recognise their diminishing authority, but have created or strengthened committees specifically dealing with European issues. Despite this ‘awakening’, it is obvious that not all parliaments in the EU member states have developed similar levels of power and influence. As was shown in Chapter three, the ability to influence domestic legislation does not always equate to influence over European legislation (see summary in Table 9.1).

Table 9.1: Types of actors in a two-level game

	Strong national player	Weak national player
Strong European player	DK, SF	EP
Modestly strong European player	D, S	F, UK
Weak European player	A, I, NL	B, E, GR, IR, LUX, P

Table adapted from: (Maurer and Wessels, 2001a, p. 510).

The three case studies have provided an understanding of how European scrutiny has developed. Moreover, the analysis clearly shows that attempts to hold national executives accountable have varied substantially in both effort and effectiveness. Individual national contexts and political cultures have determined the seriousness with which scrutiny of executive activities at the European level have been approached—and often also the methods utilised.

While it may have been natural for national parliaments and the EP to become allies in the process of scrutinising Community legislation and keeping the European-level executive accountable, instead animosity developed between the two levels. This animosity was in part due to the increased independence the EP gained in 1979 when direct elections were introduced, but was also caused by subsequent increases in the EP’s powers and influence that were felt to be at the cost of national parliaments. The treaties granting increased powers to the EP were all negotiated without the direct participation of national parliaments (or indeed the EP). Treaties have historically been a result of compromises agreed by national executives, with government representatives doing the negotiating. Presented with the final result *ex post facto*, national parliaments have found themselves in a ‘take it or leave it’ position where they stood the risk of jeopardising the European integration process if they rejected the treaty, an option few parliaments have even contemplated. This has especially been the case if a government negotiating on behalf of a nation holds a majority in parliament.⁷

⁷ There have been a few exceptions to this scenario. The Danish government could not build a parliamentary majority supporting the ratification of the Single European Act (SEA) when this treaty went through the ratification process in 1986. This was somewhat inconsequential, as a referendum had already been planned, in the event carrying the ratification. Problems were also experienced in the German and British Parliaments in the early 1990s when the TEU went through the process of ratification.

Direct parliamentary involvement at the European level is, however, a relatively new phenomenon. It was only seriously undertaken with the two Conventions on Human Rights and the Future of Europe. The second Convention did not result in a new treaty, but in a draft treaty that was recommended to the IGC that followed the Convention. However, the involvement of national parliaments has set a precedent, making it unlikely that future treaties will be negotiated without initial, preparatory involvement of national parliaments. As discussed below, the participation of national parliaments in the two Conventions (together with the developments of COSAC described in Chapter eight) can be seen as part of a trend towards more parliamentary cross-border cooperation. In the words of Anne-Marie Slaughter (2004, p. 3)

[i]nternational parliamentary organizations have been traditionally well meaning though ineffective, but today national parliamentarians are meeting to adopt and publicize common positions on the death penalty, human rights, and environmental issues. They support one another in legislative initiatives and offer training programs and technical assistance.

Within the EU, the involvement of national parliaments in the final stage of treaty negotiating remains unlikely, as does any other direct representation of national parliaments at the European level. National parliaments thus remain marginal players in decision-making at the European level, at the most participating indirectly through attempting to influence their executives. Holding the executive to account is a task frequently listed in an overview of parliamentary duties. However, as outlined in Chapter three, it is an activity several parliaments within the EU still do not perform effectively with regard to European legislation. National parliaments thus still display significant differences in their treatment of domestic and European legislation. This is despite the fact that the current, and third, stage described by Norton (1996a, p. 182) is one where national parliaments are considered as integral to addressing the democratic deficit within the EU. Member state parliaments are all at, or well on their way towards, this third stage—even if they are all doing it in their own way. Their movement in this direction reflects the recognition that granting the EP powers akin to those held by national parliaments will not sufficiently alleviate the democratic deficit within the EU, since the nature of European co-operation is such that parliamentary legitimacy must be obtained at both the European and national levels.

As has been demonstrated in the case studies, national parliaments have been forced to develop new areas of activity as a direct consequence of EU membership. Whereas foreign affairs have traditionally been handled by a small number of MPs in a committee dedicated specifically to that topic, an increasing number of parliamentarians, especially through work in select committees, now dedicate time to EU legislation as a matter of course. EU membership has consequently contributed to a

gradual parliamentary shift in orientation from the purely domestic to the inclusion of transnational issues. In two of the case studies, Denmark and Italy, this recognition has resulted in stronger cooperation between EU committees and other select committees within parliament, whereas in the British Parliament no such cooperation exists. In the latter case individual committees may choose to include a European angle in their reports, but have not done so at the instigation of the ESC (House of Commons) or the EU Select Committee (House of Lords).

Overall, however, parliamentarians are engaging more with European issues, with the consequence that parliaments and their work have come to reflect increasing globalisation. For national parliamentarians the full effect of this development is yet to be realised. Many parliamentarians still remain unaware of it (especially in the UK and Italian parliaments), while others have been unable to fulfill their ambitions for scrutiny (again mainly the case in the UK and Italy).⁸ To some extent, the continued existence of political subcultures heavily involved with European affairs has prevented a broader awareness of how important it is for *all* parliamentarians to engage in scrutiny of European legislation. These subcultures, however, have become more aware of—and increasingly vocal about—the need to involve parliament on a wider scale.⁹

3. Convergence

It is obvious that responses to Europeanisation have varied significantly and that variations above all reflect differences in national political cultures. Even where it is recognised that influence can only be achieved through government representatives in the Council, some parliaments (such as the Danish, Finnish and Swedish) wish to influence EU legislation, while other parliaments (for example those of Greece, Italy, Portugal and Spain) have more modest ambitions, simply wishing to remain informed about European activities and, if necessary, express an opinion thereon.

However, discernable patterns of convergent movements have still occurred, with the first being recognition of the impact European legislation has on domestic legislation. Scrutiny procedures thus, at a minimum, involve more awareness of and information

⁸ It should also be noted that for some, even the most comprehensive system of scrutiny is not good enough. A Danish parliamentarian thus conceded that, under the current system with the Council as the main decision-taker, it would be difficult to improve much on the existing procedures and involvement of national parliamentarians. However, this politician also stated: 'I cannot image what reforms would be required before I would feel like a real participant in a democratic process' (interview DK-11).

⁹ The best example of parliamentarians recognising the need for greater parliamentary involvement is perhaps the institutional structure of the new 14th Committee in the Italian Senate, where committee members are also members of another select committee within the Senate. This particular institutional structure ensures a combination of specialised and EU knowledge—but still runs the risk of ghettoising European affairs.

about government activities at the European level. Of the three case studies the least involved is the Italian parliament. Focusing mainly on passing the *legge comunitaria* that ensures the implementation of European legislation, both chambers have found pre-decision involvement difficult. Scrutiny of executive activities is not an activity the Italian parliament performs well—a fact that has made it difficult to engage Italian MPs in scrutiny of European issues. The British parliament has developed a deeper involvement than has the Italian. This is especially so in the House of Lords which has the ability to write in-depth reports on legislative proposals originating at the European level, whereas the House of Commons is limited to deciding whether proposals are of political or legal importance. Both chambers are consequently kept informed about European matters and may also impose the scrutiny reserve power if an issue is considered important enough. However, direct influence by either chamber over European legislation is still not possible. As the EUC in the Danish *Folketing* delivers negotiating mandates to ministers representing Denmark in the Council, it has the highest level of ambition to fulfill. The Danish system is often criticised for only involving the *Folketing* at this very late stage of the decision-making process. However, supporters of the system claim that the EUC's influence is evident at much earlier stages of the decision-making process because of the awareness amongst Danish civil servants of the final requirement that decisions must be agreed to by the EUC.

Knowledge about scrutiny procedures in other EU parliaments has increased as interparliamentary contacts have developed through multilateral meetings or parliamentary delegations visiting each other. Italian parliamentarians thus perceive the British system of scrutiny as desirable and ambitious (providing timely information on and analysis of all European legislation). Moreover, although many British MPs consider the Danish mandating system unworkable and too involved, a certain admiration for its thoroughness and strong parliamentary involvement can also be detected. A limited degree of 'trickle down' effect can thus be found as national parliaments learn from each other.

Contributing to the convergence is an underlying shift in the perception of how the EU is to be understood. EU affairs have traditionally been treated as foreign affairs by national parliamentarians, thereby relinquishing control and permitting executives to act largely unrestricted in this area. As European integration has broadened to include an expanding range of issues, and as domestic legislation is increasingly affected by decisions taken at the European level, the perception of EU affairs as foreign affairs has changed. In all three case studies the differentiation between EU and foreign policy has led to greater scrutiny of European topics. Over time, this development may likely cause greater divisions within national parliaments as European legislation is subjected to inter- and intra-party disagreements usually only applied to domestic legislation.

On the other hand, because European legislation becomes subjected to greater scrutiny, it may also become invested with greater legitimacy. While it is still not possible to claim that EU legislation is thought of as similar to domestic legislation, a differentiation has been established between it and foreign policy, with European affairs attracting increasing attention and resources within national parliaments. As globalisation develops and the world becomes increasingly 'networked' (Slaughter, 2004), the requirement that national parliamentarians add an international dimension in their work will only become more pressing.

Foreign policy has traditionally been less divisive within national parliaments than domestic policy, a situation reflected in national parliamentary treatment of European matters which in many instances has been based on broad parliamentary agreements. However, as the interest in and scrutiny of European affairs increases, the differences between European and foreign policy are likely to become increasingly well understood. Moreover, it is likely that traditional political cleavages will come to apply to European as well as domestic issues. For the three case studies, the implications could—potentially—be significant. In Italy, the historic broad and often unquestioning support for European matters may gradually disappear as Italy, for instance, becomes a net contributor to the European budget. The EP's rejection of the candidacy of the Italian nominee Rocco Buttilione for the European commission in 2004 over his perceived anti-gay and anti-feminist views illustrates both points: the emergence of the traditional secular-confessional cleavage in EU politics and fresh doubts about the European project in Italy more generally. Traditional broad agreements on EU affairs in the Danish *Folketing* may also dissolve as EU affairs are subjected to domestic political cleavages with select committees increasingly involved in the scrutiny process. A shift of this nature seems least likely to take place in the British parliament where EU affairs remain very isolated within the parliamentary structure and daily activities. However, resisting such a shift altogether is difficult when treaties must be ratified, especially when such ratification involves the consultation of the public through a referendum.

A further convergent movement is that of closer involvement of select committees in scrutiny procedures. However, pressure to involve departmental select committees more closely in the scrutiny of European legislation has come from different directions in the three case studies. Whereas the European committees in the Danish and Italian parliaments are insistent that other select committees need to develop their activities on European matters, the British ESC has been more intent on keeping its scrutiny powers to itself. Nonetheless, other committees within both chambers of the UK parliament have included a European angle where it has been considered relevant. While this trend is strongest in the House of Lords, it can also be observed in the

House of Commons and is a development both chambers will have to consider in future reviews of scrutiny of European legislation.

Because of the (current) stark separation between committees within both houses of the British Parliament, scrutiny of European affairs has the potential to become a matter of contention. The potential for disagreements remains greater within the House of Lords because of its ability to write reports questioning the merit of European legislation. Within the House of Commons the remit of the ESC is significantly different to that of other select committees (its work being *ex ante* rather than *ex post*), to the extent that potential conflicts may be, if not avoided, then at least possible to overcome. However, the ESC may begin to assess European proposals in a more qualitative manner, inquiring as to the potential impact of European legislation at the domestic level, a move that, in effect, would anticipate the work of other select committees, thereby increasing the scope for conflict.

How British parliamentarians perceive EU matters is likely to dictate how the UK Parliament approaches scrutiny of European affairs. If EU legislation is thought of as being both separate from and distinct to domestic legislation, it is likely to remain isolated within parliamentary activities. However, if a connection between the two levels of legislation is acknowledged, a more holistic manner of examining European legislation may eventually develop. More thorough scrutiny would require cooperation between select committees and the ESC in the Commons.

As national parliaments increasingly involve themselves with European affairs, the nature of their information requirements alters. Not only do they need the actual legislative proposals from Europe, they also need to be aware of their governments' concerns and analysis surrounding the legislative proposal. However, while such technical information is necessary, it may in fact be of limited relevance for the purposes of influencing the legislation, as real influence is difficult to achieve subsequent to the Commission proposing European legislation. If national parliamentarians are to achieve a measure of influence over European legislation, their awareness of upcoming legislation is crucial. Such a shift in focus would require yet further adjustments both internally within parliaments and in their relationships with national executives—an area in need of much further research.¹⁰

A progressive development can thus be detected in national parliaments' involvement in European affairs, beginning with a distinction being made between EU and foreign

¹⁰ Information-sharing and discussions of these topics take place at events such as COSAC meetings and the Speakers' Conference but, as discussed in Chapter eight, it is difficult to ascertain how useful participants find these meetings.

affairs, with the former increasingly treated more in line with domestic legislation. An acknowledgement of the difference has most frequently led to a higher level of scrutiny of EU affairs, often involving committees other than those involved solely with European scrutiny. Consequently, the possibility that European affairs become part of everyday parliamentary life, with parliamentarians outside scrutiny committees also examining European legislation and its national-level impact, has developed. To do so adequately, parliamentarians require new levels of information made available to them by administrations and governments, procedures that forge new relationships. National parliaments differ with respect to how far they have travelled down this developmental path, but all have moved in the same direction.

4. Conclusions

The traditional role of national parliaments has been challenged. From being institutions where legislation is determined, EU member state parliaments have been reduced to participant-observers in a decision-making process over which they are unable to exercise full control or power. The influence national parliaments potentially have over European decision-making has become easier to wield with the growing recognition of their importance within that process. However, as has been shown in the case studies, the willingness of national parliamentarians to exercise this influence has varied. In part this may be due to the nature of the new demands being made of national parliaments. Increasingly national parliamentarians are required to incorporate an *international* dimension into their work in *national* parliaments—institutions whose natural operational environment remains the national level (as is evident, for instance, from their strong reluctance to permit binding decisions to be taken in inter-parliamentary forums).

This thesis has provided insights into parliamentary scrutiny of European affairs while also making it possible to present a number of general conclusions as well as the three main findings already outlined.

Firstly, if national parliaments are to engage successfully with European decision-making (let alone decisions at the global level), several requirements must be fulfilled. One is the development of an overview of European legislative activities. A comprehensive overview is necessary, not only to influence events in the most constructive and effective way, but also in order to scrutinise government conduct during the decision-making process adequately.¹¹ The nature of national parliaments, with the occurrence of regular elections, makes such institutional memory significantly more difficult to develop than in national administrations. Developing a more

¹¹ The term 'adequately' being defined by national practices and political cultures.

substantial parliamentary bureaucracy to counter the government's administration is clearly not the answer as it is outside the role of national parliaments to develop alternative policies to those of their governments. The importance of trust and respect between national parliaments and national administrations therefore becomes paramount.

Secondly, a further concern is the skill-set national parliamentarians themselves will be required to develop. For many, a second or third language will be necessary in order to follow European legislation adequately—especially during the later stages where changes may take place relatively quickly and translations of the relevant texts may not always be available. Moreover, a more comprehensive understanding of European decision-making procedures is required in order to maximise the influence of national parliaments. National parliamentarians must also develop an understanding of when their efforts are most effective—and therefore most efficient in terms of resources applied.

However, achieving parliamentary engagement in scrutiny of European affairs faces a significant obstacle as the electoral rewards for conducting efficient scrutiny of European legislation remain very limited. Although politicians are increasingly aware that, in order to conduct their jobs properly, they must include the European dimension in their work, this realisation has not yet 'spilled over' to become general knowledge amongst voters.¹² It can thus be argued that the (significant) energy and resources required to undertake thorough scrutiny have not been well spent if it does not result in re-election. Politicians, at both the European and national levels, thus face the task of educating European citizens about how European legislation impacts upon the domestic level, and why it is important for national parliamentarians to engage with European issues. This, in effect, amounts to Europeanisation, with domestic discourse increasingly influenced by European-level activities.

Thirdly, the mere fact that parliaments discuss how to involve themselves more at the European level, individually as well as collectively, confers a degree of legitimacy to the European level of cooperation. Moreover, engaging with European citizens in order to convey this development is becoming an important function for national parliamentarians. As the EU's legitimacy has become accepted by national parliamentarians, through them increasingly incorporating European affairs into their daily work, the reasons and methods behind such incorporation must be explained beyond parliamentary committees in order for wider acceptance and understanding of multi-level governance to develop.

¹² If *all* parliamentarians included a European dimension in their work this concern would, obviously, be irrelevant.

Fourthly, with globalisation, parliamentary scrutiny of executives will have to alter. From mainly operating and focusing on the national level, national parliaments will have to become more substantially engaged in international affairs—even if their activities in this area may be limited to assessing the domestic impact of international activities. Already this is taking place within the EU. What lessons can be learnt and applied at the global level is beyond the scope of this thesis but certainly warrants further research.

One possible consequence of globalisation hinted at by Europeanisation is that the distinction between foreign and domestic affairs may become progressively blurred. While it is already impossible for EU member states to conduct trade policy without consideration of EU activities, they, and the EU, are simultaneously required to comply with WTO rules, creating a multi-layered system of governance for national parliaments to operate within. The demands this places on national parliamentarians are significant. Not only do they have to recognise the limitations on their powers in this multi-layered system, they must also come to understand how it functions in order to maximise their ability to influence decisions taken within it. Developing an overview of activities and their implications at that national level then becomes crucial—as well as more complicated. The challenges for MPs should not be underestimated and will likely take time to implement, while also requiring continuous adjustments.

Fifthly, as mentioned above, it is likely that with an increased interest in and scrutiny of European affairs, traditional political cleavages will come to apply to European issues as well. This development may not be so important, perhaps, in member states with a more positive attitude towards membership of the EU. However, in EU-skeptic countries, where the legitimacy conveyed on EU affairs by regular involvement may be resented, broad agreements on EU policy may disappear and scrutiny may develop in a more critical direction.

In conclusion it can be argued that national parliaments have always been involved in European affairs and that their level of participation has increased in recent years. Parliamentarians have requested and invited these changes themselves, but have also been prompted by the European level, specifically via entries in the treaties encouraging participation, invitations to EP committee meetings and statements by heads of states about the importance of national parliaments to the European project. All parliaments within the EU have thus established or strengthened EU committees and scrutiny procedures. However, the precise undertaking of these changes and their effects have varied enormously from one parliament to the next.

Nonetheless, all national parliaments have been important as legitimisers of European cooperation through their ratification of the treaties on which European cooperation is based upon. Moreover, as European activities have broadened in scope and deepened in intensity, the role of national parliaments has become increasingly important. Not only have they become participants in procedures leading up to treaty negotiations (the Convention on the Future of Europe), they have also been recognised as important actors in European decision-making processes—even if such participation takes place indirectly through their national executive representatives in the Council. By participating more in European decision-making, national parliaments lend credibility to both European institutions and EU legislative output. Parliamentary discussions of appropriate methods for involvement send the signal that such activities are worthwhile, again contributing to the legitimacy of the EU and legislation originating from it.

A specific challenge to national parliaments—although it too is indispensable to democracy within the EU—is the European Parliament. While democracy has been a requirement placed on member states from the outset of European cooperation, it has now become firmly established that the EU itself must also be democratic. As a consequence, the EP has gained powers and influence with each treaty revision, becoming an essential participant in the European legislative process.

The perceived need for democracy at the European level is symptomatic of broader concerns about subjecting policy-making within international organisations, which have been strengthened in response to globalisation, to some kind of democratic control (Keohane, 2002; Slaughter, 2004). As globalisation develops, permitting an increasingly efficient transmission of raw materials, finished goods and (especially) know-how and economic resources across borders, regulation of these movements has become necessary, with the EU being one response. States have become more limited in both their political and economic options by globalisation and increasingly deprived of certain means of self-government. In the European integration process, member states have willingly relinquished part of their ability to act independently and autonomously, with national parliaments authorising the transfer of decisions from member states (where they have power over the legislative process) to the European level (where they may only influence decision-making).

States apply and sign up to become members of these voluntary agreements in the full knowledge that membership imposes limits on their sovereignty (autonomy). Consequently, the concepts of sovereignty and state autonomy are being revised in the face of globalisation—and the role of national parliaments reassessed accordingly.

The adverse affect of globalisation on national parliaments is exacerbated by the fact that the 'lagging legislators' have been slower at developing international networks than have their governments (Slaughter, 2004, Chapter three). However, networks are developing with parliamentarians associating themselves directly with organisations such as the North Atlantic Treaty Organisation (NATO), the Organization for Security and Cooperation in Europe (OSCE) and the Association of Southeast Asian Nations (ASEAN) as well as within geographical regions. Slaughter (2004, p. 121) claims that '[i]t is frankly hard to find a region of the globe without some kind of parliamentary assembly'. Slaughter further argues (Slaughter, 2004, p. 127-30) that parliamentary networks are developing for three main reasons: firstly, in order to counter existing networks of officials, secondly, because of a desire to interact for political purposes and, thirdly, to strengthen parliamentarianism as a profession.

In this context parliamentary advocacy groups and 'educational' forums become important (see Slaughter, 2004, pp. 115-8, 125-7). By addressing problems of a general nature (such as how to become better informed about activities at the international level), national parliamentarians may simultaneously learn about global networks as well. Within the EU the fora fulfilling this role are COSAC and the Speakers' Conference. The developments that have taken place within these organisations mirror developing parliamentary cooperation taking place on a wider global scale.

However, accepting that national parliaments are important to the legislative process, as well as democracy at the European level, has prompted new questions about precisely how national parliaments are to be engaged in activities at the European level. This is especially so as the idea of a second (third) chamber at the European level has been rejected by most national parliamentarians.

Nation states remain the building blocks of international organisations, including the EU, and consequently important seats of political power. Indeed, states 'remain central to the EU policy process, but they are no longer the *only* significant actors—and are not always the predominant actors' (Wallace, 2000, p. 532, emphasis in original). National parliaments therefore maintain their importance too, as they remain the ultimate legitimisers of national governments and their actions at the international level. The EU is an important actor in the international arena, but its mere existence and empowerment over time can also be seen as a response to globalisation and the repercussions it has had for nation states. Member state parliaments have seen limitations on their powers as a result of globalisation, but as members of the EU they are in the relatively advantageous position of being able to receive information about and influence certain decisions taken in this international forum.

Technically it may be possible to democratise the EU (and other international systems of cooperation) without the involvement of national parliaments. However, improving the democratic underpinnings of the EU by exclusively granting more powers to the EP is currently not a politically viable option. National parliamentarians have therefore become a necessary component in the European legislative process despite their lack of *power* over this process. National parliaments are unlikely to develop a direct role in European legislative procedures. They will only be able to *influence* decisions at this level—although as shown by the case studies, the influence exercised at the national level over the executive, extending to its behaviour and activities at the European level, can potentially be substantial.

Reaching into the far corners of what has traditionally been considered domestic activities, the nature of European legislation means that traditional methods of scrutinising European-level activities are no longer sufficient. EU specialists cannot also be experts on all the areas in which the EU is active, making cooperation within parliaments necessary in order to undertake adequate scrutiny. EU subcultures may therefore be weakening as Europeanisation generates pressure for European affairs to be treated, if not similarly to domestic policy, then at least not with as much detachment as has been traditional for foreign affairs.

National parliaments are likely, however, to remain firmly anchored in the domestic level, maintaining their roles as legitimisers of national executives as well as expressions of national sovereignty. They can therefore also be expected to remain independent and autonomous institutions, determining their own activities and procedures. As a consequence, the impetus behind any move by national parliaments to further develop their influence over European (or global) decision-making and activities must come from within national parliaments themselves.

Appendix A: Research Notes

Primary research for this thesis has been conducted in two ways: through documents from the parliaments that were the subjects of the case studies and through interviews with politicians, civil servants and parliamentary staff. Further, a number of MEPs were also interviewed together with a representative from the Commission and staff from the EP.

Documents were obtained from various sources. Many were available via the internet while others were collected during fieldwork. The aim was to obtain an overview of how the parliament's treatment of European legislation had developed over time, what the considerations behind changes had been as well as the likely direction of future changes. Where possible, documented debates and discussions preceding these documents were also considered in order to gain further understanding of the process that led to their creation.

Interviews were conducted with politicians as well as parliamentary staff and civil servants. Several visits were made to London and Copenhagen, while a lengthy stay in Rome made research there possible.

As the link between parliaments and the administrations was shown to be of significance, the view of the administration was obviously important to obtain although the main focus was on parliamentarians and their staff.¹

For information about parliamentary EU committees, members (especially chairs) of EU committees were important interviewees, as were the staffs of these committees. However, members of other committees were also approached in order to develop a more thorough understanding of how EU matters are beginning to permeate the daily work of national parliaments (outside of EU committees). Not all were understanding of this request, with many referring to the 'experts' in EU committees. This was especially the case in Italy and the UK.

In Denmark an additional group of interviewees was approached: former ministers with experience of the mandating process were asked for their opinion of this process.

¹ Several appointments were made with members of the British civil service for interviews. However, all were cancelled, usually at the very last moment, leaving little time for rearranging such appointments. A high rate of turnover in staff at the relevant offices (relations with parliament on EU matters) further complicated the situation. Unfortunately, in the end, no interview was obtained with members of the British civil service.

As the change in government had been very recent (and because the previous government had governed 1993 – 2001), ex-ministers were deemed to have significantly more experience of working with the European Committee and the mandating procedure than the recently appointed ministers. Although the list of questions for the ex-ministers was the shortest, these gave rise to the longest interviews conducted for this thesis.

Contact with interviewees was initiated by a physical letter, which included a brief introduction of the research and the basis for contacting the particular person. Where necessary, introductory letters were followed up by further letters or emails (if use of electronic media was initiated by the interviewee). Some interviewees were also contacted via telephone or via introductions and personal recommendations from previous interviewees. Especially in Italy this approach seemed both successful and appropriate.

Previous interviewing experience convinced me that a formal list of questions to be answered by the interviewees was considered to be essential. Interviews were thus built upon lists of topics tailored to the separate groups of interviewees (see Appendix B for examples). The same topics would thus be covered in interviews with, for instance, chairs of EU committees. However, the questions were not necessarily asked in the exact same order or in exactly the same way. Furthermore, as interviewees had different amounts of time available, it was at times necessary to focus on the most important issues. In other situations, when time permitted, it was possible to allow the interviewee to expand more on the topics as well as following up on related matters.²

² An example of a 'related matter' is the inter-ministerial 'battles'. While these are of obvious importance to how an administration handles the coordination of EU affairs and its relations with the national parliament, it was an issue that was only brought up when time permitted.

Appendix B

Questions for chairs of EU Committee

1. Are you satisfied with current powers?
2. Would you like to have mandating powers? (Question omitted in interview with chair of Danish EUC)
3. What would mandating powers achieve? (Question omitted in interview with chair of Danish EUC)
4. What level of control over decision-making process should national parliaments have?
5. Has this question been discussed within committee or in international fora?
6. How has co-ordination process influenced work?
7. How well is Committee fulfilling its task?
8. What could be done to improve its working conditions?
9. What logistical/library support does committee have?
10. How much contact with MEPs? (what's desirable/how to develop?)
11. How do you 'use' your staff in Brussels? (how much staff there?)
12. How much contact with other parliaments? (what's desirable/how to develop?)
13. What do you think of DK Committee? Like to emulate it? (Question omitted in interview with chair of Danish EUC)
14. Do you delegate stuff to select committees?
15. How has increasing 'blending'/merging of foreign policy and domestic policy affected work of committee?
16. Would a second chamber in Europe a good idea?
17. What are your feelings about the Convention?
18. Is the Convention a good solution for specific situations like the Charter on Human Rights or for long-term involvement?
19. What is the appropriate level of participation by parliaments in IGCs?
20. What is the long-term role of EP?
21. The EP is specifically mentioned in treaties, national parliaments are not, do you think they should be? What would their role be?
22. What is the appropriate 'division of labour' EP - national parliaments?

Questions for chairs of select committees

1. What involvement does your committee have with EU-issues?
2. Should national parliaments be more involved in EU-issues? How/why not?
3. Are you in contact with the European Scrutiny Committee? Are issues delegated?
4. Do you leave it to EU-Committee to assess consequences of EU-legislation on issues within your remit?
5. Is this satisfactory with blending/merging of domestic/EU issues?
6. Danish committee part of 'experiment' (explained to interviewees), would you like to emulate this? (Question omitted in interview with chairs of select committees in the Danish *Folketing*)
7. Would it be appropriate for your committee to have more influence over EU-issues within your remit?
8. What is the appropriate role of national parliaments in the EU? in IGCs?
9. What is the appropriate 'division of labour' EP - national parliaments?
10. How has the blending of foreign policy/EU and domestic policy affected the work of your committee?
11. How could the EP help you conduct your work better?
12. Would a specialised COSAC be a good idea?
13. Do you meet with 'twin' committees in other MS parliaments? in EP?
14. Do you have any contact with your parliamentary representatives in Brussels?
15. Do you have any contact with MEPs?

Questions for Danish ex-ministers

1. How did you, as a minister, experience the mandating and questioning process in the EUC and other committees?)
2. What advantages/disadvantages did you experience as the Folketing, through the EUC, followed the Council's work within your remit?)
3. When talking to politicians outside Denmark, one is given the clear impression that Denmark's system of mandating is seen as both troublesome and slow and that it delays decision-making at the European level. Was this your experience?)
4. To what extent has the fact that Danish governments often are minority governments influenced the mandates provided to the EUC?
5. Do you believe it is possible to improve a) the way in which the Folketing handles EU affairs and b) the cooperation between select committees and departmental ministries? If yes, how?

Appendix C: List of interviews

Where no name appears, the interviewee was promised anonymity. Instead, a title explaining the person’s position will be listed.

Brussels

- | | | |
|-----|------------------------------|-------|
| 1. | Jens-Peter Bonde | (MEP) |
| 2. | Richard Corbett | (MEP) |
| 3. | MEP’s assistant | |
| 4. | Andrew Duff | (MEP) |
| 5. | Jo Leinen | (MEP) |
| 6. | Neil McCormick | (MEP) |
| 7. | European Parliament employee | |
| 8. | Mike Shackleton | (EP) |
| 9. | David Martin | (MEP) |
| 10. | Commission official | |

Denmark

1. Margrethe Auken (MP)
2. Svend Auken ex-minister
3. Lars Barfoed (MP)
4. EU-secretariat staff
5. Pia Gjellerup ex-minister
6. Ivar Hansen ex-speaker of the *Folketing* (email)
7. EU-secretariat staff
8. Kaj Ikast ex-minister
9. Ministry of Foreign Affairs official
10. Marianne Jelved ex-minister
11. Jørn Jespersen (MP)
12. Henrik Dam Kristensen ex-minister
13. EU-secretariat staff
14. EU-secretariat staff
15. Erik Larsen (MP)
16. Claus Larsen Jensen (MP, Chair of the EUC)
17. Ministry of Foreign Affairs official
18. Mogens Lykketoft ex-minister (email)
19. Ministry of Foreign Affairs official
20. Rasmus Nielsen altinget.dk
21. Poul Nyrup Rasmussen ex Prime Minister (letter)
22. Erling Olsen ex-speaker of the *Folketing*
23. Ove Kaj Pedersen Professor, Københavns Universitet
24. EU-secretariat staff
25. EU-secretariat staff
26. Kristen Touborg (MP)
27. Jens Peter Verner sen (MP)
28. Eyvind Vesselbo (MP)
29. Margrethe Vestager ex-minister (email)
30. Tove Videbæk (MP)
31. Jacob Buksti ex-minister
32. Niels Helveg Petersen ex-minister

Italy

1. Senatorial employee
2. Filadelfio Basile (Senator)
3. Senatorial employee
4. Chamber of Deputies staff
5. Senatorial employee
6. Alfiero Grandi (MP)
7. Ministry of Foreign Affairs staff
8. Giorgio La Malfa (Senator)
9. Andrea Manzella (Senator)
10. Department of European Affairs official
11. Chamber of Deputies staff
12. Chamber of Deputies staff
13. Giacomo Stucchi (MP)
14. Ministry of Foreign Affairs staff

United Kingdom

- 1. Michael Ancram (MP)
- 2. Lord Astor of Hever (Peer)
- 3. European official
- 4. Lord Brabazon (and House of Lords staff) (Peer)
- 5. Cabinet office staff
- 6. Michael Connarty (MP)
- 7. David Curry (MP)
- 8. House of Commons staff
- 9. MP
- 10. Jimmy Hood (MP)
- 11. Michael Moore (MP)
- 12. Lord Norton (Peer)
- 13. Lord Oxburgh (Peer)
- 14. Lord Peston (Peer)
- 15. UK Parliament staff
- 16. Lord Watson (Peer)

Bibliography

- Allison, Lincoln. 1996. 'Power'. In *Oxford Concise Dictionary of Politics*, edited by Ian McLean. Oxford: Oxford University Press, pp. 396-9.
- Almond, Gabriel A., and Sidney Verba. 1989 (1963). *The Civic Culture. Political Attitudes and Democracy in Five Nations*. London: Sage.
- Armstrong, Kenneth, and Simon Bulmer. 2003. 'The United Kingdom: between political controversy and administrative efficiency'. In *Fifteen into one? The European Union and its member states*, edited by Wolfgang Wessels, Andreas Maurer and Jürgen Mittag. Manchester: Manchester University Press, pp. 388-410.
- Arnall, Anthony. 1990. 'Does the Court of Justice Have Inherent Jurisdiction?' *Common Market Law Review*, Vol. 27, No. 4, pp. 683-708.
- Arter, David. 1996. 'The Folketing and Denmark's 'European Policy': The Case of an 'Authorising Assembly'? In *National Parliaments and the European Union*, edited by Philip Norton. London: Frank Cass, pp. 110-23.
- Basile, Filadelfio. 2002. *Contribution by Sen. Filadelfio Basile: The Italian Parliament's Control of the EU Decision-Making Process*. Brussels: The European Convention Secretariat.
- Beetham, David. 1993. *Auditing democracy in Britain*. London: The Charter 88 Trust.
- Bindi Callusi, Federiga, and Stefano B. Grasse. 2001. 'The Parliament of Italy: From Benevolent Observer to Active Player'. In *National Parliaments on their Ways to Europe: Losers or Latecomers?*, edited by Andreas Maurer and Wolfgang Wessels. Baden-Baden: Nomos, pp. 295-327.
- Bindi, Federiga. 2002. The Managing of EU Policy-Making in National Governments. A Comparative Analysis of Italy & Portugal. Paper read at Joint Sessions of Workshops, Turin, Italy, 22 - 27 March 2002, 22 March.
- Blair, Tony. 2001. *Speech by the Prime Minister, Tony Blair, to the Polish Stock Exchange, Warsaw, Friday 6 October 2000*. [Website]. Foreign and Commonwealth Office, 2000 [cited 11 April 2001]. Available from <http://www.fco.gov.uk/news/speechtext.asp?4913>.
- Blondel, Jean, Richard Sinnott, and Palle Svensson. 1997. 'Representation and voter participation'. *European Journal of Political Research*, Vol. 32, No. 2, pp. 243-72.
- Börzel, Tanja A. 2003. *Shaping and Taking EU Policies: Member State Responses to Europeanization*. [Online paper]. Queen's Papers on Europeanisation, 2003 [cited 11 November 2003]. Available from http://www.qub.ac.uk/ies/onlinepapers/poe2_03.pdf.
- Börzel, Tanja A., and Thomas Risse. 2000. *When Europe Hits Home: Europeanization and Domestic Change*. [Online Paper]. European Integration online Papers (EIoP), 2000 [cited 29 November 2000]. Available from <http://eiop.or.at/eiop/texte/2000-015.htm>.
- Bostrup, Jens. 2002. EU taber kampen mod indbakken. *Politiken*, 26 August.
- Brew, David. 1979. 'National parliamentary scrutiny of European Community legislation: the case of the United Kingdom Parliament'. In *The European Parliament and the National Parliaments*, edited by V. Herman and Rinus van Schendelen. Farnborough: Saxon House, pp. 238-57.
- Bryce, Lord. 1990. 'The Decline of Legislatures'. In *Legislatures*, edited by Philip Norton. Oxford: Oxford University Press, pp. 47-56.
- Bufacchi, Vittorio, and Simon Burgess. 2001. *Italy Since 1989. Events and Interpretations*. Houndmills: Palgrave.
- Bulmer, Simon, and Martin Burch. 1998. 'Organizing for Europe: Whitehall, the British State and European Union'. *Public Administration*, Vol. 76, No. 4, pp. 601-28.
- Caporaso, James A. 1996. 'The European Union and Forms of State: Westphalian, Regulatory or Post-Modern?' *Journal of Common Market Studies*, Vol. 34, No. 1, pp. 29-52.
- Carter, Caitriona A. 2001. 'The Parliament of the United Kingdom: From Supportive Scrutiny to Unleashed Control?' In *National Parliaments on their Ways to Europe*:

- Losers or Latecomers?*, edited by Andreas Maurer and Wolfgang Wessels. Baden-Baden: Nomos, pp. 437-68.
- Cassese, Antonio. 1980. 'Foreign Affairs and the Italian Constitution'. In *parliamentary control over foreign policy: Legal Essays*, edited by Antonio Cassese. Alphen aan den Rijn: Sijthoff & Nordhoff, pp. 65-109.
- Cassese, Sabino. 1999. 'Italy's Senior Civil Service: An Ossified World'. In *Bureaucratic Elites in Western European States. A Comparative Analysis of Top Officials*, edited by Edward C. Page and Vincent Wright. Oxford: Oxford University Press, pp. 55-64.
- Clark, Martin. 1996. *Modern Italy 1871-1995*. 2nd ed. London: Longman.
- Conference of Speakers of the European Parliaments. 2002. *Conference of Speakers of the European Union Parliaments. Rome, 22-24 September 2000. Conclusions by the Chair*. [Online document]. Camera dei Deputati, 2000 [cited 23 November 2002]. Available from http://www.parlamento.it/sppueg/ing/lavori_documenti_presiden.asp.
- Conference of Speakers of the European Parliaments. 2002. *Conference of Speakers of the EU Parliaments. Stockholm, 16-17 November 2001. Chairman's summary*. [Online document]. Sveriges Riksdag, 2001a [cited 23 November 2002]. Available from http://www.riksdagen.se/euspeakers/english/pdf/chairmans_summary_eng.pdf.
- Conference of Speakers of the European Parliaments. 2002. *Guidelines for the Conference of Presiding Officers*. [Online document]. Sveriges Riksdag, 2001b [cited 23 November 2002]. Available from <http://www.riksdagen.se/euspeakers/english/pdf/guidelines.pdf>.
- Conference of Speakers of the European Parliaments. 2002. *Report. Conference of Speakers of the EU Parliaments. Stockholm 16-17 November 2001*. [Online document]. Sveriges Riksdag, 2001c [cited 23 November 2002]. Available from http://www.riksdagen.se/euspeakers/english/pdf/report_final.pdf.
- Conference of Speakers of the European Parliaments. 2002. *Conference of the Presidents of EU Parliaments and the European Parliament. Chairman's summary*. [Online document]. Camera dei Deputati, 2002 [cited 22 July 2002]. Available from <http://www.senato.it/att.affint/home.htm>.
- Copeland, Gary W., and Samuel C. Patterson. 1994. 'Changing an Institutionalized System'. In *Parliaments in the Modern World. Changing Institutions*, edited by Gary W. Copeland and Samuel C. Patterson. Ann Arbor: The University of Michigan Press, pp. 151-60.
- Corbett, Richard. 1998. *The European Parliament's Role in Closer EU Integration*. Houndmills: Macmillan Press.
- Corbett, Richard. 2003. *The conference of parliaments held in Rome before the Maastricht IGC*. [Online document]. Federal Union, 2002 [cited 2 October 2003]. Available from <http://www.federalunion.uklinux.net/europe/assizes.htm>.
- Corbett, Richard, Francis Jacobs, and Michael Shackleton. 2000. *The European Parliament*. 4th ed. London: John Harper Publishing.
- COSAC. 2000. *Analytical Report XXIIIrd COSAC, Versailles, 16-17 October 2000*. [Online document]. COSAC, 2000a [cited 15 November 2000]. Available from http://www.cosac.org/eng/previous/versailles_2000/report.pdf.
- COSAC. 2000. *Conclusions of the Presidency (Lisbon 2000)*. [Website]. COSAC, 2000b [cited 2 June 2000]. Available from http://www.cosac.org/eng/previous/portugal_2000/texts.html#conclusions.
- COSAC. 2001. *Texts adopted by the XXIIIrd COSAC, Versailles, October 16th and 17th, 2000*. [Website]. COSAC, 2000c [cited 15 January 2001]. Available from <http://www.cosac.org/eng/next/textsadopted.html>.
- COSAC. 2001. *XV COSAC, Dublin, 15th - 16th October 1996*. [Online Document]. COSAC, 2000d [cited 22 March 2001]. Available from http://www.cosac.org/eng/previous/dublin_1996/texts.html.
- COSAC. 2003. *COSAC working group Copenhagen 15 to 16 December 2002*. [Online document]. COSAC, 2002a [cited 17 February 2003]. Available from http://www.cosac.org/eng/previous/copenhagen_2002/wgdec.htm.
- COSAC. 2003. *Note on interparliamentary cooperation and networking and the organisation of COSAC and future meetings*. [Online document]. COSAC, 2002b [cited 17 February 2003].

- 2003]. Available from
http://www.cosac.org/eng/previous/copenhagen_2002/decd.pdf.
- COSAC. 2002. XXVII COSAC, Copenhagen 16 - 18 October 2002. Contribution. [Online document]. COSAC, 2002c [cited 2 December 2002]. Available from
http://www.cosac.org/eng/previous/copenhagen_2002/contribution.pdf.
- COSAC. 2003. Contribution XXXth Cosac, Tuesday, 7 October 2003. [Online document]. COSAC, 2003a [cited 11 October 2003]. Available from
<http://www.cosac.org/eng/next/index.html>.
- COSAC. 2003. Copenhagen Parliamentary Guidelines: Guidelines for relations between Governments and Parliaments on Community issues (instructive minimum standards). [Online document]. COSAC, 2003b [cited 21 July 2003]. Available from
http://www.cosac.org/eng/basic/basetxt/code_eng.pdf.
- COSAC. 2003. Rules of Procedure of the Conference of Community and European Affairs Committees of Parliaments of the European Union. [Online Document]. COSAC, 2003c [cited 22 July 2003]. Available from
http://www.cosac.org/eng/previous/athens_2003/rules_engl.htm.
- COSAC. 2003. XXIX COSAC 4th - 6th may 2003 in Athens. Guidelines for the establishing of a Troika - COSAC Secretariat. [Online document]. COSAC, 2003d [cited 21 July 2003]. Available from
http://www.cosac.org/eng/previous/athens_2003/secretariatguidelines.htm.
- COSAC. 2004. Annexes to Biannual report on EU-procedures and practices. [Online document]. COSAC, 2004 [cited 8 September 2004]. Available from
<http://www.cosac.org/en/documents/archive/previous/ireland2004/meeting/doc2/annexes/>.
- Cram, Laura. 1997. *Policy-making in the European Union. Conceptual lenses and the integration process*. London: Routledge.
- Dahl, Robert A. 1979. 'Power'. In *International Encyclopedia of the Social Sciences*, edited by David L. Sills. New York: Free Press, pp. 405-15.
- Dahl, Robert A. 1989. *Democracy and its Critics*. New Haven: Yale University Press.
- Dahl, Robert A. 1994. 'A Democratic Dilemma: System Effectiveness versus Citizen Participation'. *Political Science Quarterly*, Vol. 109, No. 1, pp. 23-34.
- Damgaard, Erik. 1994. 'The Strong Parliaments of Scandinavia: Continuity and Change of Scandinavian Parliaments'. In *Parliaments in the Modern World. Changing Institutions*, edited by Gary W. Copeland and Samuel C. Patterson. Ann Arbor: University of Michigan Press, pp. 85-103.
- David Cameron MP. 2003. Get a life? I'd rather get some sleep. *Guardian Unlimited*, 9 January.
- de Beus, Jos, and Jeanette Mak. 2003. Communicating 'Europe' in the national political domain: the case of the Netherlands. Paper read at ECPR Joint Sessions 28 March - 2 April 2003, at Edinburgh
- Dehousse, Renaud. 1998. *The European Court of Justice*. Basingstoke: Macmillan Press Ltd.
- Della Sala, Vincent. 1998. 'The Italian Parliament: Chambers in a Crumbling House?' In *Parliaments and Governments in Western Europe*, edited by Philip Norton. London: Frank Cass, pp. 73-96.
- Deutsch, Karl W. 1964. 'Communication Theory and Political Integration'. In *The Integration of Political Communities*, edited by Philip E. Jacob and James V. Toscano. Philadelphia: Lippincott, pp. 46-74.
- Donovan, Mark. 2003. 'A Second Republic for Italy?' *Political Studies Review*, Vol. 1, No. 1, pp. 18-33.
- Dosenrode, Søren. 2002. Personal discussion.
- Duff, Andrew, ed. 1997. *The Treaty of Amsterdam*. London: Federal Trust.
- Earnshaw, David, and David Judge. 1996. 'From co-operation to co-decision. The European Parliament's path to legislative power'. In *European Union. Power and Policymaking*, edited by Jeremy Richardson. London: Routledge, pp. 96-126.
- Eatwell, Roger. 1997. 'Britain'. In *European Political Cultures. Conflict or Convergence?*, edited by Roger Eatwell. London: Routledge, pp. 50-66.
- Edwards, Geoffrey, and David Spence. 1997. 'The Commission in Perspective'. In *The European Commission*, edited by Geoffrey Edwards and David Spence. London: Cartermill, pp. 1-32.

- Edwards, Geoffrey, and Georg Wiessala. 1998. 'Editorial: Flexibility, Legitimacy and Identity in Post-Amsterdam Europe'. In *The European Union 1997. Annual Review of Activities*, edited by Geoffrey Edwards and Georg Wiessala. Oxford: Blackwell, pp. 1-11.
- Elkins, David J., and Richard E.B. Simeon. 1979. 'a Cause in Search of Its Effect, or What Does Political Culture Explain?' *Comparative Politics*, Vol. 11, No. 2, pp. 127-45.
- Eriksen, Erik Oddvar, and John Erik Fossum. 2000. 'Post-national integration'. In *Democracy in the European Union. Integration through Deliberation?*, edited by Erik Oddvar Eriksen and John Erik Fossum. London: Routledge, pp. 1-28.
- Europaudvalget. 2004. *Notat: Godkendt udkast til ny beretning for Europaudvalget*. [Online document]. EU-oplysningen, 2004 [cited 12 July 2004]. Available from <http://www.eu-oplysningen.dk/dokumenter/ft/beretninger/2004/>.
- European Centre for Parliamentary Research and Documentation. 2003. *European Affairs Committees. The Influence of National Parliaments on European Policies*. Brussels: European Centre for Parliamentary Research and Documentation.
- European Commission. 2003. *Eurobarometer. Report Number 58*. Brussels: The European Commission.
- European Commission. 2004. *Eurobarometer 61*. Brussels: The European Commission.
- European Parliament. 2001. *Conference of the Community and European Affairs Committees of the Parliaments of the European Union - COSAC: History*. [Website]. European Parliament, 2000a [cited 1 May 2001]. Available from http://www.europarl.eu.int/natparl/cosac/history_en.htm.
- European Parliament. 2001. *European Affairs Committees of the Parliaments of the European Union - Italy*. [Website]. European Parliament, 2000b [cited 7 May 2001]. Available from http://www.europarl.eu.int/natparl/members/italy/coms/default_en.htm.
- European Parliament. 2003. *European Parliament Fact Sheets 1.3.5. The European Parliament: relations with the national parliaments*. [Online information]. European Parliament, 2000c [cited 2 October 2003]. Available from http://www.europarl.eu.int/factsheets/1_3_5_en.htm.
- Fabbrini, Sergio, and Alessia Donà. 2002. *Europeanization of the Governmental System as Strengthening of Domestic Executive Power: The Italian Experience and the Case of the "Legge Comunitaria"*. Paper read at ECPR Joint Session, at Turin, 22-27 March.
- Fischer, Joschka. 2000. *From Confederation to Federation. Thoughts on the finality of European integration*. London: Federal Trust.
- Fitzmaurice, John. 1976. 'National Parliaments and European Policy-Making: the Case of Denmark'. *Parliamentary Affairs*, Vol. 29, No. 3, pp. 281-92.
- Fitzmaurice, John. 1979. 'The Danish system of parliamentary control over European Community policy'. In *The European Parliament and the National Parliaments*, edited by Valentine Herman and Rinus van Schendelen. Farnborough: Saxon House, pp. 201-18.
- Fitzmaurice, John. 1981. *Politics in Denmark*. London: C. Hurst & Company.
- Fitzmaurice, John. 1994. 'The European Commission'. In *Maastricht and Beyond. Building the European Union*, edited by Andrew Duff, John Pinder and Roy Pryce. London: Routledge, pp. 179-89.
- Fitzmaurice, John. 1996. 'National Parliamentary Control of EU Policy in the Three New Member States'. *West European Politics*, Vol. 19, No. 1, pp. 88-96.
- Folketinget. 1995. *Europaudvalget*. Copenhagen: Folketinget.
- Folketinget. 1999. *Samling af beretninger afgivet af Markedsudvalget og Europaudvalget i perioden 1973 til 1999*. Copenhagen: Folketinget.
- Folketinget. 2000. *Committees - Workshops of the Folketing*. Copenhagen: The Folketing.
- Folketinget. 2001a. *Beretning om Europaudvalgets fremtidige arbejde*. Copenhagen: Folketinget.
- Folketinget. 2001b. *Danmarks Riges Grundlov af 5. Juni 1953*. Copenhagen: Folketinget.
- Folketinget. 2001c. *Kommissionens beføjelser til at gennemføre EU-lovgivning. Hvordan arbejder komiteerne i EU?* Copenhagen: Folketinget.
- Folketinget. 2005. *Danish democracy*. [Online document]. Folketinget, 2005a [cited 22 August 2005]. Available from <http://www.ft.dk/pdf/introductionUK.pdf>.

- Folketinget. 2005. *Welcome to the Folketing*. [Online document]. Folketinget, 2005b [cited 22 August 2005]. Available from http://www.folketinget.dk/pdf/ark5_e.pdf.
- Folketingets EU-Oplysning. 2003. *Specialudvalg under EU-udvalget*. [Online document]. Folketingets EU-Oplysning, 2003 [cited February 15 2003]. Available from <http://euo.dk/folketinget/specialudvalg/>.
- Føllesdal, Anders. 2004. *Subsidiarity and Democratic Deliberation*. ARENA, 1999 [cited 19 September 2004]. Available from http://www.arena.uio.no/publications/working-papers1999/papers/wp99_21.htm.
- Fontaine, Pascal. 2000. *A new idea for Europe. The Schuman declaration - 1950 - 2000*. 2nd ed. Brussels: European Commission.
- Frangakis, Nikos, and Antonios D. Papayannides. 2003. 'Greece: a never-ending story of mutual attraction and estrangement'. In *Fifteen into one? The European Union and its member states*, edited by Wolfgang Wessels, Andreas Maurer and Jürgen Mittag. Manchester: Manchester University Press, pp. 166-83.
- Franklin, Mark, and Cees van der Eijk. 1996. 'The Problem: Representation and Democracy in the European Union'. In *Choosing Europe? The European Electorate and National Politics in the Face of Union*, edited by Cees van der Eijk and Mark N. Franklin. Ann Arbor: University of Michigan Press, pp. 3-10.
- Furlong, Paul. 1996. 'The Italian Parliament and European Integration - Responsibilities, Failures and Successes'. In *National Parliaments and the European Union*, edited by Philip Norton. London: Frank Cass, pp. 35-45.
- Furlong, Paul. 2000. Institutional Fragmentation in Parliamentary Control - the Italian Case. Paper read at ECPR Joint Sessions of Workshops, at Copenhagen, 14-19 April.
- Gallo, Flaminia, and Birgit Hanny. 2003. 'Italy: progress behind complexity'. In *Fifteen into one? The European Union and its member states*, edited by Wolfgang Wessels, Andreas Maurer and Jürgen Mittag. Manchester: Manchester University Press, pp. 271-97.
- Gavin, Brigid. 2001. *The European Union and Globalisation. Towards Global Democratic Governance*. Cheltenham: Edward Elgar Publishing Limited.
- Geddes, Andrew. 2004. *The European Union and British Politics*. Houndmills: Palgrave Macmillan.
- George, Stephen. 1994. *An awkward partner: Britain in the European Community*. Oxford: Oxford University Press.
- Girvin, Brian. 1990. 'Change and Continuity in Liberal Democratic Political Culture'. In *Contemporary Political Culture. Politics in a Postmodern Age*, edited by John R. Gibbins. London: Sage, pp. 31-51.
- Greenwood, Justin. 1997. *Representing Interests in the European Union*. Houndmills: Macmillan Press.
- Griffin, Roger. 1997. 'Italy'. In *European Political Cultures. Conflict or Convergence?*, edited by Roger Eatwell. London: Routledge, pp. 139-56.
- Haas, Ernst B. 1961. 'International Integration: The European and the Universal Process'. *International Organization*, Vol. 15, No. 3, pp. 366-92.
- Haas, Ernst B. 1968. *The Uniting of Europe. Political, Social, and Economic Forces 1950 - 1957*. 2nd ed. Stanford: Stanford University Press.
- Hansen, Ivar. 2002. *National Parliaments in the European Institutional Framework*. [Online document]. Folketinget, 2002a [cited 23 November 2002]. Available from http://www.cosac.org/eng/previous/copenhagen_2002/hansen.pdf.
- Hansen, Ivar. 2002b. Personal communication.
- Hansen, Troels B., and Bruno Scholl. 2002. *Europeanization and Domestic Parliamentary Adaptation - A Comparative Analysis of the Bundestag and the House of Commons*. [Online paper]. European Integration online Papers, 2002 [cited September 30 2002]. Available from <http://eiop.or.at/eiop/texte/2002-015a.htm>.
- Hayes-Renshaw, Fiona. 2002. 'The Council of Ministers'. In *The Institutions of the European Union*, edited by John Peterson and Michael Shackleton. Oxford: Oxford University Press, pp. 47-70.
- Hayes-Renshaw, Fiona, and Helen Wallace. 1997. *The Council of Ministers*. Houndmills: Macmillan Press Ltd.

- Hegeland, Hans, and Christine Neuhold. 2002. *Parliamentary participation in EU affairs in Austria, Finland and Sweden: Newcomers with different approaches*. [Online paper]. European Integration online Papers (EIoP), 2002 [cited 26 July 2002]. Available from <http://www.eiop.or.at/eiop/texte/2002-010.htm>.
- Held, David. 1987. *Models of Democracy*. Stanford: Stanford University Press.
- Held, David. 1995. *Democracy and the Global Order. From the Modern State to Cosmopolitan Governance*. Cambridge: Polity Press.
- Held, David. 2005. 'Democratic Accountability and Political Effectiveness from a Cosmopolitan Perspective'. In *Global Governance and Public Accountability*, edited by David Held and Mathias Koenig-Archibugi. Malden: Blackwell Publishing, pp. 240-67.
- Held, David, and Mathias Koenig-Archibugi. 2005. 'Introduction'. In *Global Governance and Public Accountability*, edited by David Held and Mathias Koenig-Archibugi. Malden: Blackwell Publishing, pp. 1-7.
- Heseltine, Michael. 1989. *The Challenge of Europe. Can Britain win?* London: Weidenfeld and Nicolson.
- Higgins, Sir Terence. 1995. *Hansard Volume (House of Commons Debate)*, 7 November 1995, column 764.
- Hine, David. 1993. *Governing Italy. The Politics of Bargained Pluralism*. Oxford: Clarendon Press.
- Hix, Simon. 2002. *Linking National Politics to Europe*. [Online paper]. Network-Europe.net, 2002 [cited April 26 2002]. Available from <http://network-europe.net/political-competition/hix/#pdf>.
- Hoffmann, Stanley. 1966. 'Obstinate of Obsolete? The Fate of the Nation-State and the Case of Western Europe'. *Dædalus*, Vol. 95, No. 3, pp. 862-915.
- Hölscheidt, Sven. 2001. 'The German Bundestag: From Benevolent 'Weakness' Towards Supportive Scrutiny'. In *National Parliaments on their Ways to Europe: Losers or Latecomers?*, edited by Andreas Maurer and Wolfgang Wessels. Baden-Baden: Nomos, pp. 103-56.
- Holzhacker, Ronald. 2002. National Parliaments in the European Union. A model to Comparatively Assess the Power to Scrutinize: Rules, Institutions, and Party Behaviour. Paper read at ECPR Joint Sessions, at Turin, Italy, September 30.
- Hooghe, Liesbet, and Gary Marks. 2001. *Multi-Level Governance and European Integration*. Oxford: Rowman and Littlefield Publishers.
- House of Commons. 1972-73. 'Official Reports. Fifth Series. Parliamentary Debates, Commons', House of Commons, Volume 848.
- House of Commons. 2002. *The Modernisation Committees Proposals Concerning the Legislative Process*. [Online Document]. House of Commons, 1998a [cited 14 February 2002]. Available from <http://www.parliament.the-stationery-office.co.uk/pa/cm199798/cmchair/296/mdcp02.htm>.
- House of Commons. 2002. *Modernisation of the House of Commons - Seventh Report*. [Online Document]. Select Committee on Modernisation, 1998b [cited 14 February 2002]. Available from <http://www.parliament.the-stationery-office.co.uk/pa/cm199798/cmselect/cmmodern/791/79102.htm>.
- House of Commons. 2003. *Modernisation of the House of Commons - Fourth Report*. [Online Document]. Select Committee on Modernisation, 2000 [cited 14 November 2003]. Available from <http://www.publications.parliament.uk/pa/cm199900/cmselect/cmmodern/906/90602.htm>.
- House of Commons. 2003. *Modernisation of the House of Commons - A Reform Programme*. [Online Document]. House of Commons, 2002a [cited 23 January 2003]. Available from <http://www.publications.parliament.uk/pa/cm200102/cmselect/cmmodern/1168/1168ap01.htm>.
- House of Commons. 2002. *Modernisation of the House of Commons - First Report*. [Online Document]. Committee on Modernisation, 2002b [cited 14 February 2002]. Available from <http://www.parliament.the-stationery-office.co.uk/pa/cm200102/cmselect/cmmodern/224/22402.htm>.

- House of Commons. 2003. *The Committee System of the House of Commons*. [Online document]. Committee Office, 2003a [cited 20 December 2003]. Available from <http://www.parliament.uk/commons/selcom/cteesystemmay2003.pdf>.
- House of Commons. 2003. *Standing Orders of the House of Commons - Public Business*. [Online document]. House of Commons, 2003b [cited 29 December 2003]. Available from <http://www.publications.parliament.uk/pa/cm200203/cmstords/175/17519.htm#a151>.
- House of Commons Environment, Food and Rural Affairs Committee. 2002. *Disposal of Refrigerators. Fourth Report of Session 2001-02*. [Online document]. House of Commons, 2002 [cited 9 December 2002]. Available from <http://www.publications.parliament.uk/pa/cm200102/cmselect/cmenvfru/673/673.pdf>.
- House of Commons European Scrutiny Committee. 2002a. *Democracy and Accountability in the EU and the Role of National Parliaments. Thirty-third Report of Session 2001-02*. 2 vols. London: House of Commons.
- House of Commons European Scrutiny Committee. 2002b. *European Scrutiny in the Commons. Thirtieth Report of Session 2001-02*. London: House of Commons.
- House of Commons Foreign Affairs Committee. 2003. *Foreign Affairs Committee Annual Report 2002*. [Online document]. House of Commons, 2003 [cited 18 July 2003]. Available from <http://www.publications.parliament.uk/pa/cm200203/cmselect/cmfaff/404/404.pdf>.
- House of Commons International Development Committee. 2003. *Department for International Development: Departmental Report 2003*. [Online document]. House of Commons, 2003 [cited 20 November 2003]. Available from <http://www.publications.parliament.uk/pa/cm200203/cmselect/cmintdev/825/825.pdf>.
- House of Lords. 2004. *Reports and Evidence Published*. [Online document]. House of Lords, 2004 [cited 19 April 2004]. Available from http://www.parliament.uk/parliamentary_committees/lords_general_info/rp0102.cfm.
- House of Lords Select Committee on the European Union. 2001. *A Second Parliamentary Chamber for Europe: An Unreal Solution to Some Real Problems*. London: House of Lords.
- House of Lords Select Committee on the European Union. 2002. *Review of Scrutiny of European Legislation*. London: House of Lords.
- Hunnings, Neville March. 1996. *The European Courts*. London: Cartermill.
- Isaac, Jeffrey. 1992. 'Conceptions of Power'. In *Encyclopedia of Government and Politics*, edited by Mary Hawkesworth and Maurice Kogan. London: Routledge, pp. 56-69.
- Jensen, Henrik. 2002. *Partigrupperne i Folketinget*. Copenhagen: Jurist- og Økonomforbundets Forlag.
- Jensen, Henrik. 2003. *Europaudvalget - Et Udvalg i Folketinget*. Aarhus: Aarhus Universitetsforlag.
- Jensen, Torben K. 1995. 'Partierne, Europaudvalget og europæiseringen'. *politica*, Vol. 27, No. 4, pp. 464-79.
- Jönsson, Christer, Sven Tägil, and Gunnar Törnqvist. 2000. *Organizing European Space*. London: Sage Publications.
- Judge, David. 1995. 'The Failure of National Parliaments?' *West European Politics*, Vol. 18, No. 3, pp. 79-100.
- Justice. 1996. *The democratic deficit. Democratic accountability and the European Union*: N.p.
- Kassim, Hussein. 2005 (forthcoming). 'The European Union and Member State Institutions: Impact and Interaction in a System of Shared Governance'. In *The Member States of the European Union*, edited by Simon Bulmer and Christian Lesquesne. Oxford: Oxford University Press, pp. 518-73.
- Katz, Richard S. 2001. 'Models of Democracy. Elite Attitudes and the Democratic Deficit in the European Union'. *European Union Politics*, Vol. 2, No. 1, pp. 53-79.
- Katz, Richard S., and Bernard Wessels, eds. 1999. *The European Parliament, the National Parliaments, and European Integration*. Oxford: Oxford University Press.

- Kavanagh, Dennis. 1972. *Political Culture*. London: Macmillan.
- Kavanagh, Dennis. 1983. *Political Science and Political Behaviour*. London: George Allen & Unwin.
- Kelly, Richard, Helen Holden, and Keith Parry. 2004. *Pre-legislative scrutiny*. [Online document]. House of Commons, 2003 [cited 2 January 2004]. Available from <http://www.parliament.uk/commons/lib/research/notes/snpc-o2822.pdf>.
- Keohane, Robert O. 2002. 'International institutions: can interdependence work?' In *Power and governance in a Partially globalized world*, edited by Robert O. Keohane. London and New York: Routledge
- Koff, Sondra Z., and Stephen P. Koff. 2000. *Italy. From the First to the Second Republic*. London: Routledge.
- Ladeur, Karl-Heinz. 2004. 'Globalization and Public Governance - A Contradiction?' In *Public Governance in the Age of Globalization*, edited by Karl-Heinz Ladeur. Aldershot: Ashgate, pp. 1-22.
- Larsen, Stein Ugelvik, and Ingrid Louise Ugelvik. 1997. 'Scandinavia'. In *European Political Cultures. Conflict or Convergence?*, edited by Roger Eatwell. London: Routledge, pp. 210-32.
- Laursen, Finn. 2001. 'The Danish Folketing and its European Affairs Committee: Strong Players in the National Policy Cycle'. In *National Parliaments on their Ways to Europe: Losers or Latecomers?*, edited by Andreas Maurer and Wolfgang Wessels. Baden-Baden: Nomos, pp. 103-21.
- Leicester, Graham. 1997. *Westminster and Europe. Proposals for Change. The Role of National Parliaments in the European Union*. London: Hansard Society.
- Lodge, Juliet. 1986. *Direct Elections to the European Parliament 1984*. Houndmills: The Macmillan Press Ltd.
- Lodge, Juliet. 1996a. 'The European Parliament'. In *The European Union: How Democratic Is It?*, edited by Svein S. Andersen and Kjell A. Eliassen. London: Sage Publications, pp. 187-214.
- Lodge, Juliet. 1996b. 'The European Parliament and Euro-elections: A Quest for Legitimacy and Integration?' In *The 1994 Elections to the European Parliament*, edited by Juliet Lodge. London: Pinter, pp. 12-39.
- Lord, Christopher. 1992. 'Sovereign or Confused? The 'Great Debate' about British Entry to the European Community 20 Years On'. *Journal of Common Market Studies*, Vol. 30, No. 4, pp. 419-36.
- Lord, Christopher. 1998. *Democracy in the European Union*. Sheffield: Sheffield University Press.
- Machiavelli, Niccolò. 1981. [1514]. *The Prince*. London: Penguin Group.
- Majone, Giandomenico. 1996. 'Regulatory legitimacy'. In *Regulating Europe*. London: Routledge, pp. 284-301.
- Makins, Marian, ed. 1991. *Collins English Dictionary*. Glasgow: HarperCollins Publishers.
- Mancini, G. Federico. 1989. 'The Making of a Constitution for Europe'. *Common Market Law Review*, Vol. 26, No. 3, pp. 595-614.
- Marks, Gary, Liesbet Hooghe, and Kermit Blank. 1996. 'European Integration from the 1980s: State-Centric v. Multi-level Governance'. *Journal of Common Market Studies*, Vol. 34, No. 3, pp. 341-78.
- Martin, David. 1991. *Europe: an Ever Closer Union*. Nottingham: Spokesman for European Labour Forum.
- Maurer, Andreas. 2001. *National Parliaments after Amsterdam: Adaptation, Re-Calibration and Europeanisation by process. Paper for Working Group Meeting, XXIVth COSAC April 8-9 2001*. [Online document]. Andreas Maurer, 2001 [cited 25 May 2001]. Available from http://www.cosac.org/eng/previous/stockholm_2001/working_group/intro_a_maurer_for_stockholm.pdf.
- Maurer, Andreas. 2003. 'Germany: fragmented structures in a complex system'. In *Fifteen into one? The European Union and its member states*, edited by Wolfgang Wessels, Andreas Maurer and Jürgen Mittag. Manchester: Manchester University Press, pp. 115-49.
- Maurer, Andreas, and Wolfgang Wessels. 2001a. 'National Parliaments after Amsterdam: From Slow Adapters to National Players?' In *National Parliaments on*

- the Ways to Europe: Losers or Latecomers?*, edited by Andreas Maurer and Wolfgang Wessels. Baden-Baden: Nomos, pp. 469-525.
- Maurer, Andreas, and Wolfgang Wessels, eds. 2001b. *National Parliaments on their Ways to Europe: Losers or Latecomers?* Baden-Baden: Nomos.
- McGrew, Anthony. 1997. 'Globalization and territorial democracy: an introduction'. In *The Transformation of Democracy? Globalization and territorial democracy*, edited by Anthony McGrew. Cambridge: Polity Press, pp. 1-24.
- Melotti, Umberto. 2000. 'Italian Immigration Policy and the Italian Political Culture'. *The International Scope Review*, Vol. 2, No. 4, pp. 1-13.
- Menéndez, Agustín José. 2002. 'Chartering Europe: Legal Status and Policy Implications of the Charter of Fundamental Rights of the European Union'. *Journal of Common Market Studies*, Vol. 40, No. 3, pp. 471-90.
- Menon, Anand, and Vincent Wright. 1998. 'The Paradoxes of 'Failure': British EU Policy Making in Comparative Perspective'. *Public Policy and Administration*, Vol. 13, No. 4, pp. 46-66.
- Mezey, Michael. 1990. 'Classifying Legislatures'. In *Legislatures*, edited by Philip Norton. Oxford: Oxford University Press, pp. 149-76.
- Millar, David. 1979. 'Treatment of European community matters by committees of the national parliaments'. In *The European Parliament and the National Parliaments*, edited by Valentine Herman and Rinus van Schendelen. Farnborough: Saxon House, pp. 189-200.
- Mitrany, David. 1943. *A Working Peace System. An Argument for the Functional Development of International Organization*. London: The Royal Institute of International Affairs.
- Moravcsik, Andrew. 1991. 'Negotiating the Single European Act: National Interests and Conventional Statecraft in the European Community'. *International Organization*, Vol. 45, No. 1, pp. 19-56.
- Moravcsik, Andrew. 1998. *The Choice for Europe. Social Purpose and State Power from Messina to Maastricht*. London: UCL Press.
- Moravcsik, Andrew. 2002. 'In Defence of the 'Democratic Deficit': Reassessing Legitimacy in the European Union'. *Journal of Common Market Studies*, Vol. 40, No. 2, pp. 603-24.
- Moravcsik, Andrew. 2005. 'Is there a 'Democratic Deficit' in World Politics? A Framework for Analysis'. In *Global Governance and Public Accountability*, edited by Derek Hearl and Mathias Koenig-Archibugi. Malden: Blackwell Publishing, pp. 232-39.
- Neunreither, Karlheinz. 1994. 'The Democratic Deficit of the European Union: Towards Closer Cooperation between the European Parliament and the National Parliaments'. *Government and Opposition*, Vol. 29, No. 3, pp. 299-314.
- Neunreither, Karlheinz. 2000. 'Political Representation in the European Union: A Common Whole, Various Wholes, or Just a Hole?' In *European Integration After Amsterdam. Institutional Dynamics and Prospects for Democracy*, edited by Karlheinz Neunreither and Antje Wiener. Oxford: Oxford University Press, pp. 129-49.
- Newell, James L. 2000. *Parties and Democracy in Italy*. Aldershot: Ashgate.
- Niblock, Michael. 1971. *The EEC: National Parliaments in Community Decision-making*. London: Chatham House.
- Nielsen, Ole Bang. 2003. EU-forfatning trævles op. *Berlingske Tidende*.
- Norman, Peter. 2003. 'Evaluation and Conclusions'. In *The Accidental Constitution*. Brussels: EuroComment, pp. 319-39.
- Norton, Philip. 1990a. 'General Introduction'. In *Legislatures*, edited by Philip Norton. Oxford: Oxford University Press, pp. 1-16.
- Norton, Philip, ed. 1990b. *Legislatures*. Oxford: Oxford University Press.
- Norton, Philip. 1994. 'The Legislative Powers of Parliament'. In *The Evolving Role of Parliaments in Europe. L'Evolution du Role des Parlements en Europe*, edited by Cees Flinterman, Aalt Willam Heringa and Lisa Waddington. Antwerpen: Maklu Uitgevers, pp. 15-35.
- Norton, Philip. 1996a. 'Conclusion: Addressing the Democratic Deficit'. In *National Parliaments and the European Union*, edited by Philip Norton. London: Frank Cass, pp. 177-93.

- Norton, Philip. 1996b. 'Introduction: Adapting to European Integration'. In *National Parliaments and the European Union*, edited by Philip Norton. London: Frank Cass, pp. 1-11.
- Norton, Philip, ed. 1996c. *National Parliaments and the European Union*. London: Frank Cass.
- Norton, Philip. 1998a. 'Introduction: The Institution of Parliaments'. In *Parliaments and Governments in Western Europe*, edited by Philip Norton. London: Frank Cass, pp. 1-15.
- Norton, Philip. 1998b. 'Old Institution, New Institutionalism? Parliament and Government in the UK'. In *Parliaments and Governments in Western Europe*, edited by Philip Norton. London: Frank Cass, pp. 16-43.
- Nugent, Neill. 1997. 'At the Heart of the Union'. In *At the Heart of the Union. Studies of the European Commission*, edited by Neill Nugent. Houndmills: Macmillan Press Ltd, pp. 1-26.
- Nugent, Neill. 1999. *The Government and Politics of the European Union*. 4th ed. Houndmills: Macmillan Press.
- Nugent, Neill. 2002. 'The Commission's Services'. In *The Institutions of the European Union*, edited by John Peterson and Michael Shackleton. Oxford: Oxford University Press, pp. 141-63.
- Olsen, Johan P. 2002. 'The Many Faces of Europeanization'. *Journal of Common Market Studies*, Vol. 40, No. 5, pp. 921-52.
- Palmer, Michael. 1981. 'Historical Background'. In *The European Parliament. What it is. What it does. How it works*. Oxford: Pergamon Press Ltd, pp. 19-24.
- Pasquino, Gianfranco. 1996. 'Italy. A democratic regime under reform'. In *Political Institutions in Europe*, edited by Joseph M. Colomer. London: Routledge, pp. 138-69.
- Pasquino, Gianfranco. 2000. 'Political development'. In *Italy since 1945*, edited by Patrick McCarthy. Oxford: Oxford University Press, pp. 69-94.
- Payne, Rodger A., and Nayef H. Samhat. 2004. *Democratizing Global Politics*. New York: State University of New York Press.
- Pedersen, Ove K., ed. 2002. *EU i forvaltningen. Broen fra Slotsholmen til Bruxelles*. Copenhagen: Jurist-og Økonomforbundets Forlag.
- Peterson, John. 1994. 'Subsidiarity: A Definition to Suit Any Vision?' *Parliamentary Affairs*, Vol. 47, No. 1, pp. 116-32.
- Peterson, John. 1999. 'The Santer era: the European Commission in normative, historical and theoretical perspective'. *Journal of European Public Policy*, Vol. 6, No. 1, pp. 46-65.
- Peterson, John. 2001. 'The Choice for EU theorists: Establishing a common framework for analysis'. *European Journal of Political Research*, Vol. 39, No. 3, pp. 289-318.
- Peterson, John. 2002. 'The College of Commissioners'. In *The Institutions of the European Union*, edited by John Peterson and Michael Shackleton. Oxford: Oxford University Press, pp. 71-94.
- Peterson, John, and Elizabeth Bomberg. 1999. *Decision-Making in the European Union*. Houndmills: Macmillan Press Ltd.
- Peterson, John, and Elizabeth Bomberg. 2000. 'The EU after the 1990s: Explaining Continuity and Change'. In *The State of the European Union. Risks, Reform, Resistance, and Revival. Volume 5*, edited by Maria Green Cowles and Michael Smith. Oxford: Oxford University Press, pp. 19-41.
- Pilkinton, Colin. 2001. *Britain in the European Union Today*. Manchester: Manchester University Press.
- Pitkin, Hann Fenichel. 1989. 'Representation'. In *Political Innovation and Conceptual Change*, edited by Terence Ball, James Farr and Russell L. Hanson. Cambridge: Cambridge University Press, pp. 132-54.
- Puchala, Donald J. 1972. 'Of Blind Men, Elephants and International Integration'. *Journal of Common Market Studies*, Vol. 10, No. 3, pp. 267-84.
- Putnam, Robert D. 1988. 'Diplomacy and domestic politics: the logic of two-level games'. *International Organization*, Vol. 42, No. 3, pp. 427-60.
- Putnam, Robert D. 1993. *Making Democracy Work. Civic Traditions in Modern Italy*. Princeton: Princeton University Press.

- Radaelli, Claudio M. 2004. Europeanisation: Solution or Problem. Paper read at Britain in Europe, Europe in Britain: The Europeanisation of British Politics, at University of Sheffield, 16 July.
- Rasmussen, Poul Nyrup. 2002. Personal letter.
- Raunio, Tapio. 1999. 'Always One Step Behind? National Legislatures and the European Union'. *Government and Opposition*, Vol. 34, No. 2, pp. 180-202.
- Raunio, Tapio. 2001. 'The Parliament of Finland: A Model Case for Effective Scrutiny?' In *National Parliaments on their Ways to Europe: Losers or Latecomers?*, edited by Andreas Maurer and Wolfgang Wessels. Baden-Baden: Nomos, pp. 183-211.
- Republic of Italy. 2002. *Constitution*. [Online Document]. Camera dei Deputati, 2002 [cited 22 September 2002]. Available from <http://english.camera.it/index.asp?content=deputati/funzionamento/03.costituzione.asp>.
- Rizzuto, Francesco. 2003. *The new role of national parliaments in the EU. No longer victims of integration?* [Online article]. The Federal Trust, 2003 [cited 20 September 2003]. Available from http://www.fedtrust.co.uk/uploads/constitution/19_03.pdf.
- Rooker, Jeff. 1995. *Hansard Volume (House of Commons Debates)*, 7 November 1995, column 767.
- Rosamond, Ben. 2000. *Theories of European Integration*. Houndmills: Macmillan Press Ltd.
- Sandholtz, Wayne. 1993. 'Choosing Union: Monetary Politics and Maastricht'. *International Organization*, Vol. 47, No. 1, pp. 1-39.
- Scharpf, Fritz W. 1999. *Governing in Europe: Effective and Democratic?* Oxford: Oxford University Press.
- Schumpeter, Joseph A. 1943. 'Part IV: Socialism and Democracy'. In *Capitalism, Socialism and Democracy*. London: George Allen & Unwin Ltd, pp. 235-302.
- Sear, Chris. 2003. *Modernisation of the House of Commons: Changes agreed on 29 October 2002*. [Online document]. House of Commons Parliament and Constitution Centre, 2002 [cited 22 March 2003]. Available from <http://www.parliament.uk/commons/lib/research/notes/snpc-02014.pdf>.
- Senato della Repubblica. 2004. *What the 14th Standing Committee on EU Policies does*. [Online text]. 2004 [cited 10 July 2004]. Available from <http://www.senato.it/att/affint/english/14thcommiss.htm>.
- Siedentop, Larry. 2000. *Democracy in Europe*. London: Allen Lane.
- Slaughter, Anne-Marie. 2004. *A New World Order*. Princeton: Princeton University press.
- Sørensen, Georg. 1998. *Democracy and Democratization. Processes and Prospects in a Changing World*. 2nd ed. Oxford: Westview Press.
- Stein, Eric. 1981. 'Lawyers, Judges, and the Making of a Transnational Constitution'. *American Journal of International Law*, Vol. 75, No. 1, pp. 1-27.
- Stuart, Gisela. 2003. *The Making of Europe's Constitution*. London: Fabian Society.
- Szukala, Andrea. 2003. 'France: the European transformation of the French model'. In *Fifteen into one? The European Union and its member states*, edited by Wolfgang Wessels, Andreas Maurer and Jürgen Mittag. Manchester: Manchester University Press, pp. 216-47.
- Szukala, Andrea, and Olivier Rozenberg. 2001. 'The French Parliament and the EU: Progressive Assertion and Strategic Investment'. In *National Parliaments on their Ways to Europe: Losers or Latecomers?*, edited by Andreas Maurer and Wolfgang Wessels. Baden-Baden: Nomos, pp. 241-73.
- Taylor, Simon. 2000a. Jury is still out on Prodi Commission. *European Voice*, 16-22 March, 9.
- Taylor, Simon. 2000b. Power vacuum at the heart of Europe? *European Voice*, 20-26 April, 8.
- Tempest, Matthew. 2004. Kilroy-Silk vows to 'wreck' EU. *the Guardian*.
- The British Parliament. 2005. *The Accountability of Government*. [Online text]. 2004a [cited August 22 2005]. Available from <http://www.parliament.uk/works/account.cfm>.
- The British Parliament. 2005. *Government and Opposition*. [Online text]. 2004b [cited August 22 2005]. Available from <http://www.parliament.uk/works/pagovopp.cfm>.

- The European Convention Secretariat. 2003. *Draft Treaty establishing a Constitution for Europe*. [Online document]. Convention Secretariat, 2003a [cited 31 July 2003]. Available from <http://european-convention.eu.int/DraftTreaty.asp?lang=EN>.
- The European Convention Secretariat. 2003. *Summary report on the plenary session. CONV 630/03*. [Online document]. The European Convention Secretariat, 2003b [cited 24 September 2003]. Available from <http://register.consilium.eu.int/pdf/en/03/cv00630en03.pdf>.
- The European Convention Working Group IV. 2002. *Final report of Working Group IV on the role of national parliaments. CONV 353/02*. [Online document]. The European Convention Secretariat, 2002a [cited 22 October 2002]. Available from <http://register.consilium.eu.int/pdf/en/02/cv00353en2.pdf>.
- The European Convention Working Group IV. 2003. *Mandate of the Working Group on National Parliaments*. [Online Document]. The European Convention Working Group IV, 2002b [cited 27 July 2003]. Available from <http://register.concilium.eu.int/pdf/en/02/cv00/00074en2.pdf>.
- The United Kingdom Parliament. 2003. *The U.K. Parliament*. [Website]. The United Kingdom Parliament, 2003 [cited 24 February 2003]. Available from <http://www.parliament.uk/works/parliament.cfm>.
- Thomas, Graham P. 2005. 'The Prime Minister and Parliament'. In *Parliament in the 21st Century*, edited by Nicholas D.J. Baldwin. London: Politico's Publishing, pp. 223-65.
- Thomassen, Jacques, and Hermann Schmitt. 1997. 'Policy representation'. *European Journal of Political Research*, Vol. 32, No. 2, pp. 165-84.
- Thomsen, Jens Peter Frølund. 2000. *Magt og indflydelse*. Århus: Magtudredningen.
- Tiilikainen, Teija. 2003. 'Finland: smooth adaptation to European values and institutions'. In *Fifteen into one? The European Union and its member states*, edited by Wolfgang Wessels, Andreas Maurer and Jürgen Mittag. Manchester: Manchester University Press, pp. 150-65.
- Treaty Establishing the European Coal and Steel Community (Paris, 18 April 1951).
- Treaty Establishing the European Community.
- Treaty Establishing the European Economic Community (Rome, 25 March 1957).
- Treaty of Nice.
- Treaty on European Union.
- Treaty on European Union.
- Verzichelli, Luca, and Maurizio Cotta. 2002. Still a Central Institution? New Patterns of Parliamentary Democracy in Italy. 1992-2002. Paper read at ECPR Joint Sessions of Workshops, at Turin, 22-27 March.
- Wakeham, Rt Hon Lord DL. 2004. *A House for the Future. Royal Commission on the Reform of the House of Lords*. [Online document]. The Stationary Office, 2000 [cited 20 November 2004]. Available from <http://www.archive.official-documents.co.uk/document/cm45/4534/4534.htm>.
- Wallace, William. 1986. 'What price independence? Sovereignty and interdependence in British politics'. *international Affairs*, Vol. 62, No. 3, pp. 367-89.
- Wallace, William. 2000. 'Collective Governance'. In *Policy-Making in the European Union*, edited by Helen Wallace and William Wallace. Oxford: Oxford University Press, pp. 523-42.
- Warleigh, Alexander. 2003. *Democracy and the European Union*. London: Sage Publications.
- Wedeen, Lisa. 2002. 'Conceptualizing Culture: Possibilities for Political Science'. *American Political Science Review*, Vol. 96, No. 4, pp. 713-28.
- Weiler, J. H. H. 1999. *The Constitution of Europe. "Do the new clothes have an emperor?" and other essays on European integration*. Cambridge: Cambridge University Press.
- Weiler, J. H. H., Alexander Ballmann, Ulrich Haltern, Herwig Hofmann, and Franz Mayer. 2000. *Certain Rectangular Problems of European Integration. Empowering the Individual: The Four Principal Proposals*. [Online Document]. J. H. H. Weiler & European Parliament, 1996 [cited 26 July 2000]. Available from <http://www.iue.it/AEL/EP/fpp.html>.
- Weir, Stuart. 1994. *British Democracy in the Balance*. London: The Charter 88 Trust.
- Welch, Stephen. 1993. *The Concept of Political Culture*. Houndmills: the Macmillan Press.

- Wessels, Wolfgang, Andreas Maurer, and Jürgen Mittag, eds. 2003. *Fifteen into one? The European Union and its member states*. Manchester: Manchester University Press.
- Westlake, Martin. 1994. *A Modern Guide to the European Parliament*. London: Pinter Publishers.
- Westlake, Martin. 1996. 'The View From 'Brussels''. In *National Parliaments and the European Union*, edited by Philip Norton. London: Frank Cass, pp. 167-76.
- Westlake, Martin. 1997. 'The Commission and the Parliament'. In *The European Commission*, edited by Geoffrey Edwards and David Spence. London: Cartermill, pp. 239-63.