

Measuring the Europeanisation of national parliaments

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ABSTRACT

The aim of this paper is exploring the state of the art of research on the Europeanisation of national parliaments. The huge bulk of literature focuses on EU scrutiny of legislatures and states a weakening of national parliaments vis-à-vis their governments (e.g. Maurer and Wessels 2001). Other authors elaborate on lawmaking and they find the EU influence mostly smaller than expected and differing between policy areas (e.g. Brouard, Costa, and Thomas König forthcoming). We suggest that research would benefit from bringing these strands of literature together in order arrive at a holistic and differentiated estimate of the EU impact on national parliaments. Three conclusions can be drawn from the state of the art, which point to areas of future research: Firstly, scholars should investigate the differentiated impact of the EU on parliamentary fora (plenary, committee, party groups) and functions (deliberation, representation, lawmaking, and scrutiny). Secondly, research on political parties within the EU has to be more considered by scholars of government-parliament relations. Legislatures and their respective executives are not purely opponents, but allies through party bonds and both are constrained by EU policy making. Thirdly, research has to better address measurement issues. In order to improve the causal link in Europeanisation studies and to avoid a bias towards EU-level explanations, policy areas of different (and possibly no) EU impulse should be compared in a quasi-experimental design. The relevance of this paper lies not only in its contribution to Europeanisation research. It also touches upon the question of the democratic quality within the EU, and enriches existing research in pointing out its achievements and pitfalls.

KEYWORDS

Europeanisation – National parliaments – Scrutiny – Lawmaking

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1. Introduction

Since the “permissive consensus” of the general public has given way to Euroscepticism, negative referenda and extremely low turnout at European elections¹, one of the major concerns of politicians as well as political scientists has been the double democratic deficit and hollowing out of the nation state (Ladrech 2010, 73ff). European integration, they claim, leads to the weakening of the dual legitimacy of the EU, consisting in the amount of control the EP and the national parliaments exert over their respective executive bodies (Benz 2004). The national parliaments loose leverage vis-à-vis their executives due to the extension of qualified majority voting in the Council. Even worse, the growing powers of the EU are seen to trigger a weakening of national parliaments, the often referred “losers” of political integration (Maurer and Wessels 2001). Moreover, whereas the national executives take decisions behind closed doors in the Council, national parliaments are considered to lag behind in scrutinizing EU lawmaking. The sheer amount of legislative acts stemming from the EU makes it an impossible exercise for national parliamentarians to effectively control their governments, besides their normal business as legislators. Subsequent adaptation and reform of national parliaments' internal procedures and scrutiny mechanisms are doubted to outweigh the suspected loss in power (Maurer and Wessels 2001; J. O’Brennan and T. Raunio 2007b; Tapio Raunio and Hix 2000).

This discussion inspired the present paper which is concerned with an evaluation of respective literature on the Europeanisation of national parliaments. It is argued that it is inadequate to assume national legislatures being unitary actors, as implicitly done when focusing on power balances. Instead, clarifying the causal link between an EU impact and domestic adaptation processes brings valuable insights into the unequal affection of actors within the national parliaments by EU policy making. We propose taking into account for all aspects of parliament-government relations, scrutiny as well as lawmaking, and understand how they have changed over time and in different policy areas due to European integration. The principal objective is to contribute to a better understanding of the development of parliamentary democracy in the multi-level governance within the EU.

¹ Slovakia hit the record of low turnout twice, in the 2004 and 2009 elections to the European Parliament, with 17% and 19% of the electorate respectively, showing up at the ballot boxes. On average, the turnout at European Parliament elections further declined by 2.5% to 43% in 2009.

http://www.europarl.europa.eu/parliament/archive/elections2009/de/turnout_de.html

Before further highlighting unresolved research questions in more detail, we give an overview of the state-of-the-art in literature on the Europeanisation of national parliaments. This includes a presentation of relevant findings of previous empirical studies on the topic. Then, we set out some of the pitfalls in research of how the EU impacts on national parliaments.

Consequences for research are outlined in the final section of this paper.

2. Questioning the democratic deficit

Although plausible, the assumptions and conclusions of a weakening of parliamentary government within the EU are contested. First, doubts have been cast if the democratic deficit in the EU as such exists or not. Applying a principal-agent approach, some authors have argued that the chain of delegation from national parliaments, to their executives and further on to the Council of Ministers already ensures the legitimacy of EU policy making. In this intergovernmentalist view, national parliaments' business lies at member state level. Legislators still control their respective governments independently of EU decision making (Moravcik 2008). Likewise, evoking again the delegation hypothesis, others scholars have questioned the democratic deficit caused by a weakness in parliamentary scrutiny, and have instead identified legislators as main players when it comes to transposition. Governments have to anticipate what is feasible at domestic level when they agree to a certain policy in the Council. The lack of visible parliamentary activity should not be confused with a lack of influence (Martin 2000, 147ff).

Second, the EU causing the democratic deficit has been queried. The question arises if the power balance at national level is at all altered by the European integration. De-parliamentarisation was indeed debated since the 1920ies where it was seen as caused by societal and economic developments (Bryce (1921) cited in Döring (1995, 13)). The “net-impact” (Haverland 2007, 62) of the EU on national legislators, as an independent influence between modernisation and globalisation forces, has never been adequately isolated and quantified. The difficulties encompass the simultaneous appearance of the EU together with tendencies of, for instance liberalisation and internationalisation due to globalisation, in time as well as their resemblance in content. What is more, the efforts of European nation states to join their forces were often seen as the response of European nation states to globalisation (Featherstone and Radaelli 2003, 9; Ladrech 2010, 2).

In recent years, however, a general consent among scholars of national parliaments emerged, which consists in the conclusion that European integration indeed empowered national governments rather than parliaments. According to these authors, single national executives were certainly not able to totally control agenda setting in the Council (Laver and Shepsle 1994, 294), but their inclusion into the decision making process resulted in an information advantage (Holzhacker 2007; J. O’ Brennan and T. Raunio 2007a), which consequently changed the power balance within the national political arena and caused institutional adaptation among legislatures. Yet, the scope of this EU influence on national politics is still unclear. Whereas governments gained discretion in the Council negotiations, the other side of the coin consists in a growing constraint by EU policymaking, although the Europeanisation of national legislation seems to be smaller than expected. Recent findings point to relatively modest but growing amounts of laws influenced by EU policy making (Brouard, Costa, and Thomas König forthcoming).

In how far different fora and actors within national parliaments are subsequently influenced by European integration, is largely ignored by Europeanisation scholars up to now. No concluding results exist, whether and to what extent the EU matters for national legislatures and consequently, in how far democracy is effectively in danger or absent in the EU member states. Europeanisation was initially applied as a broad term describing a variety of phenomena occurring in the context of European integration². Recently, we observe a narrowing and concretisation of the concept. The multiple uses have given way to mainly two applications in research: On the one hand, the building of the European polity is usually referred to in a context of “uploading” preferences. Such understanding of Europeanisation deals with the establishment of European integration processes. Downloading, on the other hand, accounts for the impact of European governance on national political systems. This latter research strand is the most prominent area on Europeanisation research. All aspects of member states’ political spheres are taken under investigation, policies, decision making processes, and most importantly for this paper, domestic institutions (Bulmer and Lequesne 2005; Featherstone and Radaelli 2003, 7; Graziano and Vink 2007; Ladrech 2010).

Most of the research done within this framework is of qualitative nature and treats single cases – member states, institutions and/or policies. Conclusions regarding the overall impact

² For a discussion of the “many faces of Europeanisation” see Olsen (2002).

of European integration on national political systems are rarely generalisable. To the choice of research design, methodological troubles add blurring the picture: Europeanisation studies usually do not take into account alternative explanatory factors, such as international developments, domestic factors etc. (Haverland 2007). The non-reflexivity and the lack of quantification of the EU impact at domestic level result in a patchwork of findings which do not add up contributing to a general theory of regional integration.

Consensus among Europeanisation scholars emerged nonetheless, regarding the nature of the process: Most researchers agree on European integration triggering incremental, rather than radical change at national level, without leading to general convergence (Börzel and Risse 2003, 60). One of the main concepts in this regards is the idea of a “goodness of fit” which determines the strength of adaptation pressures (Cowles Green, Caporaso, and Risse-Kappen 2001). Depending on the misfit between an EU policy and the existing domestic regulations, more or less important adaptations need to be implemented by national policymakers. A given policy will therefore have differentiated impact on member states. Yet, EU policymaking does not directly translate into domestic change: Besides the required transposition and implementation of a specific EU legislative act, the national traditions, resources and identities filter the European stimulus and lead to particular national adaptation patterns (Héritier 2001).

3. Research and recent findings on Europeanisation of national parliaments

At a first sight, national parliaments do not seem concerned by European integration. As Ladrech states *“If the traditional functions of parliaments can be listed as representation, deliberation, legislation, authorization of expenditure, and scrutiny of the executive, the formal increase of the power and influence of the EU does not directly impact any of these except scrutiny of executive. [...] The EU has no direct impact upon the domestic operation of national parliamentary action.”* (Ladrech 2010, 80). In legal terms, no formal pressure of adaptation was introduced, apart from non-binding wish lists and recommendations, starting with the two declarations concerning national parliaments in the Maastricht Treaty in 1992³

³ The Maastricht Treaty includes the following two declarations concerning national parliaments: Declaration on the role of national parliaments in the European Union and Declaration on the Conference of the Parliaments <http://eur-lex.europa.eu/en/treaties/dat/11992M/htm/11992M.html#0101000034>

and continuously resulting from interparliamentary meetings, such as the Conference of EU committees (COSAC)⁴.

Only with the Lisbon treaty, national parliaments were granted however modest but direct influence in EU politics. Legislatures and the quality of democracy stood in the focus of the attention in the Convention on the future of Europe, leading to the Lisbon Treaty. Measures, such as the “early warning mechanism” and direct sending of documents to domestic legislators⁵ were created to improve the say of national parliaments in EU legislative activities. Politicians and researchers however believe it achieving only modest effects. But again, no obligation for national parliaments could be drawn from the Treaty. The respective protocols on the role of national parliaments and the application of the subsidiarity and proportionality principles rather opened opportunities of involvement for those legislatures who wish to contribute⁶. National parliaments’ internal operations were apparently not disturbed, and neither were national parliamentarians. Rather, the Treaty provisions showed the concern of elites, within and outside national parliaments, regarding the growing democratic deficit following the deepening of integration (Tapio Raunio 2007, 87).

What we nonetheless observe is institutional change, as a most obvious reaction of national parliaments on EU integration. Internally, European Union affairs committees (EACs) were created within all EU national parliaments, in order to re-enforce the scrutiny of the respective ministers in EU affairs. Furthermore, all national parliaments but three (Spain, Malta and Slovakia) established permanent administrative representation offices at the EU, located within the EP (COSAC Secretariat 2009, 32)⁷. They serve first and foremost for counterbalancing the information asymmetry of their respective governments, reporting formal and informal news and preparing for meeting the obligations of the presidency and the COSAC secretariat membership that comes with it (COSAC Secretariat 2009, 24; Tapio Raunio and Hix 2000).

⁴ COSAC stands for “Conférence des Organes Spécialisés dans les Affaires Communautaires et Européennes des Parlements de l’Union européenne.” <http://www.cosac.eu/fr/>. COSAC conclusions are not binding, Article 10 of Protocol 1, TEU <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2007:306:0148:0150:EN:PDF>

⁵ The so-called “Barroso-initiative” of 2006

⁶ Protocol on the role of national Parliaments in the European Union, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2007:306:0148:0150:EN:PDF>

⁷ The Slovakian parliament’s office was assigned from 2006 to 2008 and for a short period afterwards. Due to spending cuts within the Národná rada, the office closed in 2010 (personal communication).

These first glances on parliamentary adjustment without (legal) obligation do not fit the very basic attestations on how Europeanisation takes place: On the one hand, the concept of misfit which triggers policy change at domestic level is inappropriate for institutional adaptation (Ladrech 2010, 76). On the other hand, comparativist scholars of national parliaments have identified EACs being similar in all NPs. Europeanisation in this case has led to a convergence in institutional features (Auel 2005, 3). Certainly, the concrete realisation of EACs rests path-dependent and bound to the parliament's tradition. Party lines stay determinant for power relations within legislatures (Tapio Raunio 2005a, 35).

The impact of EU decision making on national parliaments asks for a differentiated Europeanisation concept. Surveying the literature, there are basically two types of analyses concerned with the Europeanisation of national legislatures: First, there is a growing body of literature addressing institutional adaptation. Second, some scholars are more particularly concerned with the legal Europeanisation and lawmaking. Government-parliament relations are in the focus of this paper. Parliament-citizens relations, on the contrary, are not of central relevance for the research objective and are for this reason not dealt with in the following overview on relevant literature on the topic.

3.1. Government-parliament relations I: Scrutiny

The large body of literature concerned with the scrutiny of EU affairs has developed in three waves. In a first period, scholars discovered the institutional adaptation processes within national parliaments (e.g. Maurer and Wessels (2001), Szalay (2005)). The findings point to the fact that - although some formal givens of EACs might be similar - their functioning and nature varies between member states. Scrutiny differs between legislatures in terms of working style, nature and timing. Regarding the working style, in some parliaments it is EACs which deal with European affairs only. Others engage specialized committees or even the plenary with scrutiny. The nature of scrutiny, regarding the relationship between parliament and government, might be supportive or instructive and controlling. And finally, scrutiny might be applied *ex-ante*, before the bargain has taken place in the Council, or *ex-post*, when ministers reached an agreement. The main achievement of these studies lies in the evaluation of the strength of the respective EU scrutiny settings, with mostly the Danish, Austrian, Swedish and Finish parliaments ranging among the most powerful parliaments (Bergman 2000; Maurer and Wessels 2001).

Research on the actual use of scrutiny settings have challenged the power rankings based on institutional givens. A second strand of literature focuses on behavioural aspects. The formal organisation of scrutiny does not inform about the actual scrutiny practice. Formal scrutiny powers are only the necessary condition for legislative oversight. Scholars realised that some of the strongest legislatures in terms of EU scrutiny did not live up to their granted powers. Instead, those legislatures chose not to bind ministers tightly in Council negotiations. Two reasons were found for this strategy: Firstly, legislatures are confronted with the so-called “scrutiny dilemma” (Auel and Benz 2006; Auel 2005; Benz 2004). Especially when it comes to *ex-ante* instruction of ministers for negotiating at EU level, national parliaments are reluctant imposing too strict instructions. A tight mandating might block decisions in the Council and/or lead to suboptimal negotiation results. Parliaments are confronted with a trade-off between control/sub-optimal negotiation results and discretion/agency loss. This is why some of the more powerful parliaments, such as the Austrian or Danish, do not exploit their full potential of EU scrutiny. Secondly, party politics are determining the way how legislatures control governments in EU affairs. When the majority within a parliament does not challenge government, the two institutions stop acting autonomously. This so-called “Monism”, a more general phenomenon in parliamentary government, appears when parties are the dividing line, instead of institutions (Holzhacker 2007, 145). Europeanisation further increases the fusion of executive and legislatures, as cooperation with the government is necessary in order to carry out effective scrutiny in EU matters (Börzel and Sprungk 2007).

In a third wave, research on EU scrutiny systems started comparing how scrutiny structures are embedded within national parliaments. Based on the studies of comparative politics, some scholars drew on the ambitious aim of going beyond rankings and classifications. They frame the strength of EU scrutiny within four explanatory variables: The political culture, the party system, the general relationship between executive and legislature, and the public opinion towards European integration. Especially the latter two variables are considered most important in explaining the strength of a legislature in EU scrutiny (Tapio Raunio 2005a, 34). Firstly, this is why the introduction of EACs does not represent a fundamental system change within national parliaments (Ladrech 2010, 86f): The main power relations within legislatures, represented by party leadership as key veto-players, remained the same. As Ladrech (2010, 86f) points out, the introduction of EACs is a mainly symbolic action, and serves to voice dissent from opposition as well as government backbenchers.

Secondly, attitudes of citizens concerning European integration add to determine the EU scrutiny arrangement: The more Eurosceptic the population, the stronger controls in EU affairs (Tapio Raunio 2005a, 34). Thirdly, findings concerning the relevance of political culture, operationalised as the share of non-catholic/orthodox population, for determining scrutiny models turn out to be mixed. Finally, a general political culture variable is certainly less insightful for the subject matter than the party system, generally acknowledged among comparative scholars as the most important factor determining the relationship between government and parliament. Majority rules and minority rights are essential principles within democracies. As Holzacker explains, “*one of the reasons that national parliamentary scrutiny is so important for increasing the legitimacy and participation in the process of European decision making is that it is the primary institutional source for receiving input from opposition parties*” (Holzacker 2007, 144). EACs offer opportunity for criticizing the governmental line in EU affairs, for both, opposition and governmental backbenchers (Ladrech 2010, 86f).

All together, research on parliamentary oversight of EU affairs so far has brought us valuable insights on parliament-government relations and has revealed the reasons for institutionalisation. Three points of criticism must be added though: Firstly, research on EU scrutiny has not enough taken into account interparliamentary cooperation as a cause for the establishment and shape of EACs. The latter are not only a means to cope with demands which emerged by the Europeanisation of government-parliament relations and at national level. Inter-parliamentary cooperation has fostered their institutional learning and peer group pressure contributed to their formal similarities. Some parliaments, such as the Folketing, went even so far to actively promote their scrutiny system (Laursen 2005, 123), most effectively through twinning projects or pre-accession aid in enlargement periods. Institutions, such as the COSAC, improved exchange between politicians as well as parliamentary administrations. In order to fulfil requirements during Council presidency regarding the organisation of inter-parliamentary meetings and the participation in the COSAC-Secretariat, EACs and the EP cooperate at European level. Although the common exercises of subsidiarity and proportionality checks held in this framework do not constitute any threat to the policy making routine at EU level, the value of interparliamentary cooperation lies mainly in that it represents a forum for national parliaments to exchange best practices, discuss issues of common interest and learn from each other on how to deal with EU issues.

A second point of criticism concerns the conclusions drawn after the investigation of EU scrutiny. Evaluations of the strength of parliaments vis-à-vis their governments are premature, when only looking at scrutiny systems: Firstly, because policy making does not only consist in decision-making. Whilst parliamentary control on EU matters concerns policy formation and adoption, which is taken at supra-national level and without the direct participation of national parliaments, we argue that the concentration of the focus on decision-making leads to an over-estimation of executive power. On the one hand, and contrary to what happens at the national level, single governments alone are not master of the agenda at Council meetings. While agenda setting is one of the major instruments of executive power at national level, at EU level it is done by the 27 member states together with a major say of the country holding the presidency at the time (Laver and Shepsle 1994, 294). On the other hand, and not less important, governments' negotiation power does depend on how credible they are able to thread veto as well as to give commitments. The early inclusion of national parliaments in the formulation of the national position and a strong mandating system can be a "democratic asset" (Martin 2000, 190). It improves the credibility of government being able to implement to what it commits to and with implementation, national parliaments enter the game again (Laursen 2005; Martin 2000).

The third and final point of criticism on research done so far on EU scrutiny is a methodological one. Most studies do not link findings on EU induced change in parliament-government relations to their actual cause: EU decision-making. This leads to an over-estimation of executive dominance as Europeanisation scholars tend to assume a substantial amount of decisions to be drawn away from the domestic level (see e.g. Auel (2007, 172)). Furthermore, and even more importantly, depending on the policy field, the competence-mix between EU and domestic institutions differ. Whilst scrutiny was discussed so far when mainly carried out within the framework of the former first pillar, issues of Justice and Home affairs as well as Foreign and Defence policy were excluded from traditional parliamentary oversight as the EU does not dispose over powerful competences and only coordinate these matters.

Therefore, although evaluating the strength of parliament to oversee government in EU relations is certainly of great interest to determine consequences of Europeanisation on parliament-government relations, this paper aims at developing a more complete picture. Taking into account interparliamentary cooperation, differentiating between areas of EU

competences and going one step further in the policy cycle, to the implementation stage namely, is important in order to understand effects of EU decision-making on domestic politics. In the next section, we review literature that is concerned with the influence of EU decision-making on national lawmaking, in order to identify the type of influence the EU actually has on national parliamentary business in different domains.

3.2. Government-parliament relations II: Domestic lawmaking

One step further in the policy cycle, national parliaments have to approve and transpose the policies agreed upon at European level. Few of the studies on the Europeanisation of national parliaments touch upon the issue of what is actually lost for national parliaments to the EU in terms of policy formation. Whereas the influence of European integration on parliamentary oversight is of a more indirect kind, it exerts a direct influence on domestic lawmaking. Three strands of literature touch upon the Europeanisation of national lawmaking: Policy analysis, implementation research and, most recently, legislative studies. The early case studies on the influence of European integration were concerned with its impact on particular policies at national level. Some policy areas are well investigated, such as environment (Börzel 2009; Demmke and Unfried 2001; Jordan 2004; Knill and Liefferink 2007) transport (Héritier et al. 2001; Kassim and Stevens 2010; Knoflacher 1996; Stevens 2004), or social policy (Falkner 2007; Randall 2001; Saari and Kvist 2007). Closely connected to policy analysis is the second strand of literature which deals specifically with the implementation and transposition of EU law (Falkner and Holzleithner 2008; H. Siedentopf 1989; P. D. H. Siedentopf and Ziller 1989; Sverdrup 2007). Its findings point to factors which influence compliance rates. Depending on the administrative capacity and the actual willingness of the actors concerned, track records of member states vary. However, and this is of particular interest for the present paper, the large part of these studies adds little information on parliament-government relations and the de-parliamentarisation/abdication thesis.

An exception is the research done by Martin (2000, 147ff), who challenges the abdication of national parliaments and links the question of successful implementation with the involvement of concerned actors in decision making. Her findings point to the fact that parliamentary involvement in EU decision making speeds up and facilitates transposition. Democracy and efficiency are not mutually exclusive. The case of Denmark serves her as an example: Although reined by minority governments and controlled by a strict parliamentary

oversight, Danish ministers are able to negotiate tough at EU level and later face few troubles at the implementation stage. Martin explains the lethargy of national parliaments up to the 1990ies with a broad domestic consensus and few conflicts of interests regarding EU matters. National parliaments still exerted a “latent influence” (Martin 2000, 156). Only when governments stepped over the boundaries of delegation and failed to anticipate parliamentary preferences, national parliaments started to act.

Finally and most importantly, a third strand of literature shed light on the consequences of EU legislative activity for domestic lawmaking. Legislative studies deal with the “backbones of national policies” (Töller 2010, 434): National legislation and lawmaking. Measuring the size and scope of the European impact on legislative bodies across countries and policy fields is of utmost importance in order to get to grips with the question of who governs. Since Delors’ prophecy that by 1998 80% of national legislation would be influenced by the EU⁸, this amount was taken for granted by practitioners as well as scholars of the EU, but it was never proven by research. Recent findings suggest that the amount of EU-linked legislation is much smaller than forecast and expected (Brouard, Costa, and Thomas König forthcoming).

Depending on the policy field and the country under investigation, percentages of Europeanised national legislation come up to more than 80%. However, on the average, the Europeanisation of legislation across policy fields is much lower: For the UK, this amount adds up to 16% (Page 1998), for Germany different sources point to Europeanisation rates between 16.8 and 38.6% (T. König and L. Mäder 2008; Töller 2008, 2010). In Austria Europeanised laws account for around 26% (Jenny and Müller 2010), in Denmark they amounts to around 20% (Jorgen Gronnegaard Christensen 2010) and in the Netherlands to almost 13% of all laws (Mark Bovens and Kutsal Yesilkagit 2010). Luxembourg Europeanised laws total around 29% (Dumont and Spreitzer forthcoming).

When taking a closer look at these figures, measurement problems become apparent: There is no general agreement on how to operationalise the Europeanisation of legislation (Göler 2009; Thomas König and Lars Mäder 2009; Tapio Raunio and Wiberg 2010, 77f; Töller 2008, 2010). Whereas this is less crucial for single case studies, it is especially important for

⁸ "In ten years 80 percent of the legislation related to economics, maybe also to taxes and social affairs, will be of Community origin." Jacques Delors on June 15th 1988, in a plenary debate in the European Parliament, Brussels, Bulletin No- 2-367/157, July 6th 1988.

comparative research to utilise tools applicable and meaningful in more than one national setting. Discrepancies are hardly avoidable given financial and temporal limits (Müller et al. 2010).

The choice of the research design heavily influences results. The figures scholars of the Europeanisation of national legislation came up with so far are not comparable for three reasons: Firstly, the units of analysis differ. While some scholars take into account secondary legislation, others account for primary legislation too. Different EU instruments imply different impact. Hard law, such as regulations and directives leave their footprint in the national legislation. Especially directives occupy parliaments with transposition and implementation. Policy areas of positive integration are built to correct markets and distinguish from negative integration areas, which establish markets. This is important because member states differ in their practices of implementation. If we aim at evaluating who governs, we need to take into account all different forms of legal acts.

Some suggest summing up national legislation and directly applicable EU law, such as regulations (Hoppe 2009, 168). The same could be stated about decisions spoken by the European Court of Justice (ECJ), which are directly binding for all member states. Even more, as Töller (2010, 430) points out, non-decisions could also be caused by the European integration. However, the EU preventing the drafting of national legislation and a resulting non-decision increases the relative share of Europeanised decisions. It does not lead to an underestimation of an Europeanisation effect. Quite the contrary, and we argue that taking into account non-decisions is therefore irrelevant for the purpose of measuring the European impact on national legislation.

Secondly, definitions of what comprises an Europeanised legislative act are not the same in these empirical studies. For the UK, only legal acts transposing a directive were taken into account, whereas for Germany, government reasoning in the explanatory note defines an Europeanised law. Brouard et al. (forthcoming) count indirect influences within the text bodies of laws as European impulse defining a Europeanised legal act. In the first case, Europeanisation of legislation equals the amount of implementing legislation. In the last case, also indirect effects are taken into account in order to defend against criticism of underestimating the impact. Thirdly, policy fields are not independent from each other and most policy areas have some impact on the national budget. As such, policies eventually

emanate an European impact on other fields not directly concerned by European integration (for examples see Töller (2010, 431)).

Apart from questions concerning the comparability of findings, some authors argue for introducing qualitative indicators on the importance of the respective legislative acts. It might be, that most of the EU impact concerns technical regulations rather than policy making essential to domestic politics. For example, content and monetary implications account for the importance of a law. Again, findings are policy specific and Europeanised important laws amount to one fourth to one third of laws causing costs in Germany, whereas Europeanised “key-laws” only represent around 15% among all the identified “key laws” (T. König and L. Mäder 2008, 450ff).

Thirdly, EU activities of more indirect nature, such as soft law and horizontal cooperation, might not find mentioning within the legislative texts analyzed. They do nonetheless affect lawmaking and national parliaments. Such measures are discussed under the label of “new modes of governance”, they are not binding and rely on the exchange of best practices, benchmarking and learning. The former second and third pillars of the EU, Common Foreign and Security policy (CFSP) and Justice and Home affairs (JHA) make use of soft law measures and keep an intergovernmental negotiation style and the decision making power at national level.

One prominent soft law instrument is the often discussed Open method of coordination (OMC). It was initially intended to boost innovation and competitiveness with the so-called Lisbon strategy. It touched upon critical national competences in the areas such as employment and education. Although the targets of the Lisbon strategy failed, the OMC spread and found application in other areas, such as health and social inclusion (Ladrech 2010, 169f). The implications of soft law instruments on democratic quality in the EU are not clarified, not so speak of quantified. Although they were introduced to open up the decision making process at European level for interest groups and experts, they bear problems with regards to democratic standards as they are negotiated outside the traditional decision-making processes. Their technical and bureaucratic nature adds to aggravating parliaments’ motivation to investigate their consequences for domestic settings (Duina and Tapio Raunio 2007; Héritier and Lehmkuhl 2011).

Horizontal coordination, is least an imposing way on domestic policy making. Systematic and strategic networking among parliamentarians of both, the EP and national parliaments, enforced – again - formal and informal exchange of information. Interparliamentary meetings organised by the parliament whose country carries out the EU Council presidency, were established as fixed points on the agenda of legislatures. Such meetings bring together members of European parliament (MEPs) and members of national parliaments (MPs) on topics of general interest (in joint parliamentary meetings), specialised MEPs and MPs (in joint committee meetings), committee leaders (in committee chairmen’s meetings), as well as MEPs and MPs of the same party family (party group meetings)⁹. Besides, the speakers’ conferences¹⁰ as well as the usual bi-lateral visits serve maintaining privileged exchange and support among parliamentarians.

4. Consequences for research on national parliaments

Keeping national parliaments in the focus of attention within Europeanisation studies is important because they are the main producer of democratic legitimacy within the EU multi-level polity. They constitute the “institutions closest to the people” (Holzhacker 2007, 144). On the one hand, they are often seen as part of the solution on the democratic deficit: Aside from legitimising policy making at national level, creating a second chamber at European level consisting of national parliamentarians was an issue among policy entrepreneurs and researchers in order to tackle the alleged democratic deficit¹¹ (Fraga 2005; Tapio Raunio 2005b, 2007). On the other hand, and central to the aim of this paper, studying the impact of the EU on domestic political systems can yield valuable insights into the underlying causes of the evolution of parliamentary democracy.

As outlined, the de-parliamentarisation thesis suggests that the more policy making is shifted at EU level, the more national parliaments are weakened. Put in a principal-agent framework, information asymmetry and agency drift occur because of the impossibility for legislators to

⁹ For more information on interparliamentary cooperation take a look at the website of the Conference of EU affairs committees (COSAC) at www.cosac.eu.

¹⁰ For further information please visit <http://www.ipex.eu/ipex/cms/home/EU-Speakers>.

¹¹ The Laeken Declaration more precisely put the question of the role of national parliaments in an eventual second chamber explicitly to debate [lit.]. In the light of discussions on the abolishment on upper chambers all across the EU, such as the Austrian Bundesrat and the Slovenian National Council, the idea was never taken as a real option. In recent years, and more pronouncedly since the entering into force of the Lisbon Treaty, the Council of Ministers is said to function just like an upper house.

control their executive within Council deliberations. More importantly, and further in the delegation chain, citizens lose control of their delegated powers. With every treaty reform shifting more power to the European level, the gap between citizens and EU policy making widens in a legitimacy gap. Recent measures, such as the introduction of citizens' referenda with the latest EU treaty reform still have to prove their efficiency in tackling low interest and participation in EU politics.

Studies concerned with the impact of European integration on parliament-government relations provide an interesting general insight into how legislatures control their respective executives in EU matters. Scholars of national parliaments have so far shown how domestic legislatures reacted on the deepening of European integration after the Maastricht Treaty. The institutionalisation of EU scrutiny and the adaptation of internal procedures account for the reactivity of national parliaments to new environmental givens, such as the information asymmetry between legislatures and their executives inherent in EU decision making. Yet it is misleading to automatically assume when focusing on EU policymaking alone, that the domestic power balance between government and parliament changed and to the detriment of legislators. Research has until now failed to put consequences of European integration for national parliaments in the domestic context.

There are at least three reasons to further elaborate the abdication thesis in future research. Firstly, we have to take a closer look at the independent variable – EU policy making and its impact on different aspects of parliamentary business. Secondly, and with large consequences for scholars of the Europeanisation of national parliaments, the relationship between government and parliament is not only of institutional nature but of partisan too. Thirdly, we have to clarify the causal relationship between EU policy making and domestic institutional change, and eventually take into account other explanatory factors stemming from domestic or international developments.

4.1. Qualifying the abdication thesis I: EU policy making

Europeanisation research has to better evaluate the independent variable, EU policy making. In the first place, and not surprisingly, the competences of EU institutions depend on the matter at stake. Within the “Delors’ myth” research project on the Europeanisation of national legislation for instance, we found for Luxembourg not only that about 8% of laws transpose a

directive and around 29% more generally refer to EU decision making, but policy sectors very unequally concerned by an EU impulse (Dumont and Spreitzer forthcoming). Whereas 58% of Luxembourgish laws in the area of Banking and Finance and 52% in the area of Civil rights refer to EU policymaking are Europeanised, sectors such as Public lands/Water management (2.7%), Immigration (4.2%) or Housing (7.7%) are least concerned by European integration¹².

National parliaments are not unitary actors. Scholars looking on the impact of the EU on national parliaments mostly deal with EU committees. Other actors within the parliament largely escaped scholarly attention up to now. Depending on the internal procedures within parliament, they might however be concerned by the growing legislative activity at EU level. Referring to the findings of Europeanisation of legislation by policy sector, we expect some committees, such as the economic and transport committee for example, facing a large amount of policy initiatives stemming from the EU, while other committees, such as the defence committee, are much less concerned by European integration. Findings concerned with the impact of EU policy making on national legislation have to be taken into account by scholars of domestic legislatures and further conclusions have to be drawn on how the different fora within national parliaments adapt to such impact. What is more, we know little about the kind of EU legislative initiatives with regards to domestic legislative activities. Does European lawmaking substitute or complement national lawmaking? Do parliaments just continue law production in other fields, resulting in “better regulation”?

According to the abdication thesis, areas of exclusive EU competence are the ones where governments enjoy the highest agency drift, whereas areas of shared competence only partly escape from national parliaments’ attention. Consequently, in areas where the EU is not competent, national legislatures maintain the hitherto existing relationship with the government. But which kind of relationship have parliaments and governments traditionally maintained? Europeanisation research would benefit from including findings of comparative politics and legislative studies into its considerations. While empirical studies show that the EU impact on national legislation and lawmaking is rather modest, scholars of legislative studies attribute legislatures in lawmaking a rather modest impact (Norton 1996, 14). Legislative power again is about constraining government. Parliaments do not produce laws on their own. Rather, they take part of a joint venture, where first and foremost the government, but also other actors, such as interest organizations are committed. For different

¹² Within the framework of the research project, a Europeanised law was defined as containing an EU impulse in form of a keyword found within the header or text body of the legal act.

reasons it is mostly governments that propose laws. This leads to the question in how far parliaments are capable of influencing the outcome of the legislative process even at national level. The so-called “Mezey-question” was extensively dealt with in literature (Arter 2006a, 2006b). Findings concluded with the application of the 90%-rule: Government proposes 90% of bills and gets them through in 90% of the cases.

Furthermore, the abdication thesis must be qualified by the fact that governments do not decide alone at EU level. Apart from the other governments in the Council, it is the Commission which proposes legislative acts and the EP which acts as co-legislator (at least since the Lisbon Treaty). The more actors involved at EU level, the less leverage a government has. Apart from being co-legislator, the EP as well as the Commission proved being allies to domestic legislators and willing to foster transparency and the opening of the decision making process to national parliaments and the broader public.

4.2. Qualifying the abdication thesis II: Party politics

The institutionalist lens most prominent in Europeanisation research prevents many scholars from going beyond the formal structures of parliament-government relations. Party links that importantly define the relationship between parliament and government within consensus democracies have been blinded out in most studies. European integration does not fundamentally change the existing relationship between governments and parliaments. Rather, the existing power balance established is maintained, mostly because parliamentary majority stays the long arm of government. Within comparative politics, government and parliament are not opponents, but due to party links they are allies, most notably when coalition governments are in place (Döring 1995, 28).

Because of party links, the principal-agent relationship between parliament and government stays intact. Parliaments still trust their governments. Rather, scrutiny could be seen as a form of opposition to the EU, where government and parliament are accomplices. Scrutiny is an upstream and downstream process (*ex-ante* and *ex-post*). That is, scrutiny occurs at the position building and at implementation stage. Because of the increased uncertainty at EU level, parliaments have to increase scrutiny. The more areas are decided at EU level, the more actors are involved, the more uncertainty of the outcome for member states in general, for governments as well as for parliaments. The institutional innovation within parliaments

however helped domestic opposition parties who are the only ones really excluded from the game played at European level, and they were certainly keen on gaining more insight.

4.3. Qualifying the abdication thesis III: Measurement issues

Two points of criticism on measurement issues should be taken up by future research, the first one regards causality in Europeanisation research, the other one advocates taking a holistic view on government-parliament relations. What concerns the first point, even when a change in the domestic power balance of government-parliament relations is observed; it has to be proven that European integration was the actual cause of this change. Developments at domestic or international level do not pass unseen. The danger of Europeanisation research lies in tautological arguments, such as explaining Europeanisation by the EU. Establishing a strong causal link mostly depends on the research design. As in most areas of political science, randomization is impossible. We are not able to randomly assign EU influence and see effects on national parliaments' actors or fora. When measuring the Europeanisation of national parliaments, we would propose a quasi-experimental comparative design including policy fields facing varying levels of influence. This is as far as finding causal relationships can go¹³. For example, we would assume committees in areas of exclusive EU competence adapt to EU policy making activity, whereas committees in areas of exclusive competence of member states do not see their traditional working procedures and practices irritated by European integration. Moreover, conventional policy making should be traced over time in order to compare with EU induced procedures. Furthermore, we suggest going beyond the idea of a national parliament being a unitary actor. Identifying the actors within parliaments active within different policy fields is one step to better understand how Europeanised national parliaments are.

With regards to the second suggestion of improving the measurement of Europeanisation, we propose taking into account both dimensions of parliament-government relations: EU scrutiny as well as lawmaking. It is certainly useful to know what factors determine scrutiny strength at domestic level, knowledge about parliamentary oversight in EU matters tells us little about the general strength of national parliaments vis-à-vis their governments. Research has until

¹³ Quasi-experiments have good external validity, but the internal validity lacks and we cannot conclude causal relationships, because we cannot control extraneous variables and eliminate a confounding bias. Only then we would be able testing the significance of an impact.

now only party assessed executive dominance when looking on EU scrutiny mechanisms. We argue that in order to evaluate the strength of a legislature, in addition to decision-making, we have to take into account one further step in the policy cycle: The transposition of EU legislation into domestic law. While national parliaments are excluded from negotiations in the Council, the implementation stage is where they step in the game again.

Recent research has acknowledged the importance of including transposition in the measurement of the Europeanisation of a legislature. Raunio and Wiberg (2010) suggest five indices to account for the European impact. The share of EU-related laws, firstly, concerns lawmaking. Secondly, the share of parliamentary questions and confidence votes regarding EU issues measures scrutiny. Third, committee time and fourth, plenary time spent on European matters as well as, fifth, party group meeting time concern the different fora within the parliament. Taken all together, the five measures touch upon all parliamentary fora and its relations towards government. This is a good starting point for a more in-depth study on the Europeanisation of a national parliament. However, there are still more measures that could be taken into account for evaluating the abdication thesis: Other parliamentary activity, apart from parliamentary questions and confidence votes also serves scrutiny purposes. Agenda setting and general (public) debates, for instance, may force ministers to bring evidence of their behaviour and intentions (Holzhacker 2007, 144). Also, national parliaments have the important function of controlling governmental expenditures and approving budget. Within lawmaking, even when most of legal acts are initiated by other actors than parliamentarians, we should take a look on amendments and waiting games, to suggest more fine-tuned indicators than shares of EU-related laws alone. Summing up, much is left to be done within the area of research on national parliaments. To find common indicators for cross-country research may lead us to valuable insights in how democracies within the EU develop.

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