Assemblée Nationale, Bundestag and the European Union

The Micro-Sociological Causes of the European Integration Paradox
Assemblée Nationale, Bundestag and the European Union

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Nomos
Supported by Cercle Pflimlin and the Institut d'Études Politiques de Strasbourg (Prix Pflimlin 2017).

The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data are available on the Internet at http://dnb.d-nb.de

t.: Paris/ Köln, Sciences Po/Univ., Diss., 2016

ISBN 978-3-8487-4772-6 (Print)
       978-3-8452-9029-4 (ePDF)

British Library Cataloguing-in-Publication Data
A catalogue record for this book is available from the British Library.

ISBN 978-3-8487-4772-6 (Print)
       978-3-8452-9029-4 (ePDF)

Library of Congress Cataloging-in-Publication Data
Thomas, Anja
Assemblée Nationale, Bundestag and the European Union
The Micro-Sociological Causes of the European Integration Paradox
Anja Thomas
359 pp.
Includes bibliographic references.

ISBN 978-3-8487-4772-6 (Print)
       978-3-8452-9029-4 (ePDF)

D38

1st Edition 2019

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À Gaël et Anaïs
Meinen Eltern
List of abbreviations

AN: Assemblée nationale
BBV: Bundestags-Bundesregierungs-Vereinbarung (Germany)
BT: Bundestag
C: Groupe Communiste
CDSP: Common Foreign Security and Defence Policy
CDU: Christlich-Demokratische Union
CFSP: Common Foreign Security and Policy
COSAC: Conférence des Organes Parlementaires Spécialisés dans les Affaires de l’Union des Parlements de l’Union Européenne
COREPER: Comité des Représentants Permanents
CSU: Christlich-Soziale Union Deutschlands
DL: Die Linke
EAC: European Affairs Committee
EC: European Community / Communities
ECJ: European Court of Justice
EELV: Europe Ecologie Les Verts
EMU: Economic and Monetary Union
EP: European Parliament
EU: European Union
EUZBBG: Gesetz über die Zusammenarbeit von Bundesregierung und Deutschem Bundestag in Angelegenheiten der Europäischen Union (Germany)
EWM: Early Warning Mechanism
FDP: Freie Demokratische Partei
GDR: Groupe de la Gauche Démocrate et Républicaine
MEP: Member of the European Parliament
MP: Member of Parliament
na: non affiliated
NC: Nouveau Centre
PA1: Unit PA 1 – Europe
PDS: Partei des Demokratischen Sozialismus
PPG: Parliamentary Party Group
PS: Parti Socialiste
QMV: Qualified Majority Voting
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<td>RPR</td>
<td>Rassemblement Pour la République</td>
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<td>SGAE</td>
<td>Secrétariat Général des Affaires Européennes</td>
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<td>SGCI</td>
<td>Secrétariat Général du Comité Interministériel pour les questions de coopération économique européenne</td>
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<td>SOC</td>
<td>Groupe Socialiste</td>
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<td>SPD</td>
<td>Sozialdemokratische Partei Deutschlands</td>
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<td>SRC</td>
<td>Groupe Socialiste, Républicain et Citoyen</td>
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<td>UDC</td>
<td>Union Démocratique du Centre</td>
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<td>UDF</td>
<td>Union pour la Démocratie Française</td>
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<tr>
<td>UMP</td>
<td>Union pour un Mouvement Populaire</td>
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<td>TEU</td>
<td>Treaty on European Union</td>
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<td>TFEU</td>
<td>Treaty on the Functioning of the European Union</td>
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<td>TSCG</td>
<td>Treaty on Stability, Coordination and Governance</td>
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INTRODUCTION

The origin of this book lies in a puzzling observation. Intuitively, one should think that the Europeanisation of domestic institutions would lead to more ‘convergence’ in the handling of European Union (EU) affairs. The increased exchange between different national actors on EU issues should therefore eventually enhance the common understanding of EU institutions and procedures throughout all layers of EU decision-making and the ‘norms’ on which they are based (Habermas 1981). However, when interviewing Members of Parliament (MPs) in France and Germany about their participation in EU decision-making over some time, the impression was quite the contrary: other national parliaments are becoming more (instead of less) difficult to understand. This is all the more surprising as the actors are apparently satisfied as far as the improvement of their own participation in EU affairs is concerned – even in parliaments notoriously qualified as ‘weak’ in the literature such as the Assemblée nationale. The discrepancy between this growing satisfaction with the participation in EU affairs and the increasing lack of understanding of actors in other national parliaments is intriguing.

The important difficulties of national parliaments to agree on forms of interparliamentary cooperation and to actually ‘invest’ such institutions more than 30 years after the end of the ‘organic’ link between the European Parliament and national parliaments are another case in point – be they the Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC) or the most recent Inter-Parliamentary Conference for Economic and Financial Governance.

This book investigates this puzzle and finds an evolution that the author calls the ‘European Integration Paradox’: The Europeanisation of national parliaments does not lead to greater convergences of ‘word and deed’ linked to EU decision-making, but is on the contrary at the roots of diverging action patterns and discursive practices about European parliamentary democracy. With an increasing experience of ‘doing EU’, the MPs evaluate the role of parliaments in the EU less on the basis of a priori reflections

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1 This does not mean that they were necessarily satisfied with their participation at present, but there was at least a sense of having (much) improved when looking at the past.
about the future of European integration, but on their day-to-day domestic practices.

This book examines the EU participation of the Assemblée nationale and the Bundestag since 1979 through a ‘thick description’ (Geertz 1973) and compares MPs’ discourse about the role of parliaments in the EU across time. It shows that with the growing experience in EU legislation, ‘doing EU’ is increasingly institutionalised and typical (i.e. the chambers are starting to perform distinct ordered practices or functions), but differs more fundamentally between the chambers. New action patterns reinterpret the dominant parliamentary functions in the domestic political system for EU affairs. The growing institutionalisation of ‘doing EU’ leads thus paradoxically to an increasing importance of domestic practices for MPs’ discourse about representative democracy in the EU.

Europeanisation in is understood as the institutionalisation of European affairs as ‘ordered’ practices. Such practices are in their minimal sense ‘embodied, materially mediated arrays of human activity centrally organised around shared practical understanding’ (Schatzki, Knorr-Cetina, and Savigny 2001, 11). This study takes a perspective that is based on the assumption that one cannot understand a ‘social form […] without paying attention to the actual doings in and on the world’ (Pouliot 2016 quoted in Adler-Nissen 2016, 88), which shape it. It is thus necessary to abandon a too narrow focus on formal rules and organisation and to ‘give a say to the actors’ (Lequesne 2015, 352) about what they do. The building of formal rules is itself a result of such a social interaction.

This book examines why MPs only exhibit so little common understanding in their discourse about the role of parliaments in the EU, almost 25 years after the coming into force of the Treaty of Maastricht and its fundamental ‘reshaping of EU treaties and practice’ (Wessels 2008, 90), which had significant impact on national parliaments’ capacities to legitimise authoritative decision-making for the citizens they represent.

In this context, two sets of questions must be answered. The first set refers to how the processes can be understood through which EU affairs are institutionalised (or not) in the chambers with increasing EU legislation. It questions if and how ‘doing EU’ stabilises into ordered practices and arrays of activity in relation to the dense net of practices or ‘ways of doing things’ in the parliamentary chambers. The second set of questions refers to whether such processes of patterning actions related to EU affairs are in turn linked to the ideas MPs convey in the discourse about the role of parliaments in the EU, and how such a potential link can be understood.
The questions outlined above are analysed through a comparative analysis of the practice of EU affairs in two parliaments, which are diametrically opposite in terms of domestic parliamentary institutionalised practices and functions for their respective political systems: the French Assemblée Nationale and the German Bundestag. The Assemblée nationale is paradigmatic for a ‘talking’ parliament, whose dominant action patterns essentially serve the responsiveness to voter concerns, while the Bundestag is paradigmatic for a ‘working parliament’, in which MPs’ aggregated action patterns tend towards legislative control. The changes in both chambers are investigated by means of synchronic and diachronic comparison – dividing parliamentary participation in EU affairs since 1979 into two periods, according to the impact of EU decision-making after a major increase of binding EU legislation at the end of the 1990s in the follow-up of the Maastricht Treaty. The evolution of MPs’ ideas on role models for national parliaments is analysed through a comparison of the debates on the treaties of Maastricht and Lisbon, i.e. the two major treaty changes – each of which is representative of one period with low (Maastricht) and with comparatively high and more patterned parliamentary participation in EU affairs (Lisbon).

To grasp ‘Europeanisation’ for the purpose of this study, this book is fundamentally concerned with institutionalisation processes in their sociological sense. As neo-institutionalism only provides few tools to understand change, this book revisits the classical writings of the social constructivists Berger and Luckmann and the ‘old’ institutionalism of Max Weber. Berger and Luckmann’s institutionalism allows conceptualising the processes through which new ‘ordered’ practices come about in the course of increasing typification of agency and action. Weber helps to understand how actors may change their motives of action in the course of an institutionalisation process, i.e. why domestic parliamentary institutions and the shared practical experience of the actors enshrined in them may paradoxically play a stronger role later in the European integration process than they did when MPs had little experience in ‘doing EU’.

Political and academic relevance

The legitimacy of the EU has been under discussion for a long time in political and academic circles. In particular its democratic legitimacy (see e.g. Kohler-Koch and Rittberger 2007) and a certain dissonance between the perceptions of citizens of EU Member States and Europeanised or interna-
tionalised political and economic EU elites\(^2\) about the objectives and scope of European integration have been important in the public and academic discourse for at least the last 25 years. In political science the end of what is commonly called the ‘permissive consensus’ (Lindberg and Scheingold 1970) to European integration is conceptualised in very different ways from citizens’ ‘indifference’ (Ingelgom and Throssell 2014) to the advent of a new ‘constraining dissensus’ (Hooghe and Marks 2009).

In the political debate, the successful referendum on the British departure from the EU might be a powerful illustration of the latter. Even if the hypothesis of the appearance of a ‘constraining dissensus’ was not true for the rest of the EU, European integration has become ever more differentiated in recent years – with member states participating in common policies to different extents (Schimmelfennig 2016). Differentiated integration adds a further difficulty to the already ardent problems related to the legitimation of decision-making in the EU through representative democracy at the European level. It is difficult to reach congruence between the representatives in the European Parliament (EP) and those represented, when not all 28 member states participate in all policies and instruments.

National parliaments have for quite some time come to the fore to add indirect parliamentary legitimacy to decision-making in the EU (Rittberger 2012; Rittberger 2005). They are mentioned for the first time in the Maastricht Treaty in 1992. European initiatives and political discourse have increasingly linked the question of the democratic legitimacy of the EU to the role of national parliaments. The issue gradually gained importance in what at the time was called the ‘constitutional process’. After the failure of the ‘Constitutional Treaty’, the Treaty of Lisbon for the first time attributed ‘rights and duties’ (Fischer 2010) to national parliaments and provided them with a direct role in EU legislative decision-making.

The consequences of the participation of national parliaments in EU decision-making for the EU ‘constitution’ (see e.g. Groen and Christiansen 2015, Lupo and Fasone 2016) and the latter’s institutional and motivational capacity (see e.g. Auel and Neuhold 2016, Crum and Fossum 2013, Hefftler et al. 2015, Fromage and Raube 2019, Davor 2017) for the provision of legitimacy to the EU have been controversial among academics, political actors and parliamentarians themselves.

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2 (see for an investigation into the sociology of the borderless society of the European Union Adrian Favell 2008).
This book relates to these debates and links to three fields of current research: Firstly, this book contributes to the literature on EU activity in national parliaments, by putting the spotlight on different functions national parliaments play in practice for the decision-making in EU polity over time. The existing literature is often inspired by legislative studies and rational choice delegation models. Because of their largely data-driven nature, studies often compare parliamentary prerogatives and activities synchronically. They are only marginally interested in the more theoretical questions of the evolution of EU representative democracy and the EU as a polity – and parliaments’ role therein.

Many recent studies on national parliaments in the EU focus on ‘scope, timing, management and impact of parliamentary scrutiny of EU affairs’ (Auel 2007, 489). There have been a number of attempts in recent years to rank the ‘strength’ of parliamentary participation in EU affairs, without much discussion of the fact that not only the legislative function is important for parliaments on the domestic level; in fact it might be weakly developed in many of them. Consequently, there is not much discussion about the fact that parliaments cannot be expected to be more ardent scrutinisers of the governments in EU affairs than they are in domestic policy areas (Auel 2007, 489).

For a long time, studies have focused on the evolution of prerogatives, the organisation of the chambers in EU affairs (Winzen 2012) or the Europeanisation of legislation (Brouard, Costa, and König 2012; König, Dannwolf, and Luetgert 2012). More recently the whole range of the chambers’ activity is the subject of large transeuropean research projects and networks (OPAL 2010; PADEMIA 2014), with impressive data output both qualitatively and quantitatively, also attempting to rank parliamentary activity (Auel, Rozenberg, and Tacea 2015; Karlas 2011). Large scale comparisons however still suffer from the fact that formal and informal parliamentary tools do not necessarily have the same meaning and function in parliamentary practice in different chambers. The same problem is inherent in studies that aim at measuring the ‘impact’ of national parliamentary activity on decision-making in the Council (Auel, Rozenberg, and Thomas 2012).

Large book projects have presented a more qualitative and contextualised view on all facets of parliamentary participation. After a pioneering comparative book, asking whether national parliaments were ‘losers or latecomers’ (Maurer and Wessels 2001) in EU integration, and comparing the activities of chambers in the then EU 15, a recent collective book
project has compared EU activities of national chambers in the 28 member states of the EU (Hefftler et al. 2015). Despite their important contribution to the classification of national parliaments and the latter’s role in the EU multi-level system, collective book projects are necessarily limited as regards the in-depth comparison of the cases (as each one is analysed by a different specialist).

In recent years, a more sociological approach has permitted a further in-depth look at the entire scope of MPs’ activities in EU affairs. The legislative roles of individual MPs have been examined in EU studies in order to shed light on the link between MPs’ attitudes and behaviour (Blomgren and Rozenberg 2012, 19–21). Most studies have focused on the EP to find factors explaining why MPs adopt various roles (see e.g. Katz and Weßels 1999; Navarro 2009). Rozenberg argued that the motivational roles of the chairmen of the European Affairs Committees (EACs) in the Assemblée nationale and the House of Lords explain the type of parliamentary involvement (Rozenberg 2009). Auel and Rittberger identified different ‘styles’ of EU participation (Auel and Rittberger 2006).

Finally, Bernhard Weßels argued that domestic role orientations of MPs have an influence on how they see parliamentary participation in the EU (Weßels 2005). He arrives at the result that ‘weaker parliaments’ favour direct participation in EU decision-making, while ‘stronger parliaments’ have trust in the EP – a result highly counter-intuitive which might rather relate to the MPs’ little experience in day-to-day decision-making at the moment of the data gathering (1996).\(^3\)

Time is still underresearched as a factor of variance of parliamentary practices and MPs’ attitudes. This is mainly due to the difficulties in producing comparable data over time, and establishing concrete links between observations and different stages and timing of EU integration. As this study will show, the evolution of the EU system in relation to domestic practices plays a role in the prominence of either interest-related, idea-related or institutional motives.

Studies on the ‘Europeanisation’ of single parliamentary chambers adopt a longer-term perspective but are mostly restricted to single country case studies (Stanat 2006), or examine the Europeanisation of political systems as a whole on a more general level (Beichelt 2009; Sturm and Pehle 2006).

Secondly, this book contributes to the literature on the Europeanisation of national institutions, which has been analysed searching for ‘conver-

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\(^3\) This result is contradicted in this study. It is argued here that the result must be understood as a problem of the wrong timing of the data gathering (1996).
gences’, i.e. the outcomes of ‘the downstream effects of EU policy implementation on national bureaucratic structures’ (A. Favell and Guiraudon 2009, 552). Studies have analysed how domestic institutions and policymakers adapt in different ways to the impact of EU decision-making (Börzel 1999). By focusing the analytical lens on a distinct process and outcome in terms of formal rules, studies are blind for the ‘totality of institutional, strategic and normative adaptation processes which may be induced by the European construction’ (Palier and Surel 2007, 39).

This may even lead to a misinterpretation of similar ‘labels’ of legal prerogatives and organisational features as indicators of ‘convergences’, without asking how these tools are used and which differential functions they may have and what they may mean for the actors. Sprungk concludes that the Bundestag and the Assemblée nationale have strongly converged after the reforms of parliamentary prerogatives negotiated with the ratification of the Treaty of Maastricht and the introduction of new prerogatives for the control of the negotiations in the Council of Ministers (Sprungk 2007). When reviewing the real activity patterns, this result is questionable (Neuhold and Smith 2015).

Radaelli’s definition of Europeanisation is certainly one of the most widely accepted, as it neither narrows down the process to top-down effects (Saurugger 2009, 258–59), nor prescribes what outcomes should look like (Palier and Surel 2007, 37). He conceives Europeanisation in a circular way as being both the influence of domestic factors on the European integration process (‘uploading’) and in turn the latter’s effects on the domestic level: for him Europeanisation is a process ‘of (a) construction (b) diffusion (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 making of EU public policy and then incorporated in the logic of domestic discourse, identities, political structures and public policies’ (Radaelli 2000, 110).

This definition on the one hand delivers the important elements to analyse evolutions linked to European integration at the micro-level of the actors, and on the other hand puts the spotlight on an important dimension of the Europeanisation process: Europeanisation processes are ‘institutionalisation processes’. The definition of what these processes mean however remains strangely cryptic. There are so far only very few reflections upon what institutionalisation means on the macro level of the actors in the context of the process of European integration, and how it can be analysed.

This study argues that this lacuna is mainly due to the importance of neo-institutionalist approaches in EU studies with their inherent problem
in modelling change. These approaches can only with difficulty grasp the time dimension necessary to analyse ‘institutionalisation processes,’ and how the interests, ideas and institutional motives for the evaluation of the new institution might change in the course of the process (for a discussion see Chapter I). To remedy this problem, this book revisits the ‘old’ institutionalism of Max Weber.

Furthermore, this book brings some further empirical evidence for the literature on the European Union as a polity and its democratic quality, which is dominated by theoretical and normative reflections about transnational democracy and its standards (Fossum 2015). The social constructivist empirical analysis to this question usually compares discourse on the European Union across different arenas. This strand of research increasingly focuses on national parliaments as sole arenas that intermediate EU issues with all aspects of policy and polity on the domestic level (Lord 2007) or as important intermediating agents with the wider public in the member states (Closa and Maatsch 2014).

Recently a number of studies in the latter sub-field have focused on parliamentary debates linked to the financial crisis and the bailout instruments (see e.g. Puntscher Riekmann and Wydra 2013). Studies are focusing more broadly on the (de)legitimating function of parliamentary discourse for the politics and policies of the EU and European integration. The studies address the politicisation of parliamentary debates and the contestation of policy and polity aspects of European integration (de Wilde 2014; Wendler 2016). A new branch of studies focuses on the evolution of representation in the European Union through representative ‘claims’ by MPs in parliamentary debates (de Wilde 2014) and other legitimacy aspects of parliamentary debates, both on the domestic and the European level (Lord 2008).

The literature is mostly focussed on discourse without further analysis of the practice of ‘doing democracy in the European Union.’ This may lead to results that are more interesting in terms of theoretical debates than results that reflect the empirical reality. The fact that this study embeds the comparison of discourse over time allows bringing to light the link between the growing EU experience of MPs and their discourse about the role of parliaments in the EU.
The theoretical framework and research design

The theoretical part of this book revists the classical writings of the social constructivists Berger and Luckmann and the ‘old’ institutionalism of Max Weber, and includes insights from practice theory (Adler and Pouliot 2011; Adler-Nissen 2016; Schatzki, Knorr-Cetina, and Savigny 2001). The theoretical reflections provide a framework to grasp processes of institutionalisation of EU practices on the micro-level of the actors – and to understand how increasingly ‘doing EU’ interacts with the ideas conveyed by MPs about parliamentary democracy in the EU.

Two hypotheses are developed on the basis of these reflections, which guide the empirical analysis of this study. The first hypothesis assumes that the increasing experience of ‘doing EU’ in the chambers leads to stabilised action patterns that slowly reproduce the functions the parliamentary chamber fulfils at the domestic level (i.e. responsiveness, legislation, control, information and deliberation). This can be explained by the fact that the more ‘incompetent’ attempts for participation in EU decision-making there are, the more MPs will acquire EU expertise; EU affairs bodies will take up typical functions of committees in the chambers and EU experts will become typical agents of (the) change of formal prerogatives and organisational solutions for the dealings with EU affairs.

1. Institutionalisation Hypothesis (Typification of Actors and Action)
With increasing EU legislation, MPs acquire knowledge and experience in ‘doing EU’; and EU related action is increasingly carried out by typical actors (e.g. EU experts and European affairs bodies); moreover, communities of practitioners are increasingly successful actors in the reforms of formal frameworks of EU participation. As a consequence, EU related action is more and more patterned; as MPs try to find ‘competent’ participation modes in EU affairs regarding ‘ways of doing things’ in the chambers, the resulting stable action patterns functional equivalents to practices or parliamentary functions at the domestic level.

This hypothesis is investigated in Chapter III+IV. To investigate almost thirty years of parliamentary practice is an unpromising endeavour. It is impossible to find systematic data. The method chosen to access parliamentary practice was as a consequence ‘think description’ (Geertz 1973) of evolutions based on interview evidence, document analysis and secondary literature. The author carried out interviews with current and ‘historic’ parliamentary actors, partly in the framework of the project OPAL (OPAL 2010). Other interviews from this project could be used as background in-
For the French case the author had access to an important set of interviews with MPs from the Assemblée nationale carried out by Olivier Rozenberg between 1999-2003 and provided by the Banque d’enquêtes qualitatives en sciences humaines et sociales (BeQuali 2016) of the Centre de données sociopolitiques de Sciences Po. In the German case ‘historic’ interview material was missing; hence the author interviewed actors who had been MP in the Bundestag in the 80s and 90s. In order to gain this breadth of interview evidence in two countries, some methodological trade-offs were unavoidable (e.g. on the heterogeneity of interview data), but each interview was cross-checked with other sources and secondary literature if available. Overall, the institutionalisation of EU affairs in the chambers was analysed with the help of 48 interviews with MPs and clerks from different time periods in both chambers.

The second hypothesis assumes that the more ‘doing EU’ is patterned in the chambers, the more MPs’ day-to-day practice has an impact on the way they see parliamentary democracy in the EU. This draws on Max Weber’s idea that the motives for action (or evaluation as the authors will call them mainly in the following) change in the course of an institutionalisation process. ‘Institutional’ motives are more important in the later stages of a habitualisation process than ‘doing EU’.

2. European Integration Paradox Hypothesis (Growing importance of domestic institutions as motives for action)

With an increasing patterning of EU affairs, the ideas MPs convey about the role of parliaments in the EU depend stronger on domestic institutions.

This second hypothesis is investigated in Chapter V through a qualitative-quantitative discourse analysis of key parliamentary debates in each of the two time periods identified (Maastricht period: 1979-1999 and Lisbon period: 2000-2013), one with a low degree of institutionalisation (Maastricht) and one with a higher degree of institutionalisation (Lisbon). The developed discourse-analytical method allowed for the systematic comparison of the importance of specific parliamentary roles in the discourse of MPs across time. The cleavages in the discourse served as indicators for the motives driving MPs’ discursive action.

The motives for the evaluation of parliamentary prerogatives were analysed with the help of the contributions to the general debates (speakers enrolled in the speaker’s lists) on constitutional amendments and ratification laws on the treaties of Maastricht and Lisbon in the Assemblée nationale and
the Bundestag. Overall the sample comprised about 47 hours of parliamentary debate.

### Research object and central terminology

The object of this study are practices. The latter are understood in their most basic sense as what actors do and what they say and how this may reflect their interests, their ideological convictions or what they consider as being appropriate. Lequesne understands practice as ‘patterns of action, which, in being performed by the agents, reflect not only their rational or material interest at the moment ‘t’, but also their representation of an issue integrated as socially meaningful’ (Lequesne 2015, 2).

While the term ‘institution’ is usually used in political science to indicate organisational structures and procedures, this book understands the term the way sociologists do – as both organisational rules and rule or norm systems (Rhodes 2008). Norm systems are the results of institutionalisation processes, which are themselves results of social interaction. When this book talks about ‘institutional’ motives for (discursive) action, it refers to deeply integrated rule-systems or the backdrop of institutionalised practices. In the heart of the understanding of ‘institution’ as it is used in this book lie what Berger and Luckmann call ‘usual ways of doing things’. The latter are ‘customary’ or ‘usual’ patterns of action. ‘Usual ways of doing things’ do not correspond to ‘unwritten rules’ because they also encompass the written rules actors use. However, ‘usual ways of doing things’ are opposed to ‘written rules which are not used’ (and thus remain void) because they do not correspond to habitual action patterns.

This book is not so much interested in the formal dimension of politics, but in real patterns of action and the micro-processes on actor level and patterns that constitute institutionalisation processes. It understands institutionalisation as processes of ‘reciprocal typification of habitualised actions by types of actors […]’ (Berger and Luckmann, 1991, p. 72) in EU affairs in parliaments that lead to ‘ordered practices’. As an outcome of institutionalisation processes one can observe the emergence of typical actors in EU affairs in the chambers who carry out typical forms or patterns of parliamentary action.

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4 The theoretical framework of this thesis assumes that the stronger behaviour is patterned, the more attitudes are patterned as well, and aggregate action patterns thus more and more reflect what actors consider as appropriate.
In the terminology of social theory such typical forms of action are close to roles, a concept from social theory used in legislative studies. In contrast to legislative studies, however, this book does not investigate the representative roles of individual MPs (for the state of the study of roles in legislatures see Blomgren and Rozenberg 2012). When this book refers to roles or orientations, it refers only to patterns as they shine through practice or discourse. Role is used in its sense in common speech and thus as a synonym for a function a parliament fulfils towards society or towards the government.

This PhD book is thus about what parliamentarians do in EU affairs, how this relates to what they say in public discourse assuming that what they say (to their fellow MPs and in particular to the wider public) reveals underlying social forms. Discourses are understood as a form of practice carried out by agents.

Book structure

The first chapter (CHAPTER I) presents theoretical reflections for institutionalisation processes based on a practice perspective and Berger and Luckmann’s and Weber’s theory of institutionalisation processes. The chapter first discusses central problems of neo-institutionalisms to conceptualise change. Instead of measuring the institutionalisation of EU affairs through distinct formal and organisational features (that are difficult to establish a priori), the book focuses on actors involved in EU affairs in the chambers and what they do in practice. Formal and informal rules are analysed with reference to their function in the practice of the actors.

In the following the chapter (CHAPTER II) discusses Berger and Luckmann’s concept of institutionalisation processes as processes of ‘typifica-

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5 Roles are situated at the interface of the micro and the macro level. They are ‘designed to explain how individuals who occupy particular social positions are expected to behave and how they expect others to behave’ (Hindin 2007).

6 The term function needs some specification, because of the potential normative bias linked to the term and its close link to the functionalism of Talcott Parsons. This thesis refers to functions only in the sense of tasks carried out for the parliamentary system (e.g. responsiveness, legislation and initiative, information and deliberation, government creation and control, see (Patzelt, 2003, pp. 82–112). It does not entail any judgement about whether these functions are positive (e.g. for the democratic quality of the system) or complete.
tion’ (Berger and Luckmann 1991) of actors and action in EU affairs –
drawing also on insights from practice theory. This allows modelling
the impact of the increasing EU legislation on ‘doing EU’ in the chambers.
These processes put actors with day-to-day EU expertise to the fore of ac-
tion in parliament as far as EU decision-making and polity-building is con-
cerned. Changing patterns of parliamentary participation are seen as a
search for functional equivalents to ‘old ways of doing things’ (Berger and
Luckmann 1991) or prior institutionalised parliamentary practices in the
chamber. Drawing on practice theory, one can assume that the experience
of incompetence in handling EU affairs in parliament leads to a search for
new action that can accommodate EU decision-making and parliamentary
practice. The results of this evolution are action patterns that more and
more reproduce the roles of the chambers on the domestic level reinter-
preted for EU affairs.

Finally, the chapter discusses Weber’s idea of changing motives for ac-
tion in the course of institutionalisation processes. This allows modelling
the changing importance of domestic role models for discursive practices
of MPs about the role of parliaments in the EU. While there may be many
various motives for action when institutionalisation is low (in particular
instrumental and ideological interest), with increasing institutionalisation
actors will look for appropriate and rightful solutions for parliamentary par-
ticipation in EU decision-making.

The following chapter develops the analytical framework for the com-
parison of the evolution of EU practice and discourse on the role of parlia-
ments in the EU in the Assemblée nationale and the Bundestag.7 The chap-
ter discusses the comparative framework that is designed as a spatial and
temporal comparison of four cases. In order to not simply assume certain
developments as ‘historical’, but to introduce time as a dimension of vari-
ance, it was subjected to the same methodological guidelines for compari-
son as those usually applied to synchronic comparative designs. The devel-
opments in the Bundestag and the Assemblée nationale are thus divided
into two time periods. The first is called the ‘Maastricht period’ for the
purposes of this study and starts in 1979 with the ‘decoupling’ of national
parliaments from the EP through the latter’s first direct elections. It ends
in 1999 when the full effects of the substantial changes of the Maastricht
Treaty and the ensuing ‘jump’ in EU legislation from the middle of the
1990s are assumed to be still weakly felt by MPs. The full impact is then

7 A more comprehensive methods chapter can be accessed under http://spire.sciences
po.fr/hdl/2441/5i1k2o8mn49maohtdrake9dsfv.
investigated in the second time period which is called the ‘Lisbon period’ and runs from 2000 to 2013. In order to investigate the discursive practices of MPs on the role of parliaments in the EU, the EU treaty change publicly considered most far-reaching for the *de jure* constitution of the EU was chosen in each period to compare the parliamentary debates linked to those treaties, i.e. the Treaty of Maastricht and the Treaty of Lisbon.

The comparison across time is designed as a most similar system comparison of developments in each chamber; different outcomes in the chambers in terms of dealing with EU affairs can be explained by the temporal variance. The comparison across space is designed as a most different case design, comparing developments in the two chambers to find common outcomes.

The methodological chapter proceeds by operationalising the theoretical reflections of Chapter I. *Hypothesis 1* assumes the typifications of actors and action with growing EU experience. Indicators for the increasing typification of actors are the roles of the European affairs committees and EU experts in the chambers, and the growing importance of a ‘community of practice’ sharing EU experience and knowledge for the adaptation of formal rules for EU participation. The increasing typification of action in EU affairs is indicated by the patterning of the use of EU linked formal and informal instruments and the interaction with EU transnational actors.

This growing institutionalisation of the EU as an ‘ordered practice’ is in turn supposed to have an impact on the discursive practices of MPs on the role of parliaments in the EU. This was formulated in *Hypothesis 2*. The cleavages of the debates are indicators for the motives underlying them. If the debates are cleaved along a line running between MPs from the government majority and the opposition, discursive practice can be assumed to depend on political interests of (re)election. If ideas about the role of parliaments are distinct between groups of clearly identifiable convictions about the future scope of European integration, then ideological motives prevail. Finally, if ideas are fundamentally cleaved between MPs from different parliamentary institutions, then motives are domestic parliamentary institutions.

The third and fourth chapter investigate *Hypothesis 1*. In the Maastricht period (CHAPTER III) one could indeed find similarities between the Bundestag and the Assemblée nationale as far as action on EU affairs is concerned. In both chambers there was still no clearly defined agency for EU affairs; central actors on EU related issues varied, but were rarely experts on parliamentary day-to-day dealings with EU affairs. In the Assemblée nationale the European affairs body was subject to changes in mem-
bership and scope. As a technical body, it lacked the political representa-
tiveness to carry out functions similar to the committees during most of
the period. EU expertise was limited and few MPs were interested in EU
affairs. Agents of change of formal rules for the chamber’s participation in
EU affairs were often Eurosceptic MPs, pushing through their ideas about
the parliament’s role as a controller of the government’s EU policy. In the
Bundestag the European affairs body was subject to multiple changes. In
practice it never fulfilled its function of coordinating the work of the
standing committees, which was supported by EU politicians in the cham-
ber as it did not correspond to the BT’s usual practice of sharing work be-
tween the committees. Despite their pro-integrationist stance, there were
only few MPs in the BT who were experts in EU day-to-day decision-mak-
ing. Successful agents pushing through their proposals for the reform of
formal rules for the participation in EU affairs were mostly powerful MPs
in the parliamentary party groups and federal parties either defending fief-
doms in parliament or the BT’s position in the federal structure of Ger-
many as a response to increased EU participation claimed by the Länder.

Action in EU affairs was not patterned, neither in the Assemblée na-
ationale nor in the BT. In both chambers real EU participation and inter-
action with transnational EU actors was limited, and dissatisfaction with EU
participation was high. In the Assemblée nationale there was no agreement
between central actors as to whether EU participation should focus on con-
trol of the government, or on the representation of French voters’ interests
and information of the wider public. In the Bundestag there was an agree-
ment on the fact that EU participation should take place earlier in the EU
policy-cycle, but the solutions to reach this were strongly contested. The
Assemblée nationale only weakly interacted with EU institutions, but
many actors would have liked to foster interparliamentary cooperation. Ac-
cording to their strong pro-integrationist stance, members of the BT most-
ly interacted with the EP among the EU institutions.

In the Lisbon period (Chapter IV) the most similar system comparison
across time indeed shows differences within both parliaments, which can
be linked to the increasing EU legislative output. In the cross-country com-
parison one can identify similar evolutions in both chambers despite their
differences. In both chambers the agencies on EU affairs were more clearly
defined than in the Maastricht period, and reforms of formal frameworks
were pushed through by a ‘community of practice’ sharing knowledge
about and experience of day-to-day parliamentary EU participation. In the
Assemble nationale the European affairs body started to fulfil functions
similar to those of the standing committees. Successful agents of change

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https://doi.org/10.5771/9783845290294
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for formal rules were concentrated in the EAC, which comprised most of the EU expertise. The parliamentary expertise in EU affairs increased. In the Bundestag the European affairs body also developed into a ‘typical’ committee. In strong contrast to the Assemblée nationale, this meant that it lost its coordination function and developed into a ‘sectoral committee’ responsible for institutional matters of the European Union, mirroring the Chancellery according to the usual organisation of the Bundestag. EU expertise strongly increased, but was disseminated throughout the Bundestag. Successful agents of change for formal rules were a cross-party group of EU experts who used ‘windows of opportunity’ to push through successive reforms of formal participation rights, mostly concerning information.

In both chambers, action was more clearly patterned in the course of the period, and reproduced the functions of both parliaments at a domestic level. In both parliaments, actors were more satisfied with what had been achieved at the end of the Lisbon period, even if they remained critical. In the Assemblée nationale control of the government no longer played much of a role. MPs mainly implemented actions that helped them to regain their major functions on a domestic level, i.e. to ensure input legitimacy. They were not so much interested in the detailed control of the negotiations in the Council. Instead they nurtured a steady longer-term ‘dialogue’ with the government to raise its awareness about issues potentially difficult for French voters and MPs in the EAC, and tried to enhance the Assemblée nationale’s function of information and deliberation of the plenary through a policy of public committee meetings. The interaction with the EU level followed the same logic. In order to increase the role of interest representation of French voters, MPs searched for fora to do so. French MPs considerably increased their interaction with French MEPs.

In the Bundestag however, MPs enhanced their expert and legislative control function on EU issues. They mainly strengthened their organisational capacities to come in early in the EU decision-making process and to control the government’s negotiations in the Council. Their main concern was information about the concrete legal texts discussed. The interaction with EU transnational actors sustained this search for functional equivalents for domestic roles in the Lisbon period. Interaction increasingly concentrated on the European Commission, to get information early on in EU decision-making processes. The interaction with the EP decreased strongly.

The fifth chapter (CHAPTER V) changes perspectives to investigate the European Integration Paradox (Hypothesis 2). It analyses MPs’ ideas on the role of parliaments, conveyed in debates on the Treaty of Maastricht and
the Treaty of Lisbon. In the Lisbon debates, the domestic practices in EU affairs of the chambers played indeed an important role for the ideas about the role of parliaments in the EU. In the Maastricht debates they did not.

In the Maastricht period, ideological groups conveyed the same ideas about the role of parliaments across chambers. In particular the French ‘Centrists’ and the German MPs from the established parliamentary party groups at that time (CDU/CSU, SPD, FDP) expressed the same ideas about the importance of the EP alongside the national parliaments for the legitimisation of EU decision-making through representative democracy.

In contrast to this, in the Lisbon debates the increasing institutionalisation of EU affairs demonstrated before became decisive about the way the role of parliaments in the EU were depicted in discursive practice. There were strong differences in the priorities set for debating parliamentary prerogatives. MPs in the Assemblée nationale across all parliamentary party groups mainly debated about national parliaments’ direct collective participation in EU decision-making (eventually through a sort of virtual third chamber) and the strengthened prerogatives of the EP. In contrast to this, MPs in the Bundestag across all parliamentary party groups mainly debated about parliaments’ role as a ‘domestic control body’, i.e. about prerogatives that enhance the individual national parliaments’ capacity of controlling EU decision-making. The growing – and parallel – institutionalisation of EU affairs in both chambers at hand thus paradoxically led to an increasing divergence of ideas about what ‘doing European representative democracy’ should look like.

The conclusion summarises and discusses the main findings about the Europeanisation of the chambers and its paradoxical effects for the discourse about the role of parliaments in the EU. It discusses the results in the light of existing research, as well as their implications for further research. Finally, it discusses the significance of the European Integration Paradox for the EU polity.
This first chapter provides the theoretical framework for the analysis of the evolution of practice and discourse in the Assemblée nationale (AN) and the Bundestag (BT) in the course of EU integration.

The first section of this chapter discusses how studies of the Europeanisation of domestic institutions based on neo-institutionalisms are often ‘focused on the institutional and regulatory dimension of the EU system’ (Adler-Nissen 2016, 89). Studies focus on classical political science spaces and do not pay attention to the ‘quotidian’ of the actors on the micro-level. Neo-institutionalism has difficulty grasping the discretion of actors and therefore modelling institutionalisation processes.

On this basis, the second and third section of this chapter present theoretical reflections regarding how Europeanisation can be understood as the institutionalisation of EU-linked practices in parliamentary chambers. To this end, the chapter revisits Max Weber’s ‘old institutionalism’ as well as the classical writers of social constructivism Berger and Luckmann. Furthermore, it relates to the recent ‘practice turn’ in social sciences in general and in EU studies in particular (Adler-Nissen 2016). Practices ‘reverse the classic question of institutionalism’ (Lequesne 2015, 14) by showing that institutions are not the fruit of ‘a priori ideas’ but of ‘doing or performing Europe’, because interactions at the micro-level ‘stabilise social structures and fix ideas and subjectivities in people’s minds’ (Adler and Pouliot 2011, 20).

To draw lessons from Berger and Luckmann’s social constructivism helps to identify what institutionalisation processes are about at the micro-level of the actors, thereby highlighting the growing importance of specific types of actors and patterning of action. On the other hand, drawing on Max Weber’s idea of the change of motives for action in the course of institutionalisation processes helps to understand why domestic institutions may play a stronger role in later stages of European integration than they did in earlier stages. The last section summarises and introduces the hypotheses that will guide the empirical analysis in Chapters III to V.
A – The institutionalisation of EU practices

The following sub‐chapter examines the difficulty of grasping the impact of European integration on national parliaments. The chapter discusses the missing conceptualisation of processes of institutionalisation on the micro‐level of the actors. It then addresses the often‐debated difficulty of neo‐institutionalisms to conceive of change because of their reduced notion of institution. Finally, the sub‐chapter argues that a focus on practices may help to start from the actors’ micro‐level without losing out‐of‐sight macro‐processes.

1) Europeanisation and institutionalisation

In the field of studies on parliaments in the EU, ‘Europe’ is usually defined at the macro‐level as the totality of institutional rules on the EU level (treaties and declarations, accessions, summits, and material EU institutions) (Auel 2005). Others emphasise the evolution of the EP (Winzen, Roederer‐Rynning, and Schimmelfennig 2015). Benz conceptualised ‘Europe’ or the ‘EU’ as a new ‘opportunity structure’ (Benz 2004) for national MPs, but there is only little discussion regarding what this implies for MPs on the micro‐level and how the social forms of ‘doing parliamentary democracy’ can in turn be understood. Studies of the Europeanisation of domestic institutions often search for convergences of formal rules to describe macro‐evolutions.

In other fields – in particular in the field of studies on the Europeanisation of policies – the mechanisms through which actors on the micro‐level make ‘use’ (Jacquot and Woll 2004) in practice of Europe have been more broadly investigated. Authors have proposed sequential causal explanations for different mechanisms through which the interaction between domestic and EU actors have changed preferences, motivations, or beliefs (Palier and Surel 2007, 40–41).

One of the most widely accepted definitions of Europeanisation is Claudio Radaelli’s. He defines the phenomenon as the ‘processes of (a) construction (b) diffusion (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 making of EU decisions and then incorporated in the logic of domestic discourse, identities, political structures and public policies’ (Radaelli 2000, 110).
In contrast to approaches focusing on distinct outcomes (Börzel 1999), this definition distinguishes the process of Europeanisation from its outcome and emphasises the processes of social interaction in the course of European integration (Palier and Surel 2007, 36–41). This helps to put the analytical lens on the fact that processes are not necessarily linear and that the outcomes cannot necessarily be grasped as ‘convergence’ of formal rules or organisational structures, for example.

On the one hand, the definition delivers the important elements with which to analyse evolutions linked to European integration at the micro-level of the actors, and it highlights an important dimension for the study of Europeanisation of domestic institutions: Europeanisation processes are ‘institutionalisation processes’. However, Radaelli remained strangely cryptic about what these processes mean. There are so far only few theoretical reflections regarding what institutionalisation in the context of the process of European integration means for domestic institutions, and how it can be analysed.

Without a theoretical reflection about what EU-linked institutionalisation as a process means and how one can recognise the outcome at the level of the actors without predefining it from the outset, the researcher struggles to explain different degrees of the ‘institutionalisation of Europe’ and his work tends to lose sight of common longer-term effects of European integration on domestic institutions that might not occur in easily recognisable effects such as convergence or institutional transfer.

Researchers have indicated that timing might play a crucial role for processes of Europeanisation (Goetz and Meyer-Sahling 2008, 19). This has in particular played a role in policy analysis (Palier and Surel 2005). However, to date studies are based on the analytical frameworks of neo-institutionalism, with its difficulty of conceiving of change.

2) The new institutionalisms and their bloodless actors

How can one recognise evolutions of domestic parliaments in European integration without predefining what their outcomes are? Here the major issue is that the political science versions of neo-institutionalism that are used in many Europeanisation studies have a problem in their approach to institutional change. They were conceived in the 80s principally in opposition to behaviourism (Saurugger 2009, 193). Their main focus was thus on explaining how institutions impact actor behaviour, either by providing opportunities for their interests in the rational choice version, structuring
appropriate behaviour in the sociological institutionalist version, or perpetuating institutional pathways over time in the historical institutionalist version, which is a mix using causal explanations of both, i.e. they have been conceived to take institutions as an independent variable. The historical institutionalism is not different in nature here. Even if it was developed as a corrective to ‘ahistorical tendencies in the predominantly rational choice perspective of American political science’ (Bulmer 2009, 308), most of the researchers associated with it ‘have generally been more explicit on discussing the “institutional” dimensions of their framework than the historical elements which constitute their explanatory framework’ (Pierson 2004, 8).

Thus, it is little wonder that neo-institutionalism (at least in political science) conceives of change either as marginal and at best slow and incremental within existing institutional frameworks, or as a result of shocks external to the institutional system (Hoeffler, Ledoux, and Prat 2014). For Charles E. Lindblom, change is only introduced at the margins as a consequence of learning and compromises between different actors. For Pierson, the pathways that public policies have taken in the past reduce their capacity to deviate from them in the future. Change is therefore only possible at moments of critical junctures during which factors exogenous to the governance system open up the possibility to take new pathways (Hoeffler, Ledoux, and Prat 2014).

On the basis of a wave of studies introducing the role of ideas and discourse into all three types of institutionalism commonly distinguished in political science (Hall, Taylor, and Taylor 1996), Vivien E. Schmidt and others tried to theorise a ‘fourth “new institutionalism”’ (Vivien A. Schmidt 2010). This new ‘discursive institutionalism’ has the explicit aim of tackling the problem of change in the new institutionalisms without giving up the insights from the other three institutionalisms on interests, institutional conventions, and historical pathways.

The merit of discursive institutionalism is that it highlights processes and the interactions between actor and structure, and that it tries to remedy the partial ‘absence’ of actors in the classical neo-institutional accounts. Schmidt argued that if studies take actors into account using neo-institutionalist approaches, actors are largely fixed in terms of preferences or in terms of norms (Vivien A. Schmidt 2008).

For discursive institutionalism, institutions are both given (‘the context in which agents act, think or speak’) and contingent (‘the results of agents’ thoughts, words and actions’) (Vivien A. Schmidt 2008, 337). Action for discursive institutionalists is not a product of rationally calculated, path-de-
ependent or norm appropriate rule-following, but a process in which agents create and maintain institutions using their ‘background ideational abilities’, with the help of which they assess the sense of a given context, and their ‘foreground discursive abilities’, with which they can deliberate about institutional rules and maintain or change them (Vivien A. Schmidt 2008, 337).

The contribution of discursive institutionalists is to be interested in discursive processes rather than the substantial content of the ideas, as well as to open up the possibility of assessing processes of social interaction. However, there are two problems with discursive institutionalism. First, it places much emphasis on agency and strategic innovative discourse by actors to explain the ‘unique events and the unexpected’ (Schmidt 2008) caused by discourse of individuals or specific ‘logics of communication’, but change is still thought of as being radical and exceptional. Discursive institutionalism thus situates itself in the tradition of the neo-institutionalisms that conceive of the world first and above all as a world of temporarily stable institutions. Change and ‘new ways of thinking’ (Adler and Pouliont 2011, 18) emerging from the quotidian and unconscious ‘play of practice’, are not thought of in discursive institutionalism.

The second problem with discursive institutionalism is that the fine-tuned models for types of discourse and factors for successful discourse help to understand what endogenous causes for radical change could be, but it is still not entirely clear how the actors manage to deviate from frames or pathways fixed in their ‘background ideational abilities’ and how they succeed in creating a new and convincing discourse, i.e. how the transition works from structure to actor. Max Weber proposes a convincing solution for the problem of actor discretion, which is discussed below.

3) Bringing social interaction and genuine institutions back in

The problematic point about all new institutionalisms is that they conceive of institutions in principle as given and stable until they change for different reasons. They do not provide the tools to analyse parallel and perpetual processes of institutionalisation and deinstitutionalisation of Europe as a practice.

Even sociological institutionalism does not provide the possibility to analyse the social processes that lead to particular rule systems, or those that lead to their change and disappearance: ‘Institutions are the structure in which social interaction – as opposed to random encounters – take
place; they tend to pattern behaviour in particular ways …institutions make purposive action possible by providing individuals with a framework of shared expectations’ (Stone Sweet, Fligstein, and Sandholtz 2001, 7).

Sociological institutionalism simply does not put the analytical lens on those processes. Instead, contemporary sociological institutionalism examines institutions as if these were the results of ‘finalised’ institutionalisation processes, i.e. as if the world on day x were a picture of norm structures that can in turn explain behaviour. Actors become strangely void creatures without any agency, as is shown by discursive institutionalism (Vivien A. Schmidt 2008).

This is why this book revisits Berger and Luckmann and introduces their insight regarding the development of institutions into the theoretical framework of this study. Berger and Luckmann have provided a conceptual framework that makes it possible to conceive of institutionalisation as a dynamic process without forgetting that ‘once established, institutionalized rules become taken for granted, legitimate and hard to change’ (Hirsch and Boal, 2000, p. 256).

Furthermore, to return to the thicker Weberian notion of institutions as prescriptive rules with a ‘constitutive point of reference’ makes it possible to ask for different degrees of importance of appropriate behaviour in the course of an institutionalisation process. When neo-institutionalism renewed institutionalism, it rejected the normative-prescriptive notion of institution of the old institutionalisms that were important for the works of classic sociological thinkers such as Durkheim and Weber. This notion was important again for the works of Talcott Parsons (Stachura 2009, 8).

Neo-institutionalism rejects this notion because of its normative and legalistic foundations (Rhodes 2008). Instead, both the rational choice and sociological institutionalism (at least as they are usually employed in political science) operate with a reduced notion of institution. Rational choice institutionalism, first employed in economic research, reduced institutions to their instrumental element, while the sociological institutionalist version reduced institutions to their cognitive elements, such as ‘scripts’, ‘frames’, or ‘mental schemes’ (Stachura 2009, 8). This reduction to structures external to subjects as explicative variable leads to the incapacity of the neo-institutionalist literature to grasp the full breadth of the institutionalisation processes linked to the EU and their consequences.
4) ‘Doing EU’ as an ‘ordered practice’

In recent years, sociological approaches to the EU have tried to put ‘actors up front’ (Saurugger 2016, 71) again to analyse them in their social context, and to take them neither as ‘pure profit maximisers’ nor as ‘purely embedded in a logic of appropriateness whereby their social context determines their preferences’ (Saurugger 2016, 71). Studies have so far mainly focused on evolutions in European society, the political sociology of EU actors, and the building of EU institutions and public policies (Saurugger 2016, 71). In particular, the recent renewal of studies focusing on practices following the import of the ‘practice turn’ in social theory (Schatzki, Knorr-Cetina, and Savigny 2001) helps to better understand the evolutions taking place in national parliaments in the course of European integration.

Focusing on the routines and habits of actors and taking their practices as a unit of analysis (Adler-Nissen 2016) provides theoretical and methodological tools to invert the ‘relationship between practices and rule-making’ (Lequesne 2015, 1) and to link a micro-sociological approach to questions of macro-evolutions. Put together, practices can provide the ‘big picture’ (Adler-Pouliot, 1) of the nature of the EU governance system.

Adler and Pouliot defined a practice as a particular type of action that is a ‘competent performance’ (Adler and Pouliot 2011, 1). Practices are ‘socially meaningful patterns of action, which in being performed more or less competently, simultaneously embody, act out, and possibly reify background knowledge and discourse in and on the material world’ (Adler and Pouliot 2011, 4). Behaviour, action, and practice are distinct from each other in their degree of specificity. Behaviour is the ‘material dimension of doing,’ action has an ideational layer and points at the ‘meaningfulness of the deed,’ and practice indicates the ‘patterned nature of deeds in socially organised contexts,’ i.e. specific types of action socially developed through learning and training (Adler and Pouliot 2011, 5).

Weaved into practices is the actor’s ‘background.’ Not every meaning spoken by an actor is a background. Background must be shared intersubjectively. It is not necessarily conscious and spoken: it can also be unspoken and tacit. Background knowledge comprises ‘intersubjective expectations and dispositions’ and the ‘dominant interpretive background which sets the terms of the interaction’ (Adler and Pouliot 2011, 7). The notion of background goes back to Searle and is akin to Bourdieu’s habitus, in as much as it is often unspoken and only ‘learned in and through practice’ (Adler and Pouliot 2011, 18). The habitus is an ‘unconscious overtaking of rules, values and dispositions gained from individual and collective history.'
The habitus functions like the materialisation of collective memory and is a disposition to act, perceive and think in a particular way in conformity with the field throughout time’ (Adler-Nissen 2008, 669).

This conceptualisation of practice is different from representations or other verbal and intentional forms of thinking, but there are some similarities with the concept of roles often employed in legislative studies, insofar as the both link agency to structure and patterns of behaviour to patterns of attitudes. ‘Role’ is a sociological concept with particular importance for legislative studies to study ‘comprehensive patterns of attitudes and/or behaviour shared by MPs […]’ (Blomgren and Rozenberg 2012, 8), i.e. patterns of interpretation of what an MP’s work entails and patterns of concretely accomplished activity.8

In legislative studies, roles are often studied at the individual level of the MPs. Roles of parliaments, as the term is used in the rest of this book, are understood as the aggregated sum of practices. Roles do not refer to MPs’ self-perceptions, but to distinct functions that parliaments fulfil in the political system, such as responsiveness to voters’ concerns, legislation, information, or control of the government (Patzelt 2003). Such functions do not entail judgements about the quality of the action carried out for the system, for example about whether the practice of carrying out a particular action is positively functional for the democratic quality of the political system.

Neither the concept of role as it is used here nor the concept of practice refers to conscious interpretations; instead, they refer to an ‘unarticulated sens pratique’ (Adler-Nissen 2008, 670). The inarticulate ‘ways of doing things’ (Berger and Luckmann 1991) in a ‘field’ or social system consists

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8 There is a lively academic debate in legislative studies regarding whether roles are only constituted of attitudes or whether they also include behaviour (Blomgren and Rozenberg 2012). For Wahlke, roles are distinguished from behaviour. A role for any individual legislator refers to a coherent set of ‘norms’ of behavior that are thought by those involved in the interactions being viewed to apply to all persons who occupy the position of legislator (expectations of others). Strøm excluded behaviour as well. For him roles are behavioural strategies conditioned by the institutional framework in which parliamentarians operate. On the other hand, Searing developed the concept of motivational roles that includes behaviour. For him, roles are particular patterns of interrelated goals, attitudes, and behaviours that are characteristic of people in particular positions. Finally, Andeweg considered that the concept of role cannot entail behaviour for the purposes of modelling: if behaviour is part of the role, then roles can no longer explain MPs’ behaviour (Andeweg 2014).
‘of a patterned set of practices, which suggest competent action in conformity with rules and roles’ (Adler-Nissen 2008, 668). This does not mean that people do not reflect on their practices. ‘Practice does not trump reflexivity, judgement and expectations’ (Adler and Pouliot 2011, 17). Backgrounds are formed through performing action, but individuals have the capacity to recover them reflexively and to judge their ‘validity’ (Stachura 2009). This study is interested in the recovering processes of inarticulate background knowledge and their link to ‘institutional motives for action in the course of the institutionalisation of a practice.

Background knowledge is shared in communities of practice. Practices develop, diffuse, and become institutionalised in such communities. Moreover, these communities consist of ‘like-minded’ people. They share, develop, and maintain the knowledge. Members of a community of practice have a sense of ‘shared enterprise’ and relationships of mutual engagements (Adler and Pouliot 2011). Communities of practice are not created by a priori rational calculus, but by ‘doing’ Europe.

All in all, the added value of the practice approach is to provide conceptual tools for recognising the process of institutionalisation as ‘patterning’ and the outcome of this process as ‘ordered practices’. Furthermore, the approach draws the researcher’s attention to the importance of experience for the formation of dispositions, in contrast to the a priori rationality of rationalists or the ‘extra-subjective structures’ of post-structuralists (Bueger and Gadinger 2014, 451). It is through distinct forms of human interaction that social structures are stabilised and ideas are fixed in people’s minds. Practice theory leads to historicising the creation of a new institution (Lequesne 2015, 2).

However, practice theory only provides few answers to the question of how one imagines the processes through which a new practice is institutionalised, i.e. how social structures (‘consisting of shared background knowledge’) are stabilised, ‘thought and language’ are ‘congealed’ into ‘regular patterns of performance’, and ‘contexts or structures’ are turned into ‘agents’ dispositions and expectations’ (Adler and Pouliot 2011, 22) in an already highly institutionalised social setting such as national parliaments. To model institutionalisation as a process, it is necessary to revisit classic sociological thought about institutionalisation processes: Berger and Luckmann’s ‘The Social Construction of Reality’ and Max Weber’s ‘old’ institutionalism.
Central concepts from Berger and Luckmann’s ‘The Social Construction of Reality’ (Berger and Luckmann 1991) help to build a framework to model the institutionalisation of ‘doing EU’ on the level of the actors and their action in national parliaments.

1) Institutionalisation of a new social order

According to the two central writers of social constructivism, Berger and Luckmann, ‘emergence, maintenance and transmission of a social order’ (Berger and Luckmann, 1991, p. 70) can only be understood through a theory of institutionalisation.

Berger and Luckmann conceived of institutionalisation as processes of ‘reciprocal typification of habitualized actions by types of actors […] Any such typification is an institution’ (Berger and Luckmann, 1991, p. 72). According to the authors, ‘all human activity is subject to habitualization’ (Berger and Luckmann 1991, 70).

When reproduced frequently, even the simplest action will always be executed with the same patterns in order to spare effort. This standardisation of doing things also happens in non-social contexts, i.e. when a human individual is alone. Habitualisation narrows down the arrow of choices for the individual. However, for Berger and Luckmann, it is only the ‘[o]rigin of [i]nstitutionalisation’ (Berger and Luckmann 1991, 70). Social interaction is needed to make a process of institutionalisation out of a process of habitualisation. Only when there is social interaction between two individuals or more can the institutionalisation of habitualisation take place.

Furthermore, habitualised actions by types of actors must be reciprocally typified if institutionalisation is to occur. This means that not only the action but also the types of actors must be typified (Berger and Luckmann 1991, 72). For example, the institution of higher education posits that only those who have successfully participated in secondary education are allowed access. Successful access is always measured through specific actions (usually exams), and organised and evaluated by the same types of actors (teachers habilitated to secondary education having certain defined ways of acquiring this status).

To transform this process of institutionalisation into an institution, the typifications must be built in the course of a shared history, and cannot appear instantaneously.
2) Parliaments as ‘permanent’ solutions to ‘permanent’ problems

National parliaments in their respective parliamentary systems can be seen as ‘ways’ that a given society has found to resolve the problem of democratic rule-setting. They are rule systems that Berger and Luckmann would define as “permanent” solutions to a “permanent” problem of the given collectivity (Berger and Luckmann 1991, 87).

The ‘given collectivity’ is the nation-state, which in the course of the building of modern democracy has created and recreated rules through material or immaterial constitutions and legal frameworks and their putting into practice. The ‘problem’ posed to the collectivity is how to define ‘good’ or rightful procedures of decision-making. In modern western societies, good decision-making is decision-making that corresponds to ‘socially acceptable beliefs’ (Beetham and Lord 1998) about how ‘democratic’ rule-setting should take place. These beliefs are deeply enshrined in the background knowledge of parliamentary actors when ‘doing’ parliamentary democracy.

The definition of the way in which democratic decision-making should take place, the formulation and amendment of constitutional rules, and the according legal frameworks has greatly evolved in modern democratic history and has been subject to important processes of redefinition and reform. New rules have had to be tried out in practice and have led to partial redefinitions of rules regarding how elections were to be carried out, how presidents were to be elected, and how government was to be controlled by parliament. The French Vth Republic of 1958 underwent 24 constitutional revisions (Conseil Constitutionnel 2008), while the German Federal Republic has adopted 23 laws revising the Fundamental Law since 1990 alone (Deutscher Bundestag 2013). Some of these revisions are due to external influences such as international law or European integration, but the majority are due to redefinitions within the domestic space of how democracy should work, sometimes following the impulse of the jurisdiction of the Constitutional Court. National parliaments have accordingly seen their prerogatives changed and their rules of procedure reformed.

Even if established institutions continue to be subject to institutional change (Patzelt 2003, 82–112), these processes of definition and practice, and of definition and redefinition have led over time to the settlement of a – seemingly – relatively coherent core of rules for parliamentary practice or of ‘ways of doing parliamentary democracy’, or ‘ordered practices’ in the given parliamentary system that constitute the background knowledge of agents about how to ‘do’ parliamentary democracy. They consciously and
unconsciously define the questions that are to be asked in the course of parliamentary participation to authoritative decision-making, and prefigure the answers in terms of formal and informal rules. This is why Berger and Luckmann discuss “permanent” solutions to “permanent” problems and put the adjective into quotation marks. In the view of parliamentary actors, the institutional world around them seems to be ‘objective’, as something permanent that has been created to solve the permanent problems that collective decision-making creates.

Parliamentary institutions have been developing into the institutions of representative democracy that they are today since the 19th and 20th centuries. Structures and functions of parliaments have evolved in exchange with the governance system in which they are, the society they represent, and the political culture. The long processes of institutionalisation and de-institutionalisation that have accompanied the coming about of modern parliamentary institutions have provided them with ‘institutional historicity’ (Göhler 1997, 15). Rules and roles have become timeless ‘ways of doing things’. Today’s parliamentary actors no longer individually remember who fought the first institutional conflicts over the creation of the institutions. They learn about those conflicts through historical accounts and narratives. Rules for those parliamentary institutions are ‘sedimented’ (Berger and Luckmann 1991, 85) in tradition and passed down to them through language and text, for example through constitutions and other legal frameworks.

While parliamentary actors initially knew the fact that the institutions had been created by men, the transmission of the parliamentary institution to future generations of MPs and citizens has diminished the knowledge about the founding conflicts of parliamentary creation and the fights about ideas and interests for appropriate instruments of government control and parliamentary prerogatives. When processes of habitualisation and institutionalisation are transmitted to future generation, they are objectivated. ‘Institutions […] are experienced as existing over and beyond the individuals who “happen to” embody them at the moment’ (Berger and Luckmann 1991, 76).

Parliamentary institutions start to be experienced as existing independently of human action. The transmission of parliamentary institutions to future generations thus also considerably diminishes the consciousness of the potential of (important) change of parliamentary institutions, i.e. the agents’ reflexivity (Adler and Pouliot 2011) about the institutionalised field of practices in which they move. They become timeless ‘ways of doing’ democracy. They seem to be an objective part of the individual in the same
way as the physical world is ruled by the ‘laws of nature around us’ (Berger and Luckmann 1991, 77).

3) Old and new ‘ways of doing things’ in national parliaments

How should the beginnings of institutionalisation be imagined? When actors have to carry out a new action, in the beginning they will not have any experience with this new task. In the case of European integration, MPs have to become used to new documents coming in, new timings, and new executive actors steering the decision-making process.

Following Berger and Luckmann, the new action is first executed ‘randomly,’ i.e. through trial and error. A new practice comes into place through ‘learning by doing’ (Adler and Pouliot 2011). In initial stages, actors execute deeds, but they do not do so in a socially meaningful way because no such social meaning exists yet. To spare effort, the action is always executed with the same pattern. This patterning and ‘reduction of complexity’ is what Berger and Luckmann called ‘habitualization’ and what they considered to be at ‘origin of [i]nstitutionalisation’ (Berger and Luckmann 1991, 70). According to them, ‘all human activity is subject to habitualization’ (Berger and Luckmann 1991, 70). Once established, it narrows down an individual’s arrow of choices.

Institutionalisation in Berger and Luckmann’s sense can only happen once there is an interaction between two or more actors. In the case of parliamentary actors, one should think of at least a group of MPs who always act according to the same standard ways of doing things when they deal with EU issues. As was shown earlier, practice theory labels such groups as ‘communities of practice.’ If actions are then always performed by the same type of actors who share know-how, one can observe a process of typification of actors. Berger and Luckmann conceived of institutionalisation as processes of ‘reciprocal typification of habitualized actions by types of actors […]’ Any such typification is an institution (Berger and Luckmann 1991, 72).

However, parliamentary participation in EU affairs does not take place in an institutional vacuum. As has already been seen, parliaments have established ‘ways of doing things’ that are carried out by ‘types of actors’ who are (in parts) objectivated and seemingly timeless. Inside parliament, one thus finds a well-institutionalised system of informal and formal rules, laid down in simple parliamentary customs or in rules of procedure, and organised through a complex committee and office system, or within the
parliamentary party groups. This rule system is the result of a continuous process of exchange and modulation between parliamentary practice and its codification in standing orders and rules of procedure. Parliamentary actors know the rules of this parliamentary ‘collectivity’ and they are socialised into it when they take up their mandate.

In the beginning, MPs do not have any experience with the decision-making procedures of the political order that today is called the EU. This is especially true as parliaments used to be weak multi-level players (Maurer and Wessels 2001) when they lost their institutional link to the EP with the latter’s direct election in 1979. This does not mean that actors do not have any knowledge about how the decision-making processes work. It simply means that their knowledge is thoroughly theoretical. Even if they might have a precise idea about how things might work, they have no practical experience with how exactly EU decision-making procedures work in the policy fields in which they are interested, or with how potential parliamentary participation could look. At the same time, there is no tradition or sedimented and objectivated knowledge of how things should work. Actors are unambiguously aware of the fact that this new political order, the EU, is also a recent creature that they have or might come across.

When creating new structures to deal with new EU-related tasks, actors are not blind executers of the ‘ways they always did’ parliamentary participation in legislation, i.e. of old practices. Actors reflect on their practices and think about how to perform new tasks. They actively interpret the new tasks that they will have and the interests that are at stake for them when parts of the legislative work are shifted to Brussels. Parliamentary actors from the majority and opposition reflect upon which structures might be the most adequate to follow the executive’s work in Brussels.

However, they do this by interpreting the EU policy-process through a priori calculations. They do not have a practice of parliamentary participation in EU decision-making processes. A ‘community of practice’ of parliamentary EU affairs does not exist. Such a ‘community’ cannot be created by a priori rational calculus (Adler and Pouliot 2011, 22). Parliamentary actors have thorough practical experience with domestic legislative procedures and political forces. They have practical experience with how the government deals with parliament in matters of foreign affairs, but they do not have much experience with how EU decision-making will play out in practice, with how EU timing might clash with the timing of plenary sessions, and in particular with the effects that EU legislation and policy-making will have in fine on their voters.
New structures and instruments to cope with new tasks in EU affairs are thus created in an extremely dense and ‘timeless’ frame of ‘ways of doing things’ or – in the words of practice theory – of existing strongly institutionalised domestic parliamentary ‘practices’ that provide ‘permanent’ solutions’ (Berger and Luckmann 1991, 87) to the problems of how to ‘do’ democratic decision-making, i.e. that provide the ‘systems of durable, transposable dispositions that constitute people’s thought and practices’ (Bourdieu 1990, 53) for ‘doing’ democracy. At the same time, the actors concerned are clearly aware of the fact that they are creating the structures that are not ‘timeless ways of doing things’ (Berger and Luckmann 1991, 76–80).

4) The search for functional equivalents to domestic roles

With the growing degree of policy-making, national parliamentary actors start to gain experience in ‘doing EU’. This may initially cause conflicts with ‘ways of doing things’ in the chambers because the dealing with EU affairs is carried ‘arbitrarily’ and not ‘competently’ regarding domestic practices.

With a low level of affected domestic legislation, this may not immediately be perceived as a problem. Modern parliamentary systems are characterised by an important level of interconnection between the parliamentary majority and the executive, which negotiates for the member state in the Council of the EU. The executive (or a part of it in ‘semi-presidential’ systems (Duverger 1977)) is elected by the parliamentary majority in most of the parliamentary systems of the EU. Members of the government are usually recruited from the majority party in government or from the governing coalition. This government/parliamentary majority ‘conjunction’ might in principle assure the information and implication of the major players of domestic parliaments.

Only repeated experience of incompetent action with domestic practices leads MPs to search for more ‘competent’ solutions, as EU practitioners may increasingly share knowledge and experience of what went wrong. Existing formal proceedings may not prove to be useful.

These major conflicts are all linked to the functions or roles of national parliaments in one way or another. Most of the literature on the Europeanisation of national parliaments starts from the (implicit) assumption that those conflicts arise automatically with a growing amount of ‘EU-induced’ legislation (Brouard, Costa, and König 2012; Fekl and Platt 2010) or
an increasing amount of documents submitted to parliamentary committees (Wonka and Rittberger 2014). This is not necessarily the case. Even if the famous ‘Delors legend’ of 80% of domestic legislation in the area of markets and enterprises was true, this would not necessarily mean that there would be a conflict. MPs might share the objectives of the policies agreed upon or they might consider that the negotiation of such legislation is exclusively a task of the executive.

Parliaments carry out highly different functions in parliamentary democracies. The type of conflict that arises from the new decision-making mode on the EU level depends on how things used to be done regarding parliamentary participation. In a parliament where the majority of MPs mostly focus their activity on representation and interest-intermediation (and not so much on the writing of the law), conflict may arise once MPs realise that they are not able to fulfil interest representation properly. This could mean a situation in which there is a finalised legislative act stemming from Brussels that harms the interests of citizens or enterprises in the MP’s constituency, and the MP has not been able to inform or to try to alert the government nor the stakeholders in his or her constituency about the issue as he or she usually does. In this type of parliament, MPs do not necessarily experience institutional conflicts because they have not been associated to the concrete negotiations in the Council.

In other parliaments where the ‘way of doing parliamentary democracy’ implies a more direct involvement of the national MPs in the concrete formulation of legislation in committee work (i.e. legislation or oversight (Weßels 2005, 449)), MPs may experience such institutional conflicts on other occasions. As they are usually actively involved in the writing of the law in the decision-making phase of the policy cycle, they may already perceive the lack of active possibilities to influence the government position or at least to follow the negotiations in the Council in detail to be a major conflict.

If Berger and Luckmann’s assumptions are further developed, one should expect attempts to put things ‘in order’ again as a reaction to this new practice of policy-making.

Therefore, MPs will increasingly search for ways to integrate the new ways in which things happen with the traditional ‘ways of doing things’. They will try to reform and remodel the new action to be carried out in order to make it fit with parliamentary functions on the domestic level. Such functional equivalents to old ways of ‘doing’ parliamentary democracy are new rules, action patterns, and practices necessary to be able to corre-
spond to the ‘dominant interpretative backdrop which sets the terms of interaction’ (Adler and Pouliot 2011, 17) at the domestic level.

This is especially true as participation of national parliaments in EU affairs fundamentally takes place on the national level between the parliament and the government. This occurs despite succeeding reforms, in particular in the Treaty of Lisbon, which attempt to create a more intense direct exchange between the domestic parliaments and the European institutions.

### Interparliamentary fora vs Domestic parliamentary practice

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<th>Domestic parliamentary practice</th>
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<td>Loose ‘action’</td>
<td>Institutionalised ‘practices’ and roles</td>
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<td>Contemporary creation</td>
<td>Timeless ‘ways of doing things’</td>
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Furthermore, this is also true despite the interparliamentary fora that have been created in the course of European integration but that are not sufficiently dense, stabilised, and timeless to be a new ‘field’ or social setting for national MPs, requiring some form of ‘competent’ action (Adler-Nissen 2008). Only incentives for extremely dense new behaviour and action in EU decision-making on the EU level could let completely new ‘ways of doing things’ or practices emerge that are not functionally equivalent to the old ‘ways of doing things’.
C – Revisiting Max Weber’s ‘old’ institutionalism: Motives for action

Berger and Luckmann shed light on the historicity of institutions. The need for new types of action brings about new practice and a new need for the reduction of complexity. New action may become habitualised and typified, and new types of actors may emerge who carry out the new required action. All of this happens in an already highly institutionalised environment, which has an impact on new institutionalisation processes.

However, by showing the link between human interaction, institutionalisation, and sedimentation of institutional rules, Berger and Luckmann did not account for the resolution of necessarily ensuing conflicts. For the theorist of institutions M. Rainer Lepsius, on the other hand, these ‘battles’
of institutions and interests are the fundamental ‘spindle’ of institutionalisation processes (Stachura 2009).

Berger and Luckmann’s actors internalise new ‘ways of doing things’ that come to them either through processes of direct habitualisation, or through intergenerational transmission of those processes of typification (through language). If Berger and Luckmann’s conceptualisation of institutionalisation is strictly followed, important changes of institutions can only happen through a sort of blind conformism or in a process of involuntary institutional isomorphism.

Central elements of Weber’s institution theory provide elements to model the differing degrees of importance of the background of ‘ways of doing parliamentary democracy’ when attributing meaning to the role of parliaments in the EU in the course of the institutionalisation of ‘doing EU’ in parliamentary chambers. His concepts of ‘constitutive value’ and of different ‘motives for action’ are central to the evolution of the meaning that the actors give to their own action in the EU. Weber assumed that values are constitutive of institutions, but that the latter do not (necessarily) determine the actor’s behaviour.

Weber assumed instead that institutionalisation is a process in which attitudes become increasingly congruent with action. Actors have a capacity for discretion between different motives for action (material or ideational interest, appropriate behaviour). However, in the course of an institutionalisation process, an actor’s propensity to act appropriately regarding the constitutive norms of a rule increases.

1) Weberian actors and their ability for discretion

For Weber institutions are prescriptive rules that also have a constitutive value of reference (‘Wert-Bezug’ in the original text [comment by author]). These prescriptive rules (‘Norm-Maximen’ (Weber 1973, 334)) formulate a norm for action: ‘you have to do q’ or, if there is a condition, ‘when condition p is fulfilled, you have to do q’. This also means that they are different from instrumental rules, which do not formulate an objective condition for action, but a subjective purpose as a condition for action (Stachura 2009, 10).

At first sight, the constitutive reference of the prescriptive rule makes the Weberian institution theory appear closely linked to the concept of institution in the new sociological institutionalism. However, there is a fundamental difference: for the new sociological institutionalism institutions are
constitutive rules. They are \textit{taken for granted}. This means that (social) rules do not aim to regulate action, but that they \textit{enable} or \textit{define} action. Constitutive rules are ‘Spielregeln’ [‘rules of the game’, translation by author] (Stachura 2009, 10). They \textit{constitute} specific social action: ‘One cannot decide to get a divorce in a new manner, or to play chess by different rules, or opt out of paying taxes. Organisation theorists prefer models not of choice but of taken-for-granted expectations.’ (Powell and DiMaggio 1991, 10)

The rules of the game of parliamentary participation define what parliamentary democracy is. Not to follow these rules simply means not to be in a parliamentary democracy. One cannot take decisions without parliamentary participation and without playing the game of parliamentary democracy.

For Weber, in contrast, institutions are in the first place prescriptive rules – because they are usually expressed in the form of imperatives. Regarding parliamentary institutions, this means that constitutions and standing orders prescribe when parliament must obtain the EU draft legislative act for examination, how much time it has to adopt a resolution to inform the government about its point of view, and in which cases ministers have to follow the parliamentary point of view when negotiating in the Council. Unwritten rules of interaction between members of the same party in government may define in which case an MP having an issue with an EU related dossier is received by the minister and in which he is not.

While it does not make \textit{sense} logically to break a \textit{constitutive} rule, it can be useful for actors to deviate from a \textit{prescriptive} one. Prescriptive rules are in the first place regulative. However, for Weber, prescriptive rules have a constitutive nature. What does this mean? First, the correct implementation of the prescriptive rule will generate a value judgement. As seen in the example above, it is ‘good’ to apply the rule. It is ‘right’ to follow the rules of procedure. Second, prescriptive rules have a constitutive relationship to values (Stachura 2009, 12–13). Following the prescriptive rule of informing parliament about the negotiations in the Council \textit{corresponds} to fulfilling the higher-ranking value of parliamentary democracy.

Prescriptive rules are thus elements of higher-ranking constitutive rules, which define the type of concrete action through which a specific value, in this case ‘parliamentary democracy’, is realised. By prescribing specific actions, prescriptive rules produce or constitute opportunities for the realisation of values. M. Rainer Lepsius put the same idea differently when he wrote that institutions have the function of formulating values in a way that allows them to become maxims for action in day-to-day life (Stachura 2009, 13).
This is where some blood returns to the actors’ veins. In the Weberian sense, institutions are in the first place only external constraints to human action. They are not internal to the actors, as new sociological or discursive institutionalism would assume (March and Olsen 1984; Vivien A. Schmidt 2008). If institutions are defined in the most minimal sense possible as ‘rules which claim validity’ (Esser 2003), then one can state that for Weberian actors, rules acquire their validity not because they have internalised them, but because they judge it as ‘right’ to follow them.

The institutions are not valid because they are objectively true, but because actors acknowledge them as such. In the Weberian perspective, human beings thus do not only have the capacity of ‘cognition’ but also of normative interpretation and ‘evaluation.’ This is what practice theorists call the actor’s capacity for ‘reflexivity, judgement, and expectations’ (Adler and Poulilou 2011, 17). Actors are capable of developing normative standards (Stachura 2009, 17).^9

In the Weberian perspective, institutions are thus both prescriptive rules that human beings can evaluate and from which they can decide to deviate, and their constitutive point of reference, which has developed in processes of institutionalisation, i.e. of typification and habitualisation in historical processes. Following the prescriptive rules corresponds to realising the value embedded in the institution. However, human beings have the discretionary power to not follow the rule if they do not reject the validity of the constitutive value. The fact that an actor consciously takes a decision that is contrary to the Constitution does not mean that he or she does not believe in the validity of constitutional democracy.

Weberian actors act out of different motives – of which the judgement regarding the validity of the rule is only one possible option. Motives may be ideational interests, material interests, fear of sanctions… However, the latter may not be the substantial motivation of the action. For Weber, the fact that at least a part of the actors also judge the social order as exemplary or binding increases the probability that the action will be carried out according to the institutional rules that constitute the social order (Schwinn 2009, 19): ‘However, the fact that the social order also seems valid or bind-

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9 If we read rational choice institutionalism in this perspective, institutions are valid because they are efficient. Once they start to lose their efficiency, actors will try to find a new institutional balance that they believe to be efficient. Institutions in this perspective are not valid because they are right or because they provide sense, but because they are presumed to be efficient instruments of interests (Schwinn 2009, 14).
For this study’s analysis of the evolution of parliamentary participation as an institution in the EU, the following aspect is highly important: the motivation of action through judgements about institutional validity is not steady. Weber showed this when comparing the economic ethics of world religions, for example (Stachura 2009, 20).

With increasing institutionalisation, the importance of validity judgements as a motivation to follow prescriptive rules increases. As a consequence, with a low level of institutionalisation of a social or political order, there is a low probability of an important impact of the institutional validity judgement on the motives for action. This probability increases with the degree of institutionalisation of a social or political order.

2) Democracy as constitutive value of parliamentary institutions

What does Max Weber’s theory of institutions indicate about the evolution of the importance of the ‘interpretive backdrop’ (Adler and Pouliot 2011) or the timeless ways of doing things in the course of institutionalisation processes in national parliaments?

The first fundamental point is that the constitutive value of political institutions in the modern nation-state is democracy. In the course of the evolution of the modern democratic state, this value of reference has been ‘specified’ (Bachmann 2009, 72) to the modern prescriptive rules in the constitutional democracies known today. In the language of practice theory, democracy has become the ‘interpretative background,’ the ‘habitus,’ and the ‘embodied stock of unspoken know-how learned in and through practice’ for political decisions. Processes of revolution, change, and reform have formulated the value of democracy in a way that has allowed it to become concrete rules or patterns for day-to-day political decision-making. The prescriptive rules that realise the value of democracy today are laid down in constitutions and constitutional law (or equivalent) and the legislation implementing it. However, they are also laid down in informal rules

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10 ‘Aber der Umstand, daß neben den anderen Motiven die Ordnung mindestens einem Teil der Handelnden auch als vorbildlich, oder verbindlich und also gelten sollend vorschwebt, steigt naturgemäß die Chance, dass das Handeln an ihr orientiert wird, und zwar oft in sehr bedeutendem Maße.’
Representative parliamentary democracy has probably been the most powerful prescriptive rule for the concrete realisation of democracy in a Weberian sense. Representative parliamentary democracy is the most widely spread form of democratic constitution. Even in democratic systems in which other elected institutions are in a competitive relationship with the parliamentary chamber for democratic legitimacy, parliamentary assemblies are the centrepiece of the process of ‘democratic’ decision-making. They have become a value in themselves. This makes parliamentary assemblies important agents of democratic legitimacy and providers of meaning, i.e. democratic legitimacy, to decision-making processes.

This means that actors in modern parliamentary democracies may follow the rules laid down in constitutions, legislation, and standing orders of institutions because they fear immediate sanctions if they do not do so, but they also have an important chance of doing so because they believe these rules are ‘right’. They may have a multitude of motives for following the rules, but they also fundamentally believe that by adopting a law on the basis of these rules they fulfil the value of democracy.

3) ‘Ideological’ and ‘instrumental’ motives for action

What is the consequence for the institutionalisation processes that take place in the course of European integration in the parliamentary arena? Weber wrote that actors have an autonomous capacity of evaluation and are therefore able to take decisions to follow rules out of different motives, which may be material, ideational interest, or ‘institutional’, i.e. the feeling that a rule is ‘right’ in the actor’s political order. Furthermore, Weber assumes that with growing institutionalisation of a social order, the actor’s predisposition to fundamentally orient action (or judgement) at valid rules within this social order increases.

Through the lens of Berger and Luckmann’s theory of institutionalisation, it can be assumed that in the beginning of European integration, members of national parliaments have little experience in ‘doing EU’. Habitualisation processes have not started yet. EU affairs are still weakly typified, and types of actors are not associated with specific tasks. Because the level of EU legislation is still low, there is little potential for conflict with the way parliamentary democracy works on the national level. The EU is still
weakly *institutionalised* as a practice for the MPs. Any reflection on the ways in which institutions *should* work in the EU is abstract and *theoretical*.

Following Max Weber’s theory, this means that in the beginning of parliamentary participation in decision-making, actors’ *motives* for evaluating how this participation should look are likelier to be diffuse than in later stages of European integration. Above all, *motives for action* for discursive practice on the role of parliaments in the EU are not likely to be ‘institutional,’ i.e. ‘in order’ with constitutive values for the ‘rightfulness’ of decision-making that are the backdrop of domestic practices.

One should assume that with little experience in ‘doing EU’ in the national parliamentary arena, there are instead other *motives* that could be more important. Two other major *motives* can play a role: instrumental and ideational interest (fear of sanctions is highly unlikely to play a role here). National members of parliament’s instrumental interests in the evaluation of procedural rules of parliamentary participation in EU decision-making processes can mainly be defined as the search for influence on ‘policy, office or votes’ (Müller and Strøm 1999) – and as a consequence the political battle between the majority and opposition groups in parliament.

Iedational *motives* are likely to be linked to the project of European integration itself. Actors can be assumed to judge the role of national parliaments in the European Community / European Union (EC/EU) from their perspective of how the ‘grand design of European integration’ should look in the future.

Two main types (or rather poles) of such ‘grand designs’ dominated the European (or at least the continental European) academic debates until at least the late 80s (Wiener and Diez 2004, 7). These types coined the political debate from the early years of European integration until the present day in such a way that they even structured the ‘historiography’ of the EU (Dinan 2006): the idea of an intergovernmental EU in which competences remain with the nation-state versus the idea of a federal or at least supranational Union in which major competences are transferred to the European level and exercised autonomously by common institutions.

In the ideal-typical intergovernmental ‘grand design’ for European integration, European institutions are ‘agents’ of national governments, which are their ‘principals’ (Pollack 2001). They have been created to increase the efficiency of intergovernmental bargains and to reduce transaction costs (Moravcsik 1998). Transfer of competences remains limited and serves the ‘rescue of the nation-state’ (Milward, Brennan, and Romero 2000) and the increase of its authority, and not to overcome it. Democratic legitimacy in the intergovernmental grand design is guaranteed as long as competence
transfer is limited, revisable, and tightly constrained by ‘constitutional’
checks and balances, and as long as the EU performs only a limited set of
regulative functions, such as for example ‘central banking, constitutional
adjudication, civil prosecution, economic diplomacy and technical admin-
istration’ (Moravcsik 2002, 603).

In the ideal-typical supranational (or in a more state-building perspec-
tive: federal) grand design for the EU, European institutions have the power
to act autonomously without mandate of the governments of the nation
states. Competences have been transferred durably to the European level.
The European polity is composed of two constituent elements: the states
and the peoples or citizens of the EU, which come together in a ‘voluntary
union’ (Burgess 2004, 30). While the representatives of the national govern-
ments represent the states at the central level, the EP represents the citizens
at the EU level.

Both scenarios have distinct implications for the evaluation of the role of
parliaments in the governance system resulting from European integra-
tion. In the intergovernmental scenario, parliaments are an element of the
decision-making process within the state. Their usual counterpart to dis-
cuss European issues is the national government. Their first objective is to
control all types of negotiations conducted by the government in the EU’s
intergovernmental institutions. In case they interact directly with EU insti-
tutions, they (or at least the MPs of the parliamentary majority) are part of
the diplomatic representation network of the national government to the
European decision-making processes, which are concentrated in the Coun-
cil and the European Council. This network also includes the national rep-
resentatives to the other EU institutions and the MEPs stemming from the
respective state.

In the supranational or federal scenario, on the other hand, national par-
liaments are part of a multi-level parliamentary system, with the EP as par-
lament of the central or federal level. While the majority and opposition
in national parliaments control the national governments in those areas in
which competences have been shifted to Brussels, the EP is responsible for
the control of the decisions taken in the European Council and the Coun-
cil of Ministers.

Linking these reflections to the previous theoretical reflections, one
should assume that in the case of a weak day-to-day practice of the EU, in-
strumental and ideational interests are dominant in MPs’ evaluation of the
role of national parliaments in EU governance.

In case of instrumental or strategic motives of office or vote seeking, MPs
from the government majority should have different arguments for the
role of national parliaments than MPs from the opposition. There should also be perceivable cleavages between the role for national parliaments promoted by parliamentary groups that participate regularly in the formation of governments, and the role promoted by those that are excluded from executive office.

Regarding ideational interests about European integration, roles put forward should be cleaved between parliamentary groups that have differing programmatic ideas about European integration. In most of the member states of the EU, however, cleavages about the objectives and form of European integration run across party lines. This means that there should be certain identifiable groups of MPs that hold the same programmatic point of view on European integration as well as the same view on the role of parliamentary institutions in the EU.

4) Institutionalisation and ‘institutional’ motives for action

It is clear that in the course of increasing European integration, the instrumental or ideological motives for action and evaluation of rules that were discussed above will not disappear, even in a Weberian perspective. However, as ‘doing EU’ becomes increasingly institutionalised, the probability increases that judgements about appropriateness with EU parliamentary practice on domestic level will become increasingly important as a guiding motive for how MPs debate the role of national parliaments in the EU.

MPs increasingly judge the prescriptive rules for parliamentary participation in decision-making in the EU according to the constitutive value that they suppose the former should realise, i.e. the parliamentary democracy. While in the beginning MPs may have judged parliamentary institutions in the EU according to their own interests (to convince voters, to provoke a change of government, to enhance influence on policy-making, to pursue their idea about the ‘grand design of European integration’), in later stages of the institutionalisation of ‘doing EU’, MPs are more likely to be influenced in their evaluation by judgements about democratic ‘validity’ or ‘rightfulness’ of EU parliamentary institutions. MPs have become habitualised to being part of forms of parliamentary institutions in the EU. The more the EU is institutionalised as a framework for action, the more the forms of parliamentary participation in EU affairs (on the national level and on the EU level) will be judged through the lens of their coherence with the MPs’ background regarding democracy enshrined in domestic practices.
Institutionalisation and motives for action

Figure 1: Institutionalisation and motives for action

With a growing level of institutionalisation of the EU as an ‘ordered practice’, members of national parliaments are likely to increasingly evaluate parliamentary institutions in the EU according to rules and roles on the domestic level or according to domestic ‘ways of doing things’.

D – Conclusion

This chapter proposed theoretical reflections to answer this study’s question: how can one explain the increasing divergence of ideas that MPs convey about the role of parliaments in the EU? To answer this question, this chapter proposed to integrate sociological reflections on institutionalisation processes into the study of the Europeanisation of parliamentary chambers.

The chapter discussed how the ‘thin’ notion of ‘institution’ used by the new institutionalisms as well as the focus on the formal and authoritative dimension of EU decision-making lead to an inability to theorise the Europeanisation of domestic institutions as processes of institutionalisation and deinstitutionalisation.

To conceptualise institutionalisation as a process and outcome without predefining the latter in terms of distinct forms of formal rules, this theo-
retical chapter related to the recent ‘practice turn’ in EU studies and revisited Berger and Luckmann’s social-constructivist reflections and Max Weber’s ‘old’ institutionalism.

Practice theory helps to put the focus of the analysis of processes and effects of European integration on MPs’ routines, and habits, and quotidian doings. Practices are understood as a type of action that is a ‘competent performance’ (Adler and Pouliot 2011, 1). Such competent performances are carried out by ‘communities of practice’ sharing the same ideas and knowledge about ‘doing EU’. On the basis of reflections on the nature of practices and the relationship between agency and structure entailed in them, the chapter proposed to conceive of the outcome of a Europeanisation process as the patterning of ‘doing EU’ as an ‘ordered practice’, i.e. a situation in which typical actors perform typical action in EU matters in national parliaments.

The latter terms stem from Berger and Luckmann’s ‘The Social Construction of Reality’. Drawing on their definition of an institutionalisation process as a process of ‘reciprocal typification of habitualized actions by types of actors […]’ (Berger and Luckmann, 1991, p. 72), the patterning of ‘word and deed’ in EU matters in national parliaments is thus conceived of as a process of typification, i.e. of the reduction of actors’ choices and of the emergence of typical agency. Berger and Luckmann also wrote about the historicity of the process. As ‘doing’ EU in national parliaments is carried out in an extremely dense network of ‘timeless ways of doing things’ or timelessly institutionalised practices of ‘doing democracy’ on the domestic level, with growing experience in EU decision-making, MPs increasingly search for competent action for EU affairs regarding domestic practices. Change of informal ‘ways of doing’ or formal frameworks is thus increasingly motivated by a search for functional equivalents to institutionalised action patterns on the domestic level and the role orientations enshrined in them.

The final part of this chapter drew on Max Weber’s ‘old’ institutionalism to reflect on the question of which impact a potential institutionalisation of ‘doing’ EU in national parliaments might in turn have on how MPs conceive of the role of parliaments in the EU. For Weber, institutions are not constitutive rules of the game that the actors take for granted, as is often assumed in sociological neo-institutionalism. Instead, they are prescriptive rules that have a ‘constitutive point of reference.’ In the case of national parliamentary actors, this ‘point of reference’ is MPs’ ‘background’ regarding how parliamentary democracy works. However, norms can be followed without the actor having internalised them, and they may be broken de-
spite the actor’s adherence to the ‘constitutive value’. Weber theorised a causal link between growing institutionalisation and an actor’s propensity for appropriate rule-following. Applied to national parliaments, one might therefore assume a growing importance of ‘institutional’ motives for MPs for evaluating the role of parliaments in the EU in the course of the process of typification of ‘doing EU’ in the chambers, i.e. a paradoxically growing importance of domestic roles for the way in which MPs discuss the role of parliaments in the EU. With a low level of typification of ‘doing EU’ in the chambers, MPs’ motives for discursive action may be manifold. They might draw on visions about the future scope of European integration, such as federalist or intergovernmentalist ideas, or they might be based on strategic interest regarding the electorate.

The following chapter presents the methodological reflections on which the empirical analysis in Chapters III-V is built. It discusses how the comparative method can be used to analyse institutionalisation processes across time with some generalisability through an additional comparison across space. It then develops two hypotheses for the evolution of EU practice and discourse in the Assemblée nationale and the Bundestag based on the theoretical reflections in Chapter I, and introduces the indicators that were used to analyse them in this study. Finally, it discusses which methods were necessary to put into place to assess the indicators.
This chapter presents the analytical framework and the methodological reflections that led to the research design. The first section presents the comparative framework for a comparison of practices across time and space (sub-chapter A). It explains why the Assemblée nationale and the Bundestag have been chosen as cases for a most distant systems design. It presents the reflections that led to the distinction of two time periods (the ‘Maastricht’ and ‘Lisbon’ periods) for the analysis across time. The second section develops two guiding hypotheses from the theoretical reflections in Chapter I. It then proceeds by operationalising the idea of Europeanisation as the institutionalisation of ‘doing EU’ as ‘ordered practice’ in national parliamentary chambers by presenting the indicators for typifications of actors and action and the parallel changes of motives for action (sub-chapter B). Sub-chapter C concludes.

A – Research design

The theoretical chapter formulates reflections to explain the paradoxical outcomes of the institutionalisation of ‘doing EU’ on the basis of social constructivist, (old) institutionalist, and practice theoretical assumptions. This book does not test the hypotheses with the formulation of counter-hypotheses, but instead attempts to show their value and generalisability through a careful contextualised comparison across space and time of four cases. This proceeding makes it possible to investigate the problem in sufficient detail to develop and specify the theoretical reflections in the course of the study and to test their probability (see for a similar approach Goetze and Rittberger 2010).

11 A comprehensive description of the research methods used can be found under: http://spire.sciencespo.fr/hdl:/2441/5i1k2o8mn49maohtdrake9dsfv (Chapter II).
12 Discourse is seen as one form of practice. Language is understood as ‘conduit of meaning’ and language is ‘doing in the form of “discursive practices”’ (Foucault quoted in Adler and Pouliot 2011, 7).
1) Generalisability: Combining diachronic and synchronic comparison

To answer the question of whether a greater institutionalisation of the EU leads to an increase in institutional motives for MPs’ judgement of the role of national parliaments in the EU, it is inevitably necessary to include time as a factor in the research design. However, time as a factor is astonishingly rarely thought through in empirical research about evolutions over time.

Europeanisation studies suffer from this problem as well. Either they do not include the factor of time in a systematic methodologically reflected way, or they focus on comparison across time but only in one case. This causes two problems. First, in single case studies, comparisons between distinct periods are sometimes well reflected and argued, but the potential for generalisation from a single case is highly limited – even if it may be especially fruitful for developing new hypotheses because of the researcher’s ability to control or have knowledge of other potential independent variables (Della Porta 2008, 218). Second, in most of the research designs that undertake cross-case comparisons, time is not introduced as a variable. Even if most case studies explore ‘several properties of a single unit over a certain period of time’ (Bartolini, 1993, p. 141), they do not account for the fact that this makes them comparative studies across time. Bartolini suggests calling them ‘developmental case studies’ (Bartolini 1993, 141) to account for this cross-time dimension. And even if the studies make important reference to history (Della Porta 2008, 217), the time dimension is usually not reflected either. In reality, this second type is based on a research design observing the variance across cases only synchronically. The variance of the variables across time is not ‘explicitly subjected to the methodological guidelines of the comparative method’ (Bartolini 1993, 141). The ‘historicity’ of the event in the past is only assumed (Della Porta 2008, 218).

The missing reflection on which periods should systematically be compared may lead to important biases in the analysis, especially for so-called ‘path-dependent’ developments based on assumptions about ‘historical’ properties, i.e. in historical institutionalism. This problem is especially virulent in studies of European integration and its effects. European integration is still a young phenomenon. Analysis over long time spans of 100 or 200 years, which would eliminate some of the problems of choosing the wrong important events (because there is more security about the final outcomes or macro-trends), is not possible. To infer general regularities from the wrong events or time spans in the history of European integration may fatally lead to finding no or wrong results, because developments

CHAPTER II – A framework for the analysis of the institutionalisation of ‘doing EU’
have not yet had the time to evolve in the arena at stake, or because single
events are simply over-stretched.

This study therefore argues that it is necessary to undertake both a syn-
chronic comparison of spatial cases and a parallel diachronic comparison
of two different phases in parliamentary history in European integration.
This makes it possible to combine a fine-grained comparison of each case
across time and a more generalisable test of the hypotheses at stake across
space.

This proceeding allows John Stuart Mill’s two classic methods of logical
reasoning to be combined for scientific investigation: the ‘method of
difference’ and the ‘method of agreement’ (Mill 2001).

The diachronic comparison is designed according to the logic of Mill’s
method of difference: two temporal cases (Parliament P1 in phase p1 com-
pared to Parliament P1 in phase p2) that have important similar properties
are compared. Different outcomes (i.e. motives for the evaluation of the
role of parliaments in the EC/EU) can then only be explained by the ‘tem-
poral variance’ (Bartolini 1993, 147) of some of the properties caused by
the impact of the increasing practice of EU decision-making across time.

*Figure 3: Mill’s method of difference (diachronic comparison)*

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<td>y</td>
<td>not y</td>
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x = Causal variable
y = Phenomenon to be explained

Source: Adaptation by the author on the basis of (Skocpol 1984, 379).

The synchronic comparison across space is designed according to Mill’s
method of agreement in order to determine whether results are generalis-
able across space. Two cases (Parliament 1 and Parliament 2) that have dif-
fferent properties and only the impact of European integration in common
show a similar outcome; typifications of actors in EU affairs would be such
an outcome.
Figure 4: Mill’s method of agreement (synchronic comparison)

<table>
<thead>
<tr>
<th>Assemblée nationale</th>
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<td>y</td>
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Overall differences
Crucial similarity

\[ x = \text{Causal variable}\]
\[ y = \text{Phenomenon to be explained}\]

Source: Adaptation by the author on the basis of (Skocpol 1984, 379).

2) Case selection

While the comparison across the temporal units is built according to a most similar systems design, the spatial comparison on which this study is based is a most distant systems design. This has already been discussed above. The research strategy pursued in this study therefore necessitates a careful selection of cases both on the temporal and on the spatial dimension.

A text analysis of a large corpus is conducted as a second step of this study. To ensure the feasibility of this analysis, the number of spatial cases had to be kept moderate, all the more as each case had to be doubled into two periods of examination.

Another reason to keep the number of cases low is the main objective of this study: the presentation of a theoretical reflection and the specification of its hypotheses. One-case studies are especially useful for the specification of such new hypotheses (Lijphart 1975). However, they encounter serious difficulties regarding the generalisability of their results.

The most adequate design is thus to complete the diachronic comparison with a synchronic one with another spatial unit that tests the generalisability of the results for other units. Bartolini even advocates such a diachronic and synchronic comparative strategy, or ‘developmental comparison’, which links cross-temporal with cross-spatial variance ‘as the safest way...in order to control for the validity of empirical generalisations’ (Bartolini 1993, 140). Although his argument that research designs should al-
ways try ‘to observe both types of variance’ is certainly ambitious and does not correspond to all research objectives, his arguments about validity of observations is perfectly true for the type of study at hand.

a) Temporal cases: the Maastricht and Lisbon periods

Time is taken in this analysis as a simple *dimension of variation across time* and not as ‘historical dimension.’ This is because a variation over short time spans such as those analysed in this study would probably not qualify as history in the eyes of a historian: for Thrupp, research is ‘present minded … if it is conducted within a time perspective of some 60 years’ (quoted in Bartolini 1993, 142) – even if there is a multitude of studies that analyse evolutions with the lens of ‘historical’ institutionalism.

The more important reason for this use of time is methodological. There is no reason a priori to give events that take place earlier in time the credit of ‘historicity’ or any kind of special historical significance. Doing so can even lead to important biases when events are traced from a given ‘significant’ past to the present. If something happening earlier has an impact on an event occurring later, this must still be proven and this can only be done if time is taken as a dimension of variance.

Taking time as a *neutral dimension of variance* allows the use of methods analogical to those that have been developed for spatial comparison. Accordingly, Bartolini regrets the ‘almost absolute deficiency of methodological guidance in the “historical” approaches in the social sciences’ (Bartolini 1993, 138).

However, time in this study still has an explanatory dimension and is not simply ‘unit defining’ (Bartolini 1993, 145). The question is which impact the increasing EU decision-making has had on the institutionalisation of ‘doing EU’ in the chambers and how this in turn impacts the *motives* for the evaluation by MPs in public discourse of the role of parliaments in the EU.

This proceeding must be distinguished from the ahistorical comparative method used by a number of comparatists. Lijphard, for example, proposes that the number of cases be increased by dividing the country cases into different time periods, thereby avoiding extending the number of variables necessary to control. This strategy has since been regularly used in comparative politics. Time is not a dimension of variance here, but serves instead to improve the number of cases that are then treated like spatial units.
CHAPTER II – A framework for the analysis of the institutionalisation of 'doing EU'

How should temporal cases be selected, i.e. how should temporal variance be created? The important temporal dimension for a study of institutionalisation of the EU is the process of European integration defined in a broad sense, which is structured most obviously by different intervals of accession of new members and treaty changes, but also by different phases of institutional development, political cycles, and policy-making activity at the EU and national levels. There are only few objective criteria for the choice of temporal units, even if the logic for this choice is at least as complex as for the choice of spatial units (Bartolini 1993, 147).

The basic distinction is the one between comparing single time points or longer time periods. To study how ‘doing EU’ has been institutionalised in the parliamentary arena, it does not make much sense to examine different time points. Evolutions in national parliaments may be slow and they are unlikely to have happened in parallel – either on the European and the national level, or in different member states. This is of course a major problem for those studies that define the independent variable ‘European integration’ with specific treaty or institutional developments on the European level.

There is, however, one major event on the European level that is likely to have been a major caesura for national parliaments: the Treaty of Maastricht. It has been written elsewhere that the period from the Treaty of Maastricht to the Treaty of Lisbon is the period of ‘most important strengthening of national parliamentary prerogatives’ (Winzen 2012). The reality is rather the reverse: it is the period of the most important stress on traditional parliamentary powers because of increasing EU decision-making – a pressure that continues after the Treaty of Lisbon because of Eurozone crisis instruments and a reinforced budgetary control through the Commission.

The scope of the Treaty of Maastricht on the polity, but primarily on the policy dimension has an important impact on parliamentary practice on the domestic level. It introduces the co-decision procedure and substantially extends Qualified Majority Voting (QMV). Even if the Maastricht provisions still allow the Council to outvote the EP in the co-decision procedure, its introduction forms the basis for a substantial power shift towards the EP in EU decision-making processes. The extension of QMV means a possible loss of power for national parliaments because their governments can potentially be outvoted. In addition, the competencies of the European Commission are strengthened.

Treaty provisions, however, do not have an impact on national parliaments when they are not used. This book assumes (without investigating
this directly) that the impact of ‘Brussels’ on domestic legislatures stems from EU (legislative) decision-making and the conflicts with role and practices on the domestic level that they may produce. A comprehensive use of the Maastricht provisions only slowly shows its fruits in terms of adopted directives, regulations, and decisions from the middle of the 90s onwards.

The number of regulations and decisions steeply increases from 1995 onwards, which is explained by the increased competencies of the European Commission in the Treaty of Maastricht (König, Dannwolf, and Luetgert 2012, 25). Directives already peaked from 1988 to 1993 as a consequence of the completion of the internal market, and remained relatively stable until 2007 (König, Dannwolf, and Luetgert 2012, 25). König argues that directives ‘are the most direct measure for the impact of EU legislative activities on domestic legislatures, because they must be directly transposed and enforced under domestic law – either by domestic legislative or by executive measure’ (König, Dannwolf, and Luetgert 2012, 24). This argument implicitly reduces parliamentary functions to legislation. Transposition or direct participation in the EU decision-making process is only one aspect of parliamentary participation in EU affairs. Parliaments’ functions towards society (for a presentation of parliamentary functions see the section starting on page 70) are more varied and are also affected by the outcome of EU decision-making, which does not transition directly through parliament before its execution.

Conversely, regulations are even a powerful indicator for the disempowerment of national legislatures. Executives push the European Commission for the use of this legal instrument13 in order to circumvent long transposition procedures in parliament. The fact that the share of directives of the overall amount of binding legal acts has decreased since the slow awakening of national parliaments since the Treaty of Maastricht might even be an indicator for this evolution.

As a consequence of these reflections, this book distinguishes between two phases. In the first phase, the important consequences of the Treaty of Maastricht have not materialised yet in terms of concrete EU decision-making. This period runs from the first direct elections to the EP in 1979 until 1999. The debates on the Treaty of Maastricht can be considered as exemplary of this period. During these debates, the changes of the treaty have not yet materialised in practice. MPs evaluate the treaty on the basis of the

13 Interview with German government official, Ministry for Agriculture, November 2005.
experience that they had before the coming into force of the Treaty of Maastricht. As a consequence, and for the purposes of a clear distinction, this phase is titled the ‘Maastricht period’.

In the second phase, the described increase in EU legislative output in the mid-90s is assumed to have had time to have an impact in the parliamentary chambers. This second phase is called the ‘Lisbon period’ and ends in 2013 with the last major reform of the legislation steering the participation of EU affairs in the Bundestag to date. The Treaty of Lisbon is chosen for the discourse analysis of parliamentary debates because it is the most far-reaching treaty change in this period – or at least it has been discussed as such in public.

The analytical chapter will describe the two periods concretely in both of the chambers at stake. It is possible that the impact of Maastricht is not felt exactly simultaneously in both chambers. To distinguish between these two periods from the outset (instead of simply tracing the evolutions over time) makes it possible to draw causal inferences from temporal trends. It allows temporal generalisations to be made. Events can happen earlier or later on the established time dimension. A property may have a value at point ‘t’ which one might have expected earlier or later (Bartolini 1993, 153).

Aside from time lags of legislative and regulatory production on the European level, evolutions in parliaments are usually slow: negotiations to implement changes to standing orders, for example, can take years to be finalised because of political cycles on the domestic level. To renegotiate the rules of procedure in the parliamentary arena may also take a long time, as actors may try to use the opening up of the rules to push for other reforms than those immediately at stake. Different role orientations may cause conflicts to appear earlier or later.

b) Spatial cases: the Assemblée nationale and the Bundestag

A selection of cases for a most distant systems design in the field of European integration studies must be subject to previous reflection. Random sampling among groups of different parliamentary systems – as would for example be preferred by a probabilistic methodology – does not make sense for a number of reasons. Because the number of overall cases is already small (41 parliamentary chambers in the current EU 28), one would be in danger of missing out on the most important ones (Della Porta 2008, 211). Moreover, because of the different features linked to EU membership
of individual member states, the comparability of cases could happen to be highly limited.

There are two dimensions along which the selection of two most distant systems must take place. The first is the type of the parliamentary system, which should be as different as possible on the functions carried out by parliaments to ensure variance in potential (institutional) motives for MPs’ evaluation of the role of parliaments in the EU in their discursive practices. The second regards the attributes of the member countries in the political system of the EU, which should be as similar as possible.

In relation to European integration, the chosen parliamentary cases must reflect a comparability (Gerring 2012) on a number of dimensions, of which the most important one is the duration of the country’s membership in the EU. In order to see developmental trends linked to European integration, the parliamentary chambers at stake should belong to countries that have approximately the same duration of membership to the EU.

Furthermore, in order to investigate institutionalisation processes, it is useful to choose between the parliaments of member states that have belonged to the EC/EU for a long time. The relationship between national parliaments and the European level was profoundly altered after the first direct elections to the EP in 1979 (national parliaments no longer had an institutional link to the European level). Given this fact, the parliaments of the three countries of the first enlargement of the then European Communities in 1973 (Denmark, Ireland and the United Kingdom (UK)) can be added to the parliaments of the six countries that were already founding members of the European Coal and Steal Community (Belgium, France, Germany, Italy, Luxembourg and the Netherlands).

Ideally, the parliaments should stem from countries with equal power in EU institutions to control for an influence of this variable on the role for national parliaments supported by MPs. On the basis of their institutional power, their voting rights in QMV, and their number of MEPs, France, Germany, Italy, and the UK are singled out. This means that one can control for MPs’ motives potentially driven by differences in the power structure within the EU governance system.

All parliaments of the latter countries are bi-cameral and approximately range in the same categories in terms of citizens represented by MPs (between 100,000 and 140,000 citizens per MP) and size of the legislature (Rozenberg and Hefftler 2015). As higher chambers are highly different in composition and competences, the focus is on lower chambers.

According to the Legislative Power Survey, France has a special position among the four remaining countries, as it has by far the weakest position...
in terms of the 32 items of the index that tests legislature’s influence over the executive, its institutional autonomy, its authority in specific areas, and its institutional capacity (Fish and Kroenig 2011).

Therefore, France is identified as a case for a most distant comparison. For a comparison, there are then three candidates with widely different properties: the parliaments of the UK, of Italy, and of Germany. The Italian parliament is eliminated for endogenous reasons: due to a major constitutional change in 1994, which had important implications for the electoral system and the still-fluctuating evolutions in its parliamentary system, it would substantially increase the number of other variables to control.

Of the remaining two, the German parliament is the best case for comparison. This is because it is not only ‘stronger’ in terms of formal prerogatives; it also represents an opposite type of interaction between government and parliament: according to the German Basic Law, the German parliament ‘co-governs’ with the German federal government (Staatsleitung zur gemeinsamen Hand).

The German Bundestag is a ‘working parliament,’ in the sense of Shepsle’s classical classification of ‘working’ and ‘talking’ parliaments (Shepsle 1988), while the French parliament could be classified as talking parliament. Although this classification might be simplistic, it is important because it points towards different parliamentary patterns of behaviour (which can potentially be linked to different roles and functions), instead of putting the focus solely on the policy-making function as if this was the only function that parliaments have in political systems.

In the German literature on parliaments, a relatively stable catalogue of functions for parliaments is often referred to, usually distinguishing between functions for society (responsiveness, deliberation, legislation, and initiative) and functions in the political system (government creation and control) according to the addressees of parliamentary activity (Patzelt 2003, 22–48). In the international literature, there is no such agreement about parliamentary functions. The reason is mainly that parliaments fulfil different functions within different political systems. This leads to Loewenberg’s conclusion that a parliament ‘cannot be identified by the particular functions it performs in political systems’ (Loewenberg 1971, 4). If catalogues of parliamentary functions are not beneficial in describing the ‘usual’ functions of parliaments in political systems, they are highly useful in comparing aggregated action patterns of parliaments across different political systems.

On the basis of the European Members of Parliaments Study surveying MPs in 11 lower chambers of the EU 12 (Weßels et al. 1999), Bernhard
Weßels indeed found a dichotomy of MPs’ attitudes that corresponds to the distinction between talking and working parliaments. A factor analysis of four functions for parliaments (legislation, oversight, interest intermediation, representation of individual citizens) shows a two-dimensional structure of attitudes. The two poles are parliaments in which legislation and oversight are more important for MPs (‘governance factor’) and parliaments in which MPs give a higher priority to interest intermediation and representation (‘representation factor’). The study found that in most parliaments, MP had a preference for the governance factor, but in France, Ireland, Portugal, and Sweden representation functions were more relevant in MPs’ attitudes. German MPs attached twice as much importance to government functions than their French counterparts did (Weßels 2005, 450).

**Assemblée nationale: weak legislator with high responsiveness**

Because of its low policy-making function, the French parliamentary system has been characterised as ‘semi-parlementarisme’ (von Beyme), ‘parlementarisme maîtrisé’ (Karl Loewenstein), and ‘parlementarisme “partial”’ (Duverger) (all quoted in Kimmel 1991, 25). As a conclusion to his detailed analysis of the roles and functions of the Assemblée nationale, Adolf Kimmel wrote in 1991 that the latter had been largely excluded from major political decisions (Kimmel 1991, 360).

This political marginalisation of the French parliamentary chambers is probably one of the reasons why for a long time, or more precisely from the beginning of the 80s, French political science was not particularly interested in the French parliament (Nay 2003; Rozenberg and Kerrouche 2009, 497). This is also illustrated in Christian Lequesne’s 1993 work based on his book, which is the only comprehensive analysis of the domestic coordination of France’s EU policy to date (Lequesne 1993): the French parliament does not have its own chapter in this work. Scholarship on the French parliament in general and the Assemblée nationale in particular has focused either on an analysis of the chamber from the perspective of constitutional law (Parodi 1972) or on the socio-economic profiles of the parliamentary elite (Rozenberg and Kerrouche 2009, 397; see e.g. Ysmal, Cayrol, and Parodi 1970).

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14 Other reasons are, for example, a difficult relationship with the study of ‘Institutions’ because of the dominance of post-structuralist and bourdieusian approaches in political science from the 60s onwards (Rozenberg and Kerrouche 2009, 398).
CHAPTER II – A framework for the analysis of the institutionalisation of ‘doing EU’

Considerable interest in the policy-making functions and the roles of MPs in the Assemblée nationale has come from non-French researchers, explaining for example how France’s ‘rationalised parliamentarism’ shaped the bargaining strategies of political parties (Huber 1996) or which motivational incentives drove the activities of French MPs (Woshinsky 1973), or giving a comprehensive picture of the internal life of the chamber, investigating the whole breadth of functions of the Assemblée nationale for democracy in France (Kimmel 1991).

Some interest in the Assemblée nationale has stemmed from researchers from other disciplines than political science or law: namely historians, ethnologists, and anthropologists (Abélès 2000; Gardey 2015; Garrigues and Anceau 2007). The traditional importance of the deliberative function of the French parliament has materialised in studies about parliament as public space from a perspective of the sociology of law (Heurtin 1999) and the history of parliamentary debates (Roussellier 1997).

Only recently has there been a growing interest from political science and political sociology in the policy-making dimension of the Assemblée and the more complex roles of MPs and functions of the chamber for France’s political system (Kerrouche 2006; Rozenberg and Kerrouche 2009). Costa and Kerrouche investigated the different roles of French MPs and their quotidian parliamentary activities and roles (Costa, Kerrouche, and Magnette 2004; Costa and Kerrouche 2009; Costa and Kerrouche 2007). A recent research project investigated MPs’ different representative roles and their function for the legitimization of national political systems and the supranational governance (LEGIPAR 2016); a collective book project examined the legitimating function of parliamentary plenary debates (Galembert et al. 2013). From a law perspective, Türk analysed the control function of the French parliament (Türk 2011).

Finally, there is also a growing interest in the European dimension of the activities of the Assemblée nationale. Rozenberg investigated the importance of a sociology of the parliamentary mobilisation – focusing on motivational roles – to explain the EU activities of MPs in the Assemblée nationale (Rozenberg 2009; Rozenberg 2005). The latter’s EU prerogatives and activities were analysed as part of collective books (Szukala and Rozenberg 2001; Thomas and Tacea 2015) or from a law perspective, or more generally with regard to questioning representative democracy in the EU (Rozenberg and Surel 2003).

The French parliament can be characterised with some caution as a talking parliament because the plenary debate is at least one centre of the parliamentary work (Oertzen 2006, 274), even if there is regular complaint
about the low participation in the latter. In the plenary, the public orche-
tration of the important visible politics of the Assemblée takes place to ful-
fil parts of the Assemblée’s function of representation and interest interme-
diation (Costa and Kerrouche 2007, 153). The plenary is likewise the loca-
tion where most of the legislative work is conducted, even after the consti-
tutional reform of 2008: ‘For the parliamentary psyche the legislative work is
without any doubt the work of the plenary. Amendments are tabled there. Ideas are confronted with those of friends and the opposition. MPs try to convince and then they proceed to the vote’ 15 (Gicquel 2011, 7).

Studies about the practices of French MPs and the way they see their
work conclude that MPs consider their effective influence on the legislative
function of the Assemblée to be low, even if they are attached to this role
and sometimes frustrated about the low outcome of their efforts in terms
of draft amendments (Costa and Kerrouche 2007, 153–61). The high num-
ber of amendments on individual laws seems to be an expression of this
low level of real influence of MPs on the final content of the laws.

Amendments often do not serve the function of law-making but are in-
stead instruments to serve the MPs’ *public functions*. They publicly display
the MPs’ effort to represent individual interests of their constituency and
to intermediate interests for the plenary as a whole (Kimmel 1991). Only
the parliamentary rapporteur seems to have some influence on the writing
of the law, comparably to the ordinary MP in the Bundestag who has been
characterised in the literature as a ‘sectoral expert’ (Oertzen 2006). How-
ever, this position is relatively rare in comparison to the number of MPs
(Costa and Kerrouche 2007, 157).

With regard to the legislative function in France, there is an important
autonomy of the government towards its majority, which is the result of
the choice of the ministers outside parliament and the separation of gov-
ernment posts and parliamentary mandates (Kimmel 1991, 365) – a fact
widely accepted by the French MPs. Furthermore, there is no communica-
tion between the executive and the government majority in the drafting
phase of a legislative act, except some sporadic consultations with the
chairmen of the committees (Kimmel 1991, 361). This rigid separation of
powers between the executive and the legislative is a response to the ‘gou-
vernement d’assemblée’ or the regime of parties before the Vth Republic.

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15 ‘Pour la “psyché parlementaire” le travail législatif est incontestablement un tra-
vail d’hémicycle. On dépose des amendements. On confronte ses idées avec ses
propres amis et avec l’opposition. On tente de convaincre et on passe au vote.’
As already seen, French MPs’ major function is the one of *responsiveness* – a function only lowly developed for the German Bundestag (Oertzen 2006). They represent individual interests from their circumscriptions towards the government and play a fundamental function in accompanying the citizens in their relationship with the administration (Costa and Kerrouche 2007, 151). Already in 1991, Alfred Kimmel asserted that the representation and articulation of individual interests of the circumscription is a highly important mission for the French MPs. They use much of their time as MPs to fulfil this function through intensive contact with ministers and their administration. Kimmel saw this role of ‘assistant social’ (Kimmel 1991, 365) as one on the central roles of French MPs, sometimes to the detriment of their *control* role because of the support that they from ministers and administration to cater to the individual interests in their constituency (Kimmel 1991, 365).

Costa and Kerrouche confirm this assessment. The control of the administration is an activity that is only lowly developed because it does not pay off well. Instead, most MPs’ control activity is inscribed into their *responsiveness* role. An important part of the questions that MPs pose to the government stem from citizens in their circumscriptions (Costa and Kerrouche 2007, 168).

The French Assemblée nationale fulfils an important role concerning the *legitimation* of the French political system, because it incarnates the ‘nation’ and supports the action of the executive. An important function of the French Assemblée nationale is its capacity to put issues on the agenda for debate (Costa and Kerrouche 2007, 169). This function serves both control and information. While restricted in their legislative function, French MPs feel relatively free to launch debates or to express criticism towards the government, even if they are members of the governing majority.

The aforementioned orientations are reproduced on the working level of parliament. In the French Assemblée nationale, the parliamentary committees’ main function is to reassure the information of the Assemblée nationale as a whole (Kimmel 1991, 362), and to help MPs fulfil their role as interest intermediators.

Committees do not have an important role regarding the content of legislative decision-making. Even after the constitutional revision of 2008, both the amendments of the opposition and those of the parliamentary majority that have not been taken up into the final draft that the committee submits to the plenary – de facto elaborated by only the rapporteur and
An important function of the committees, however, is their function of ‘fossoyeur’ (‘gravedigger’) (Kimmel 1991, 96), or filter of legislative initiatives stemming from MPs. From the multitude of legislative proposals, they choose those that will be submitted to the conference of presidents to have them inscribed into the complementary agenda or the priority agenda (Kimmel 1991, 96).

This has to be seen again as the framework of the MPs’ function of representatives of their circumscription. A majority of legislative initiatives are therefore only destined to justify their activity in the eyes of their voters (Kimmel 1991, 96).

Table 1: Parliamentary functions on the domestic level

<table>
<thead>
<tr>
<th></th>
<th>Assemblée nationale</th>
<th>Bundestag</th>
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</thead>
<tbody>
<tr>
<td>Legislative function</td>
<td>Low</td>
<td>Moderate (in combination with control)</td>
</tr>
<tr>
<td>Responsiveness</td>
<td>High</td>
<td>Low</td>
</tr>
<tr>
<td>Control</td>
<td>Low</td>
<td>Moderate to high</td>
</tr>
<tr>
<td>Deliberation and information</td>
<td>Moderate</td>
<td>Low</td>
</tr>
</tbody>
</table>

_Bundestag: High legislative control, weak responsiveness_

The Bundestag takes part in the writing or control of the legislation in a complex committee system that mirrors the federal ministries and has a low oral activity. In contrast to the Assemblée nationale, there is a long tradition of research on the internal life of the Bundestag\(^\text{17}\). However much of the scholarship concentrates either on issues concerning the steering bodies of the chambers or on the juridical aspects of the parliamentary chambers (Oertzen 2006, 14). The practice of parliamentary life and the patterns of activities of ordinary MPs have only occasionally received attention.

There are some exceptions. Schüttemeyer investigated the importance of parliamentary party groups for the choice of candidate for the Chancellery

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16 After the constitutional revision, they may be presented in either the committee or the plenary (Gicquel 2011).

17 The journal of reference for research on the German Bundestag is the Zeitschrift für Parlamentsfragen published by the Deutsche Vereinigung für Parlamentsfragen (German Union for Parliamentary Issues).
(Schüttemeyer 1998). Other studies have analysed the opposition and its relationship with the government majority (Helms 1999), the public relations of small parliamentary party groups (Kranenpohl 1999), and informal procedures of parliamentary decision-making (Wasner 1998). Schwarzmeier investigated the role of majority parliamentary party groups towards the government (Schwarzmeier 2001), while Lemke-Müller studied the parliamentary ‘culture’ of the Bundestag (Lemke-Müller 1999). More recently, two studies have investigated the day-to-day activities of the Bundestag. Oertzen analysed the roles of MPs in the German Bundestag and in the parliament of Saxony (Oertzen 2006), and Schöne the quotidian in the German Bundestag (Schöne 2010).

For a long time, research on the Bundestag’s participation in EU affairs focused on the development of the Bundestag’s legal rights for participation or on the Europeanisation of legislation in Germany (see e.g. Höhlscheidt 2001). Exceptions focused on the decision-making processes in the European Affairs Committee (EAC) (Töller 1995) or on MPs’ strategic adaptation in their relation with the executive to the loss of a direct grasp on policy-making (Auel and Benz 2005). Overall, for many years the literature concluded that the Bundestag suffered from the reduction of its policy-making power (Saalfeld 2003; see e.g. Schüttemeyer 1978; Sturm and Pehle 2006). Only recently, authors have come to the conclusion that the Bundestag has recovered ‘space lost’ (Beichelt 2015; Beichelt 2012; Calliess and Beichelt 2015; Höing 2015b; Höing 2015a).

The Bundestag has been classified as a working parliament or as a mixed form between a working and talking parliament (Steffani 1965, 19). However, recent scholarship on the activities of ordinary MPs unambiguously classifies the Bundestag into the category of a working parliament. If one defines the capacity of a parliament to provide transformation to the legislative draft acts tabled by the government, then the Bundestag must be classified as a working parliament (Oertzen 2006). In the German Bundestag this legislative work happens in particular in the different working bodies of the parliamentary party groups. In contrast to this, the plenary debate is only the ‘dot on the i’ of the parliamentary work. The person having done the work on the content of the amendments of the legislative draft act will be selected as a speaker. Being ‘speaker’ in the plenary debate is not among the important roles of the MPs in the Bundestag (Oertzen 2006, 274–75).

The jurisdiction of the Federal Constitutional Court asserts that the parliament must take all substantial decisions (Grimmer 1996, 180). In the case of the Bundestag this is mainly carried out by the parliamentary ma-
The jurisdiction reflects the reality of the legislative function in the Bundestag. The main part of this work is conducted in the working groups (Arbeitskreise) of the parliamentary party groups. This work is more important for the individual MP than the work for the committee or for the plenary is.

The filtering of legislative initiatives and amendments is done by the chairmen of the working groups (Oertzen 2006, 255). The parliamentary party groups of the governing coalition thus hold the policy-making function. Reporting to the working groups is more important for MPs than reporting to the committee is. There is only little space for compromise with the opposition (Oertzen 2006, 274). The government or its administration already takes up demands and criticism from members of the government majority in the phase of the drafting of the law (von Oertzen 280). The committee chairman is not powerful, in contrast to what is written in the literature and in contrast to the chairman in the Assemblée (Oertzen 2006, 268). He simply has a procedural role for the committee.

MPs in the Bundestag see themselves as legislators or better legislative controllers in the literal sense, and they consider themselves to develop into experts of narrowly defined issue areas in the working groups of their parliamentary party groups. The longer they stay in the Bundestag, the more sectorally specialised they become (Oertzen 2006, 254–55).

This is why, in contrast to the Assemblée nationale, the Bundestag has a deficit of responsiveness. The situation is the opposite of the situation in the Assemblée. Even if the MPs in the Bundestag are attached to this role, they only fulfil it partially and do not consider it to be as important as their legislative function. Input stemming from the circumscriptions can only be effective if it coincidentally matches with the expertise of the MP. A single MP is autonomous in the parliamentary party group in his or her area of expertise but does not have much influence in other issue areas. Furthermore, the ordinary MP loses knowledge about the overall transcending issues, and therefore the capacity of interest intermediation (Schüttemeyer 1998, 295 quoted in Oertzen, p. 288).

The Bundestag’s control function is intrinsically linked to its role as legislator, because legislation is mainly realised as control (Thaysen 1984, 238). The reason is that the Bundestag’s legislative function is carried out in a close and confidential complex of cooperation between the MPs of the governing parliamentary party groups, the government ministers, and their administration, mostly in the working groups of the parliamentary party groups (Oertzen 2006, 279). MPs of the governing coalition can thus exercise a controlling of the legislation through all of its phases because, in
contrast to the MPs in the Assemblée nationale, they participate in all stages.

Finally, the Bundestag’s deliberative function is low. MPs do not see their role as speakers as an important one. In comparison, there are even three times fewer plenary debates in the Bundestag than in the United States (US), congress which is usually considered as a model for a working parliament (Oertzen 2006, 275).

Summing up, Assemblée nationale and Bundestag are fundamentally different in terms of practices and aggregated functions or action patterns which they fulfil on the domestic level. They make up for excellent cases for a most distant systems design across space. The following sub-chapter discusses how the previous theoretical reflections can be operationalised for this comparison.

B – A model for the institutionalisation of ‘doing EU’ and its effects on MPs’ discursive action

This book proposed to define the impact of ‘Europe’ as the institutionalisation of ‘doing EU’ as an ‘ordered practice’ that is traceable through distinct typical forms of agency and patterns of action becoming typical as well. ‘Institutionalisation’ thus comes about in social interaction. This makes it possible to link micro-processes on the level of the actors to macro-processes of the transformation of the EU as a social order.

To date, concrete driving forces remain strangely cryptic ‘processes’ in the Europeanisation literature. In Ladrech’s classical definition, Europeanisation is ‘an incremental process reorienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making.’ Goetz and Hix, on the other hand, consider European integration to be the independent variable that causes Europeanisation as an outcome. They define the latter as a ‘process’ of change in policy-making styles and institutions on the domestic level (Hix and Goetz, 2000).

The same is true for those definitions that conceptualise Europeanisation as the creation of a new institutional centre without specifying what this means for the national level: ‘The emergence and development at the European level of distinct structures of governance, that is, of political, legal and social institutions, associated with political problem-solving that

18 Irrespectively of whether approaches define Europeanisation as a cause or effect.
formalise interactions among the actors, and of policy networks specialising in the creation of authoritative rules’ (Cowles, Caporaso, and Risse-Kappen 2001, 3).

Radaelli’s definition of Europeanisation as ‘[p]rocesses 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 making of EU decisions and then incorporated in the logic of domestic discourse, identities, political structures and public policies’ (Radaelli 2003, 30) tries to more concretely detail what could be meant, but still lacks a conceptualisation of how these ‘processes’ of (a) construction, b) diffusion and c) institutionalisation’ take place and what they mean in practice.

1) ‘Europe’ as a process: potential pitfalls

The main problem with conceiving ‘Europe’ as an external process that impacts domestic policies, institutions, and strategies is that its existence is often simply assumed, and it is often forgotten to define what this process is in practice (and what it is not). In the literature, Europeanisation as an independent variable is usually assumed to be an influential force for change, but ‘at times we find it difficult to conclude with any certainty that Europeanisation actually exists (dependent variable)’ (Buller and Gamble 2002, 14).

Buller and Gamble illustrated their argument by analysing an article by Tanja Börzel on the different ways in which the EU regional policy has impacted the strategies of regional governments in Germany and Spain (Börzel 1999). Börzel found an adaptation of the Spanish regional authorities’ strategy to that of the German Länder, because the latter’s co-operative federalism proved to be more successful. What is certain is that these findings indicate without ambiguity that there has been a reproduction of a strategy from one country to another. However, should this result in fact be qualified as Europeanisation (Buller and Gamble 2002, 15)? Buller and Gamble argued that in order to truly be able to see what Europeanisation is, it might be necessary to develop a sort of model or ideal type for it, which seems to be highly difficult (Buller and Gamble 2002, 17).
2) Grasping the process from a practice perspective at the actors’ micro level

‘Europe’ as an independent variable cannot be defined solely as either impact stemming from decisions taken collectively in the course of European integration, or exclusively as a domestic process. Practice theory provides the necessary focus here. To identify institutionalisation processes necessarily intermediated between the macro and the micro levels of the actors, the unit of analysis must be practices, i.e. socially meaningful patterns of action (Adler-Nissen 2016, 88). To focus on practices helps to momentarily put aside the debate about the dichotomy of agent and structure and to focus on MPs’ everyday practices in EU affairs in the chambers. This helps to model the ‘ingredients’ of an institutionalisation process: the coming about of an increasingly identifiable group of collective agents or a ‘community of practice’, with sharing knowledge and expertise becoming typical agents in EU affairs and the patterning of action becoming typical action.

3) Hypotheses and indicators

Drawing on Chapter I, the following develops the hypotheses for the empirical analysis in Chapters III-V. Two hypotheses may be deduced from the theoretical reflections. The first one draws on Practice Theory and Berger and Luckmann’s institutionalisation theory. It formulates assumptions about how EU affairs become institutionalised in the chambers once the EU legislation increases in the mid-90s.

This first hypothesis is called the ‘Institutionalisation Hypothesis’. With the increasing necessity to carry out action in EU affairs, MPs acquire knowledge and experience in ‘doing EU’. As the process is driven by the feeling of incompetent handling of EU affairs in relation to domestic practices and roles, the new practices that emerge for EU affairs are functional equivalents for the ‘ways of doing’ parliamentary affairs on the domestic level, i.e. of the role models enshrined in national institutions.

1. Institutionalisation Hypothesis (Typification of Actors and Action)
With increasing EU legislation, MPs acquire knowledge and experience in ‘doing EU’; and EU related action is increasingly carried out by typical actors (i.e. EU experts and European affairs bodies); moreover, communities of practitioners are increasingly successful actors in the reforms of formal frameworks of EU participation. As a consequence, EU related action is
more and more patterned; as MPs try to find ‘competent’ participation modes in EU affairs regarding ‘ways of doing things’ in the chambers, the resulting stable action patterns functional equivalents to practices or parliamentary functions at the domestic level.

The second hypothesis is called the ‘European Integration Paradox Hypothesis’. Based on Max Weber’s institutionalisation theory, one can hypothesise the existence of what this book calls the Integration Paradox. With the increasing institutionalisation of the EU as an ‘ordered practice’ in the chambers, one can observe an increasing importance of domestic role models for MPs’ discursive practices about the role of parliaments in the EU as well. According to Max Weber’s theory, in the course of an institutionalisation process the motives for action change, and the rightfulness or appropriateness of a rule with its constitutive value becomes increasingly important for the actor’s decision to follow the rule. For MPs, this means that with increasing institutionalisation of ‘doing EU’ in the chambers, i.e. an increasing patterning of the dealing with EU affairs in order to find functional equivalents for domestic role models, the MPs’ propensity increases to judge the role of parliaments in the EU more according to the domestic practice, i.e. equivalent to domestic role orientations.

2. European Integration Paradox Hypothesis (Growing importance of domestic institutions as motives for action)

With an increasing patterning of EU affairs, the ideas MPs convey about the role of parliaments in the EU depend stronger on domestic institutions.

In the following, the central elements of the hypotheses are operationalised through the introduction of indicators for the different elements which help to recognise the institutionalisation processes and their outcomes, i.e. in particular the typification of actors and the typification of action and the changing motives for action in the course of an institutionalisation process.

a) Indicators for the typification of types of actors

As was discussed in the theoretical chapter, the institutionalisation of the EU in parliamentary chambers implies that specific ‘types of actors’ take care of EU affairs. In the terms of practice theory, ‘agents’ are constituted and ‘communities of practice’ come about. This typification happens step by step in the course of the institutionalisation process. Such communities
of practice share the same knowledge and epistemic interpretations regarding how ‘doing EU’ should be institutionalised in the chambers. They play an important role in socially constructing the new traditions for the handling of EU affairs in the chambers, and are constituted of actors who have both EU and parliamentary experience.

‘Normalisation’ of EACs and EC/EU expertise in the chambers

The specialised bodies on European affairs in the parliamentary chambers are important, even if they are not the sole locations of EU knowledge and expertise. These bodies have been created in widely differing forms and at different points in time in all parliamentary chambers of the EU. Their aim is to cope with the increasing decision-making in the Council and with the decoupling of national parliaments and the EP after the latter’s first direct elections in 1979.

Most of those bodies were initially created without a clear definition of their function within parliament, and often as bodies with statute and prerogatives different from the established committees. Their role was contested within the chambers, often politically, ideologically, and because of conflicts and competition from the established committees and their hierarchies. MPs who were members of these committees used to have a shorter parliamentary career than in other committees on average (see for the German case Töller 1995) and to have either less parliamentary or less EU expertise.

The first indicator for the institutionalisation of the EU as an ‘ordered practice’ in the national parliaments is thus the end of the contestation of the tasks and nature of the EACs. European affairs bodies evolve into the direction of parliamentary committees, fulfilling functions not significantly different from other committees for the whole of the chamber. This means that EACs must have acquired a status comparable to ‘usual ways of doing so’ and the practice of committee business. The working style of European affairs bodies must be more similar to that of the sectoral committees.

The second indicator is the EU expertise in the chambers. This expertise may be concentrated in the European affairs body or distributed across sectoral committees, depending on the working modes of the chambers. In the beginning there are only very few EU experts in the chambers. MPs who know the EU’s institutions and procedures well do not have experience in how EU participation works in practice. With increasing EU legislation, more MPs acquire knowledge about EU institutions and procedures if this is necessary to fulfil their roles.
EACs are increasingly ‘normal’ committees
Increasing EU expertise

<table>
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<tr>
<th>Period</th>
<th>Indicator</th>
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<tbody>
<tr>
<td>Maastricht period (1979-1999)</td>
<td>Non-existent or contested role of EAC (in terms of function and role)</td>
</tr>
<tr>
<td></td>
<td>Little knowledge about EU proceedings in parliament</td>
</tr>
<tr>
<td>Lisbon period (2000-2013)</td>
<td>Committee with stabilised and uncontested functions taking up roles in accordance with the ‘usual’ domestic roles of committees in the chamber</td>
</tr>
<tr>
<td></td>
<td>Increased knowledge about EU institutions and procedures depending on roles</td>
</tr>
</tbody>
</table>

Agents of change of formal rules

Practices can also be traced through the agents who constitute them. In the course of the institutionalisation process, members of the community sharing the same interpretations and knowledge about ‘doing EU’ in the parliamentary setting increasingly become agents of change for the formal frames that rule the parliamentary participation of EU affairs.

A further indicator for the typification of actors in the course of the institutionalisation of the EU as an ‘ordered practice’ is thus the type of actor who plays a significant role in initiatives for the reform of parliamentary rules and procedures framing EU participation. In the beginning, ideas about how ‘doing EU’ might work are mainly theoretical, and driving forces from inside the parliament for such reforms may be various. They may stem from backbenchers in the government parties who request more participation rights for the domestic chambers, or they may be the parliamentary party groups in the opposition who launch a large public debate to put pressure on the government in EU affairs.

With the institutionalisation of the EU as a larger political framework, there are more and more actors in parliament who know both EU institutions and procedures as well as the workings of parliament. Such actors increasingly constitute a community of practice, sharing ideas for the reform of the formal frameworks of parliamentary participation. One should expect to an increasingly clearly identifiable group of experts in EU affairs pursuing the aim of changing formal rights and prerogatives in these affairs in the chambers. Political contestation of such reforms should de-
crease. Parliamentary party groups need experts who have known the practice of EU affairs in parliament well for a longer time.

→ EU experts are increasingly the agents of change for the revision of formal participation rules

<table>
<thead>
<tr>
<th>Period</th>
<th>Indicator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maastricht period (1979-1999)</td>
<td>Actors pushing for change of formal rules are various (often groups holding specific ideological positions or pursuing specific power interests, less often parliamentary EU experts)</td>
</tr>
<tr>
<td>Lisbon period (2000-2013)</td>
<td>Collective agents of change of formal rules are a clearly identifiable group of EU and parliamentary experts, a ‘community of practice’ sharing knowledge and ideas about parliamentary participation across parties</td>
</tr>
</tbody>
</table>

b) Indicators for the typification of action

The second indicator for the institutionalisation of the EU as an ‘ordered practice’ is the presence of patterned action. In order to be able to speak of institutionalisation, the *typical* actors must increasingly perform uncontested patterns of action, i.e. deeds linked to EU affairs must have become patterned behaviour with an additional layer of meaning\(^\text{19}\) (Adler and Pouliot 2011). In Berger and Luckmann’s terminology, they must have developed typical ‘actions’ to which they are accustomed with reference to the new framework.

*Use and meaning of participation instruments*

In the beginning, MPs have little experience in following EC/EU decision-making in a way that is most effective in terms of roles. However, they learn step by step which type of control or mandating of the government is most suitable for the role they feel is appropriate to play, as well as which share of work within the parliament is most adequate. The same is true for the administrative staff.

\(^{19}\) Action is behaviour with an additional layer of meaning (Adler and Pouliot 2011).
Dominating types of participation of MPs in a parliamentary chamber in EC/EU decision-making slowly emerge. These types have developed over the course of the various conflicts that the new institutionalisation process produces with the already firmly institutionalised ‘ways of doing things’ in the domestic political context.

More and more MPs in domestic parliamentary chambers are concerned by the growing amount of EU legislation, and specific types of activity in EC/EU affairs emerge. As there is an increasing amount of conflicts with domestic institutions and practices, MPs try to find more ‘competent’ solutions to deal with EU affairs. A chamber such as the Assemblée nationale, in which the majority of MPs see their major function on the domestic level as ‘interest intermediation and representation’ (Weßels 2005), is likely to develop increasingly specific activities to inform the MPs’ stakeholders about decisions in the pipeline in Brussels (to be able to alert the government in case of conflicts with particular interests) that are potentially interesting (or dangerous) for them.

In a parliament in which the majority of MPs sees the influence on the concrete legislative text as their main role (Weßels 2005), such as the Bundestag, MPs will increasingly develop activities that allow them to bring their expertise into the positions that the government defends in Brussels, or at least to neatly control these detailed government positions. MPs from the government majority who usually carry out this control work on the legislation on the domestic level will try to show to the opposition that they are informed and able to effectively control the government negotiations. The same is true for specific organisational adaptations. They will increasingly be adapted to support what MPs see as the adequate way of parliamentary participation.
An increasingly patterned use of formal and informal instruments and of the meanings that actors attribute to this use

<table>
<thead>
<tr>
<th>Period</th>
<th>Indicator</th>
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</thead>
<tbody>
<tr>
<td>Maastricht period (1979-1999)</td>
<td>The use of formal and informal instruments in EU affairs is in continuous change and contestation, often depending on agendas of specific (groups of) people, not necessarily being EU experts. New formal frameworks remain ‘void letters’</td>
</tr>
<tr>
<td>Lisbon period (2000-2013)</td>
<td>The use and meaning of formal and informal instruments is increasingly stabilised, uncontested and shared by actors; practices that are functional equivalents to domestic role models are increasingly the ‘focal point’ of action. New formal frameworks strengthen the role that the parliament plays in EU affairs.</td>
</tr>
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</table>

Interaction with EU transnational actors

With the institutionalisation of the EU as an ‘ordered practice’, one observes an increasing attention of MPs to actors in EU institutions that help most to fulfil tasks ‘competently’ in the framework of domestic practices.

This contact can take the form of individual direct exchanges with members of the European Commission, the latter’s civil servants, MEPs in the EP, and MPs in other national parliaments, but also more formal exchanges between the national parliament’s committees and those in the EP, the hearing of MEPs in national parliaments’ committee meetings, or the formal exchanges in the multilateral parliamentary assemblies that develop from the end of the 80s onwards.

This contact will not only increase with the increasing need for it in order to competently fulfil the role of an MP: it is also likely to be structured according to the types of contact that best serve the roles that MPs see for themselves. MPs who see their role more in ‘interest intermediation and representation’ will be interested in contacts that provide them with supplementary channels to present their stakeholders wishes and to express their political positions, e.g. through the ‘political dialogue’ with the European Commission.
MPs who consider their primary role to be in co-governance will be especially interested in the types of contact that allow them early on to obtain the possibility to control (or even influence) draft acts in the pipeline, e.g. through early direct contact with the European Commission and the civil servants elaborating the draft legislative acts, as well as through trying to obtain in-depth and timely information about the negotiations in the Council.

MPs in parliaments who mainly have a responsiveness function will be less interested in the detailed decision-making (which they leave to the government), but more interested in broader information about the impact that legislation might have on their constituencies. They will develop a close relationship with the EP as this is a means to hold exchanges about the political impact of certain policies and to sensitise MPs to the potential difficulties of their stakeholders. They will develop all channels for such a political dialogue, such as interparliamentary cooperation. According to their role on the domestic level, they will try to sensitise civil servants in the European Commission to the needs of the members of their constituencies.

→ An increasingly patterned interaction with transnational actors

<table>
<thead>
<tr>
<th>Period</th>
<th>Indicator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maastricht period</td>
<td>No patterns, depending on individual actors, little contact</td>
</tr>
<tr>
<td>(1979-1999)</td>
<td></td>
</tr>
<tr>
<td>Lisbon period</td>
<td>Increasing amount of contact; patterns are increasingly stabilised and</td>
</tr>
<tr>
<td>(2000-2013)</td>
<td>contacts help to find functional equivalents to domestic role models</td>
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<tr>
<td></td>
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c) Indicators for motives for discursive action

How can one observe an increasing importance of domestic role models for discursive practices and the ideas enshrined in them about the role of parliaments in the EU? National parliamentary participation is a relatively recent phenomenon, and despite a number of theoretical reflections about the question (Crum and Fossum 2009; Eriksen and Fossum 2012; Lord 2007; Lord and Magnette 2004) and empirical studies with data from the 90s (Katz and Weßels 1999; Schmitt and Thomassen 2007; Weßels 2005), as
well as important classifications of recent parliamentary activities of all EU national parliamentary chambers (Neuhold and Smith 2015; Rozenberg and Wessels 2012), it is not clear how MPs’ ideas about the role of parliaments might look, or whether and how they are linked to domestic role models over time.

Weber’s writings offer a hint regarding how one can model the increasing importance of standards of ‘rightfulness’ or ‘appropriateness’ as motives for action in the course of an institutionalisation process. The central question here is how motives for parliamentary action – or for our purposes better – motives for discursive action by national MPs are cleaved and which communities of practice sustain them.

The theoretical chapter discussed Weber’s distinction between different motives for action. According to Weber, actors may follow or break rules out of highly different motives. These may be utilitarian interests, i.e. serve their interest not to be sanctioned, for example, ideational interests, i.e. serve an abstract idea or political programmes that actors pursue, or institutional, i.e. the actors follow them because they judge them as ‘valid’ rules with reference to the value that these rules are supposed to realise.

In the theoretical chapter, three main motives for the evaluation of the role of parliaments in the EU were discussed. Each can be linked to one of the three different motives for discursive action: utilitarian, ideational, and institutional.

When MPs discuss the function of parliaments in the EC/EU, they may have utilitarian motives for the evaluation of how parliaments should participate in decision-making in the EU. The prime utilitarian motive for an MP is to convince voters in order to obtain votes and offices. For treaty debates, this means in the first place that members of government will try to defend the rules that the government has negotiated for the treaty at hand, while MPs from the opposition will try to attack them in order to show that the government’s performance was not good.

MPs may also have ideational motives for the evaluation of the function of the EP and the national parliaments in EU governance. Such ideational motives are interests that are linked to the convictions that the MPs hold about how the ‘grand design of European integration’ should look in the future. Each idea or vision about the EU’s future destiny, be it the creation of a European federal state or the loose cooperation of sovereign member states, to cite two classic poles that have lost much of their adhesiveness today, has its own implications for the type of parliamentary participation to choose – and especially the distribution of prerogatives between the national parliaments and the EP.
Finally, MPs may have institutional motives for the evaluation of parliamentarism in the EU. These institutional motives are evaluations about the validity of rules of parliamentary participation in the EU linked to the value of parliamentary democracy stemming from domestic practices. MPs in a talking parliament may make highly different judgements regarding how concrete rules of parliamentary participation should look to validly realise the value of parliamentary democracy compared to MPs in working parliaments. MPs in parliaments with a mainly representative function may be highly favourable to representative solutions on the EU level, such as the ‘Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union’ (COSAC). On the other hand, MPs in more governance-oriented parliaments may find such institutional arrangements either superfluous or see in them a dangerous ‘fig leaf’ because COSAC does not provide the necessary hard tools for the control of the legislative work in the Council.

One major question remains. How can one analyse such motives for discursive action? The answer is that there is no possibility whatsoever to prove which reasons an MP uses either argument for or against either form of parliamentary participation. These motives cannot be filtered out through survey data. Guided interviews with participants in the treaty debates may be one solution that would at least make it possible to approach which of the dimensions might have motivated the evaluation of the role of parliaments in EU governance. The present author conducted a number of interviews to check the context of the debates. However, given the fact that the treaty debates took place long ago, there are serious methodological problems in such interpretations of interviews conducted today with the MPs of the time. Human memory is delusive. Interviewees may have rewritten their story for the interviewer without even being conscious of doing so, or they might simply not remember well.

However, there is another option to at least approach which motives may have – on a more aggregate level – driven the MPs to their evaluations. EU treaty debates are preserved in detail in parliamentary archives, together with all speakers, topics, and arguments. Through a systematic discourse analysis of the EU treaty debates at hand, it is possible to use different role models as indicators for the cleavages of the debates.
Table 2: Indicators for motives of evaluation of discourse

<table>
<thead>
<tr>
<th>Motive</th>
<th>Type of cleavage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Utilitarian</td>
<td>Government majority/opposition</td>
</tr>
<tr>
<td>Ideational</td>
<td>Groups with a specific identifiable stance on European integration</td>
</tr>
<tr>
<td>Institutional (practice and roles)</td>
<td>Chambers</td>
</tr>
</tbody>
</table>

From the types of cleavages that can be found and the groups constituting these cleavages, one can infer which motives may have been most important for the evaluation of the functions of parliaments in the EU at a point in time. The increasing importance of a cleavage between the chambers in the discourse about the role of parliaments in the EU thus indicates an increasing importance of domestic roles and practices and their functional equivalents for EU affairs for the MPs’ discursive practices.

The increase in importance of a cleavage running between the chambers indicates an increased importance of domestic roles and practices in MPs’ discourse

<table>
<thead>
<tr>
<th>Period</th>
<th>Indicator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maastricht period</td>
<td>No clear discursive practice: Cross-chamber cleavages in discourse on the role of parliament depending of ideological interest (stance on the scope of European integration: i.e. federalists vs. intergovernmentalists), or material interest (vote or office seeking: government vs. opposition)</td>
</tr>
<tr>
<td>Lisbon period</td>
<td>National parliament as reference of discursive practice: Dominating cleavage of discourse on the role of parliaments between the chambers</td>
</tr>
</tbody>
</table>

C – Conclusion

To answer the research questions, it was necessary to deploy a comparative research strategy, comparing actors and action patterns in EU affairs and
MPs’ discourse on the role of parliaments in the EU across time within the chambers and across space between the chambers. The empirical analysis draws on interview and archive data to analyse actors and action patterns in EU affairs, and on data from a systematic deductive-inductive discourse analysis of parliamentary debates to compare MPs’ ideas about the role of parliaments in the EU.

The first section of this chapter discussed the operationalisation of time as a factor for the research design and presented the logic that led to the selection of the Assemblée nationale and the Bundestag as cases (sub-chapter A). In order to assess typifications of actors and action and the parallel meaning-building processes on the role of parliaments in the EU, it was necessary to cross a most similar systems with a most distant systems design. Patterns were analysed within each chamber across time, comparing a Maastricht (1979 to 1999) and a Lisbon (1999-2013) period and then comparing across chambers. Parliamentary discourse on the role of parliaments in the EU was compared by analysing one parliamentary debate on the fundamental features of the EU in each period, i.e. the debates on the Treaty of Maastricht and the Treaty of Lisbon.

The second section discussed how the impact of ‘Europe’ could be grasped at the micro-level through studying the practice of the actors (sub-chapter B). It operationalised the theoretical reflections in Chapter I through the development of hypotheses and indicators, and discussed the methods and data used. This book argues that indicators for the typification of actors in EU affairs are 1) the normalisation of the functions of the European affairs bodies and the extension of EU expertise, and 2) the increasing importance of EU experts as agents of change for parliamentary prerogatives. The typification of action can be traced through 1) an increasingly patterned use of formal and informal instruments, and 2) interaction with EU transnational actors.

The following chapter presents the results of the first part of the investigation of Hypothesis 1 through an analysis of actors and action patterns in EU affairs in the Assemblée nationale and the Bundestag during the Maastricht period.
CHAPTER III 1979-99 – The Maastricht period – Acting Europe

This chapter presents the results of the comparison of parliamentary EU practice in the Assemblée nationale and the Bundestag during the period that will be referred to as the ‘Maastricht period’ for the purposes of this study. This period covers the 80s until the end of the 90s, but data regarding the 80s is incomplete. The chapter shows that in both parliaments, MPs ‘act’ somewhat arbitrarily in European affairs depending on their ideas or their interests, but they do not ‘perform’ typical roles or functions.

The chapter compares evolutions in this period in the Assemblée nationale (sub-chapter A) and in the Bundestag (sub-chapter B) and shows that there are similarities in EU affairs in the two parliaments despite their MPs’ institutionalised practices on the domestic level being different. In order to investigate Hypothesis 1, the first section analyses (1) actorship in EU affairs, and pays special attention to the European affairs bodies and EU experts more generally in the chambers. It then proceeds by investigating which actors are successful protagonists for the introduction or revision of formal rules regarding the chambers’ EU participation. In a second section, each chapter investigates the activities of the chambers in EU affairs and the meaning that actors attribute to this activity (2).

The conclusion shows there are similarities in actorship and activities between both chambers in the Maastricht period. In both chambers ‘doing EU’ is still ‘arbitrary’ and subject to frequent change. In both chambers, the European affairs body’s shape and competences are subject to fundamental change and political contestation. There are still only few actors who know both how EU decision-making and the parliament’s ‘usual ways of doing things’ work. In both chambers, the introduction and amend-

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20 The chapter is based on interviews with MPs and parliamentary clerks in office in the observation period 1979-99, the analysis of archive material and the analysis of the existing secondary literature. Interviews were in parts carried out through retrospective interviewing, in parts based on secondary analysis of existing interview data on the Assemblée nationale available through the qualitative data base BeQuali (2016). For the complete list of interviews and sources see bibliography. For a comprehensive description and discussion of sources and methods to exploit them see Chapter II under http://spire.sciencespo.fr/hdl:/2441/5i1k2o8mn49maohtdrake9dsfv.
ment of the formal framework for the participation in EU affairs are not pushed through experts of day-to-day EU decision-making, but by actors who have either specific political agendas without a link to EU affairs, who hold specific ideologies concerning the scope of European integration, or who try to defend the competences of their institutional fiefdoms.

Neither in the Assemblée nationale nor in the Bundestag do specific patterns exist with regard to handling EC/EU affairs that have a certain stability. Participation modes depend on the individual actors. Despite the different role orientations of the chambers on the domestic level, concrete actions in EU affairs are low. In both chambers, actors want to remedy this low involvement through a stronger control of the government. An important feature of the Maastricht period is that organisational arrangements (such as the shape of the European affairs bodies) and action in EU affairs are often ‘incompetent’ with regard to the existing parliamentary practices. EU affairs are lowly institutionalised as an ‘ordered practice’ in both chambers.

A – Assemblée nationale

This first subchapter examines the handling of EU affairs in the French lower house during the Maastricht period. The first section shows that there is no ‘community of actors’ sharing knowledge about parliamentary affairs that can provide a clearly defined agency in EU affairs for the chamber during this phase. Interest in EU affairs and awareness regarding the impact of EC/EU decision-making is low. Actors who have EU experience lack parliamentary experience. Throughout the major part of the Maastricht period, the Delegation for the European Communities (Délégation pour les Communautés européennes, or ‘EC Delegation’) created in 1979 is a largely technical body that therefore cannot ensure the functions for the responsiveness of the chamber as a whole, which the committees usually hold. Actors have little experience in the day-to-day handling of EU affairs and mainly have other motives for action, be they political or ideological.

The second section shows how this type of agency results in the introduction of prerogatives for the chambers, such as the ‘Europe Resolutions’ introduced as an instrument for government control, which are only used for a short period of time and whose usefulness in parliamentary practice (as well as their meaning) is contested. Despite a relatively high number of resolutions (compared to the ‘Lisbon period’), actors in interviews are mostly dissatisfied with participation. The participation in EU affairs of the
chambers is low and there is no general pattern. Moreover, individual actors express highly different wishes for improvement.

1) Actors and agency

This first section concentrates on the actors who carry out EC/EU-linked action in the Assemblée nationale. The first part examines the Delegation for the European Communities created in 1979 to ensure the chambers’ EU participation – whose nature and logic of membership are subject to regular change in this period. Interest in and expertise by the members of the Assemblée nationale regarding the Delegation’s work are low, even from its own members. There is no ‘community of practice’ sharing knowledge and expertise about day-to-day parliamentary participation in EU affairs. For a long time, the EU body’s technical nature does not allow it to perform ‘competently’ for the chamber as a whole – performing activities according to the roles of the standing committee. The second part analyses who the successful agents are who push for the successive changes of the legal framework for ‘doing EU’ in the chambers. Motives are various but they derive only rarely from the experience of or shared knowledge about day-to-day EU decision-making.

a) European affairs body and EU experts

During the Maastricht period, the nature and type of composition of the Delegation is subject to regular change. Until the end of the 90s, it does not have the type of membership nor the working mode that is characteristic of the permanent committees, nor does it have a comparable level of attention from its own members. Most importantly, EC expertise in the committee is low. There is no discernible community of practice linked to EU affairs. As in the Bundestag in the same period, parliamentary actors explain this with the fact that most MPs are not aware of the (potential) impact of EU legislation on domestic legislation.

Until the adoption of the ‘Josselin’ law, the EC Delegation has only 18 members and does not allow for a proportional representation of the parliamentary party groups (Stanat 2006, 162) as is usually the case of the committees. The body is thus a technical one that is not ‘competent’ for political scrutiny of EC/EU documents, which would be necessary to fulfil the Assemblée nationale’s role as an interest intermediary.
Only with the extension to 36 members in 1994 can the body potentially work coherently with parliamentary practice on the domestic level. However, its working mode and methods remain highly different from those of the standing committees, in particular with regard to the interest and knowledge of its members in EC/EU affairs. Both the chairman of the Delegation from 1993-1997, Robert Pandraud, and the chairman from 1997-1999, Henri Nallet, consider the overall capacity of the Assemblée nationale in EC affairs in the Maastricht period to be disappointing.

‘How many MPs really knew, how many were interested and present? [silence] Few. Listen, honestly... ten. Ten or maybe less. And among these ten, they didn’t all have deep knowledge. Ten interested, and honestly four or five with good knowledge of the community’s mechanisms’

Nallet estimates that there are only around 10 MPs in the Delegation interested in EC and EU affairs – and that out of those only four or five have the competence to efficiently scrutinise European legislation because they know well how institutions and decision-making procedures on the European level worked.

Nallet explains this generalised disinterest in the scrutiny of EC/EU draft acts with the fact that MPs are highly preoccupied with other subjects and the work in the standing committees – but above all because of the low subjective feeling of conflict caused by increasing EU legislation. MPs still do not consider that increasing European legislation does have an impact on their work.

In the opinion of Nallet, MPs in the Assemblée nationale are still ‘completely convinced that it is the French Parliament that makes the law’ (interview 6). In his opinion MPs are not aware of the fact that there are important parts of national legislation that are and would be stimulated in the future by EC/EU legislation. For him, the MPs in the Assemblée nationale have an ‘ancient and very Republican conception of law-making. For them, it is the national Parliament’ (interview 6). He experiences that MPs are greatly surprised when one explained to them the principle of

22 ‘complètement convaincus que c’est le parlement français qui fait la loi.’
23 ‘conception très républicaine ancienne de l’élaboration de la loi. Pour eux, c’est le parlement national.’
supremacy of EU law or the impact of the general principles elaborated by the European Court of Justice on French legislation: ‘I can assure you that they are taken aback’\textsuperscript{24} (interview 6). For Pandraud this assessment is even one of his motivations for becoming chairman of the Delegation:

‘Because I noticed when I was a Minister and an MP that in fact, we lived under false pretences. In very large fields, during electoral campaigns as well as in everyday business, we did as if Europe didn’t exist. But ultimately, I think it was Delors who said that two-thirds of our legislation comes from Europe, but according to me it is more important than that. The European interferences are manifold: they are legislative, jurisprudential, European Court in Strasbourg, Court of Justice in Luxembourg. All this leads us to reconsider many of our positions. I was very interested in European problems.’\textsuperscript{25} (interview 3)

Both chairmen of the Delegation consider that the MPs of the Assemblée nationale complain about Europe but do not participate in EU affairs: ‘They grumble but they don’t participate. They do not talk about it during electoral campaigns’\textsuperscript{26} (interview 3). Nallet retains a partially bitter feeling of his chairmanship. He considers that French MPs are ‘hypocritical’ when they talk about the democratic deficit of the European institutions, because they are not interested at all in how the latter work (interview 6).

Even after 1994 the chairmen of the European affairs body do not hold expertise comparable to that of chairmen of other standing committees. Most importantly, all of them lack substantial experience in parliament. Their EU expertise is low. Robert Pandraud only has five years of parliamentary experience and no significant experience with EU institutions before being appointed as a chairman of the Delegation. Henri Nallet has some experience with EU decision-making processes from the perspective

\textsuperscript{24} ‘Je vous assure qu’ils ouvrent de grands yeux.’
\textsuperscript{25} ‘Parce que j’avais constaté lorsque j’étais ministre et parlementaire qu’en fait, nous vivions dans de faux semblants. Dans des domaines très vastes, à la fois dans les campagnes électorales et dans la gestion quotidienne, nous faisions comme s’il n’y avait pas l’Europe. Or en définitive, je crois que c’est Delors qui disait que deux tiers de notre législation venaient de l’Europe mais à mon avis c’est plus important que ça. Les interférences européennes sont multiples, elles sont législatives, jurisprudentielles, Cour européenne de Strasbourg, Cour de justice de Luxembourg. Tout ceci amène à revoir beaucoup de nos positions. J’étais très intéressé par les problèmes européens.’
\textsuperscript{26} ‘Ils gueulent mais ils participent pas. Ils en parlent pas dans les campagnes électorales.’
of a member of the French government\textsuperscript{27}. However, both have only relatively short parliamentary careers before being appointed chairmen of the Delegation.

Interest of the sectoral experts in EC/EU affairs is low for the reasons explained earlier. Before the constitutional revision of 1992 on the occasion of the ratification of the Treaty of Maastricht, the standing committees do not participate at all in the scrutiny of EU dossiers (Szukala and Rozenberg 2001, 231). A two-step ‘European Resolution’ procedure foreseen in the constitutional revision is supposed to give the standing committees the possibility to become involved early\textsuperscript{28}.

However, the permanent committees only participate reluctantly.\textsuperscript{29} Nallet notes in an interview that when he sends a proposal for a resolution to a permanent committee, its chairman usually complains about not knowing where to put the ‘annoying thing’ on the agenda: ‘Holalala, you’ve sent me a thing, it’s really a pain, you know I already have a very loaded agenda, I don’t know when I will be able to schedule your thing.’\textsuperscript{30} (interview 6)

For Henri Nallet the resolutions are therefore not an efficient tool. He prefers informal exchanges with government and administration. Furthermore, he considers that if the resolutions were discussed in the plenary, there is rarely new input from the standing committees or other members of parliament. The same arguments that have already been used in the Delegation are repeated again (interview 6).

The European affairs body is isolated within the Assemblée nationale during the Maastricht period. Only few MPs attend plenary sessions on European Resolutions. Even during the chairmanship of Robert Pandraud, which starts directly after the heated Maastricht debates that put EU affairs high on the agenda and during which 33 resolutions (which represent

\textsuperscript{27} Henri Nallet was minister of agriculture in 1985/86 and then again (switching to the ministry of justice) from 1988 to 1992.

\textsuperscript{28} Even if in principle each member of the Assemblée could table a resolution, the standing orders of the Assemblée that were only modified in 1994 to include the constitutional amendments continued to foresee a central role for the delegation for the scrutiny procedure (Szukala and Rozenberg 2001, 231): it continued to examine all documents transmitted by the government upon arrival in the Assemblée, and was almost exclusively the initiator of European Resolutions.

\textsuperscript{29} Until the constitutional revision of 2008, which changed the statute of delegation into the one of committee, European Resolutions had to be adopted by one of the standing committees foreseen by the French Constitution.

\textsuperscript{30} ‘[… ] holalala, tu m’as envoyé un truc, qu’est-ce que c’est emmerdant, tu sais j’ai déjà un ordre du jour très chargé, je ne sais pas quand je vais pouvoir le mettre ton truc.’
nearly all resolutions during his chairmanship (Szukala and Rozenberg 2001, 232), only 30 or 40 MPs attend such plenary sessions (interview 3). Under the chairmanship of Henri Nallet, it even happens that there are only five or six MPs in attendance (interview 6).

b) Agents of change regarding formal rules and organisation

As a consequence of the missing community of practice in EU affairs, until the end of the 90s protagonists of the change in the formal framework for the participation of the French parliament in EU/EC affairs are not experts in parliamentary proceedings in EU affairs. During the Maastricht period the motives of actors who successfully push their ideas through for the formal framework ruling regarding EU/EC participation are various: particular ideas about European integration, the defence of specific institutional power positions, or the public game between governing majority and opposition.

A particularly strong force of change in this period in the Assemblée nationale is the Eurosceptic MPs of the Gaullist Rassemblement Pour la République (RPR) party, who fight for stronger participation rights for parliament when in government coalitions with the more integration-friendly Union pour la Démocratie Française (UDF). They believe that a better limitation of European integration can be achieved through a better representation of the French national interest in EU decision-making.

The MPs of the Socialist Party (PS) are also reluctant or even hostile towards further steps of institutional integration of the European Community. During the first parliamentary ‘Assises’ of the national parliament and the EP in Rome in 1990, they vote, for example, against a proposal for a new decision procedure between the Council and the EP (Stanat 2006, 161).

The most fundamental change of formal prerogatives of the Assemblée nationale in EU affairs between 1979 and 1999 is the introduction of article 88.4 (see e.g. Nuttens 2001) into the French Constitution at the occasion of the ratification of the Treaty of Maastricht. The article reorganises parliamentary participation in EU affairs, in particular through the introduction of the so-called European Resolutions, which were already mentioned above. The introduction of the article is obtained by RPR and UDF in partially coordinated opposition against the Socialist government. Especially the pressure of the RPR parliamentary party groups in opposition in both chambers is high (the high majorities needed for a constitutional
amendment in both chambers put the right-wing parties in the Sénat in a veto position against the government). The strengthening of the prerogatives of the parliament is a consensus position between RPR and UDF, whereas they differ on the government’s EU policy (Rozenberg 2010).
<table>
<thead>
<tr>
<th>EU events</th>
<th>Year</th>
<th>Formal rules</th>
<th>Conflicts in parliament</th>
<th>Actors successful in change</th>
</tr>
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<tbody>
<tr>
<td>Single Market Programme</td>
<td>1979</td>
<td>Loi ‘Foyer’ - Creation of EC Delegation</td>
<td>- Failure of the trans-position of the sixth EC directive on TVA</td>
<td>Eurosceptic members of the RPR parliamentary party group (against UDF prime minister Barre)</td>
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<td>First direct elections EP</td>
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<td></td>
<td>1990</td>
<td>Loi ‘Josselin’ - Reform of the Delegation: extension of membership, possibilities of hearings with government and European personalities, possibility to publish reports</td>
<td>- Trigger: Single European Act, but no major conflict - major conflict with Sénat because of fear of creation of a seventh standing committee</td>
<td>Chairman of the EC Delegation, Charles Josselin, PS</td>
</tr>
<tr>
<td>Treaty of Maastricht</td>
<td>1992</td>
<td>Revision of Constitution - Introduction of art. 88.4 (resolutions on issues of the first pillar that fall under law domain)</td>
<td>- The competence transfer foreseen by the ratification of the Treaty of Maastricht</td>
<td>Eurosceptic MPs of the sovereignist wing of the Gaullist party</td>
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<tr>
<td>EU events</td>
<td>Year</td>
<td>Formal rules</td>
<td>Conflicts in parliament</td>
<td>Actors successful in change</td>
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<td>1994</td>
<td>Loi ‘Pandraud’ (amendment of loi ‘Jos-</td>
<td>Powerful anti-Maastricht coalition exists among the MPs of the governing majority – in particular against a pro-European pole in the Balladur government</td>
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<td>selin’)</td>
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<td>- Delegation changes name: from Delega-</td>
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<td>tion for the EC to Delegation for the EU</td>
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<td>Standing orders of the Assemblée nationale (amendment)</td>
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<tr>
<td></td>
<td></td>
<td>- Implementation of the constitutional changes foreseen in 88.4 French Constitution</td>
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<td>Government ‘circulaire’ (Balladur)</td>
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<td></td>
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<td>- Government grants the parliament one month to scrutinise the EU draft acts (‘réserve parlementaire’)</td>
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<td></td>
<td></td>
<td>Constitutional reform (no special EU focus) (1995)</td>
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<tr>
<td></td>
<td></td>
<td>- attempt to extend information rights failed</td>
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<tr>
<td></td>
<td></td>
<td>Letter by Prime Minister Juppé</td>
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<tr>
<td></td>
<td></td>
<td>- guarantee of transmittal of: draft acts of 2nd and 3rd pillar; of the motivations of the Conseil d’Etat</td>
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</tbody>
</table>
In this phase, the Sénat is an important agent of change as well. While in a first phase its conservative majority blocks a strengthening of the EC Delegation that is too far-reaching (because of the fear of making it a seventh standing committee), in the negotiations regarding the Treaty of Maastricht the Sénat tries to use its veto position to enhance its own prerogatives in EU affairs as well.

**Eurosceptic members of the RPR: ‘Foyer’ law, 1979**

The agents who successfully push for the ‘Foyer’ law, which institutes the Delegation for the European Communities in 1979, are the Eurosceptic members of the RPR parliamentary party group who are in a government coalition with the Centrist MPs from UDF and *Union Démocratique du Centre* (UDC) parliamentary groups. There are strong tensions within the government majority because parts of the Gaullist party consider the policy of the UDF Prime Minister Raymond Barre to be too pro-European. They contest, for example, the decision by the European Council in 1976 to introduce the first direct elections of the EP. This culminates in the rejection of the transposition of the sixth EC directive on Value Added Tax by parts of the RPR parliamentary party group in 1979.

The chairman of the Law Committee, Jean Foyer, therefore proposes a draft act foreseeing a parliamentary body for European affairs. The sovereignist opponents within the government majority (in consensus with the Eurosceptic Communist and Socialist opposition parties) manage to obtain the establishment of an EC Delegation against the will of the government. However, the new body is less powerful than the Eurosceptic MPs initially hoped. Amendments filed by MPs, which are in favour of European integration and a pro-European consensus in the Sénat across all parliamentary party groups except for the Communists, lead to a Delegation that is a small technical body without clearly defined own competences (Stanat 2006, 157–58).

**The chairman of the EC Delegation: ‘Josselin’ law, 1990**

The ‘Josselin’ law is the only exception to the rule that, in the first phase of parliamentary participation, the Eurosceptic forces are the major actors successfully pushing for change of parliamentary prerogatives. The law is not a successful one, however. In the aftermath of the Single European Act, the law is introduced by an EU expert, i.e. the chairman of the EC Delega-

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31 President Giscard d’Estaing (UDF), Prime Minister Raymond Barre (UDF).
32 President François Mitterrand (PS), Prime Minister Michel Rocard (PS).
tion, Charles Josselin, PS, to meet some major flaws in the competences and structure of the EC Delegation (extension of number of members, precision of competences, better information of the government, publications of the activities of the Delegation). The original text is consensual in the Assemblée nationale with the exception of the Communist party, which considers the competences foreseen in the draft law to be too weak.

In a subsequent phase of the parliamentary proceedings, the law meets major opposition from all parliamentary party groups in the Sénat except for the governing Socialists, and it takes 13 months of parliamentary negotiations to finally adopt it. Apart from electoral considerations between government and opposition, the major reason for resistance is the continuing fear in the Sénat’s major parliamentary party groups (as in 1979) that increased competences for the Delegation will harm the balance of competences between the Delegation and the standing committees. The right-wing majority in the Sénat does not want to change the distribution of competences between the government and the parliament in matters of foreign affairs. The government backs the position of the Sénat against its parliamentary majority, as it is not eager for the chamber to have stronger control rights. The final law is close to the Sénat’s version and contains only the increase of the members of the Delegation to 36, extended rights to organise hearings of government ministers and other European personalities, the possibility to publish reports (which used to be the sole competence of the standing committees) and to issue opinions on EU draft acts and submit them to the standing committees (Stanat 2006, 161–66).

Eurosceptic members of RPR: Constitutional revision, 1992

The major reform of formal EC/EU prerogatives for the French parliament during the debates about the ratification of the Treaty of Lisbon is a prime illustration of the role of Eurosceptic forces (and the fight between government and opposition in the French parliament) as promoters of change.

Major agents of change that are able to promote strengthened parliamentary participation rights for the two chambers are thus the Eurosceptic MPs of the sovereignist wing of the Gaullist party, who are organised in the Association parlementaire pour l’Europe des nations under the leadership of Philippe Séguin, Franck Borotra (Assemblée nationale), and Charles Pasqua (Sénat). During the Maastricht negotiations, an extreme bipolarisation occurs between pro-Europeans (moderate Socialists, Centrists, moder-

33 President François Mitterrand, Prime Minister Pierre Bérégovoy (minority government).
ate Gaullists, Génération Ecologie) and sovereignist political forces rejecting the Treaty of Maastricht (Communists, Front national, traditional left or ‘Jacobins’ under Jean-Pierre Chevènement, Philippe de Villiers, ‘old’ Gaullists under Séguin) (Stanat 2006, 185).

The sovereignists – and especially those organised in the RPR parliamentary groups of the two chambers – threaten to block the ratification in the two chambers of the parliament. Therefore, president François Mitterrand announces publicly on 12 April 1992 that it will probably be necessary to ratify the Treaty of Maastricht through a referendum against the will of the chambers.

However, in order to obtain the adoption of the constitutional revision required by the Conseil d’Etat before ratification (on three points: the voting rights in local elections for EU citizens, the introduction of the European Monetary Union, and the entry and free movement of persons in the common market), the Socialist minority government of Pierre Bérégovoy is obliged to make important concessions to the sovereignists (and especially in the Sénat) in order to be able to find the necessary majorities. These concessions concern a veto role of the Sénat for the definition of the law implementing the voting rights for foreign nationals in local elections (later art. 88.3 of the French Constitution) and the modalities of participation of parliament in EU affairs (later art. 88.4).

The MPs in the Assemblée nationale ask for a constitutional guarantee a) of the (already existing right of) submission of EC documents upon their transmittal to the Council if they fall under article 34 of the French Constitution (‘domaine de la loi’), and b) of the possibility of issuing an opinion on these draft acts (which in principle already exist for the standing committees).

Because of the pressure of the RPR parliamentary party group in the Sénat, the government and the Socialist parliamentary party group must accept that the instrument of opinion in the Sénat (called ‘avis’ in the Assemblée nationale’s version) has been changed into a ‘resolution’ (following a proposal by Jacques Larché).

This is an important change symbolically because only highly restricted possibilities exist of issuing resolutions for the two chambers in the Vth Republic (following a decision by the Conseil constitutionnel). Parliamentary resolutions are widely considered to have contributed to the governmental instability in the IIIrd and IVth Republics. The concrete implementation of the procedure for EU resolutions is supposed to be elaborated by the chambers in their standing orders (which they only do in 1994). Despite their symbolic and political value, however, resolutions do not engage
the government to follow the parliament’s line. There is therefore no change in practice. The chambers already had the possibility to issue non-binding opinions before (Stanat 2006, 187).

In contrast to this, the proposals by the EU experts, i.e. both chairmen of the delegations in the Assemblée nationale and in the Sénat (Michel Pezet, PS, and Jacques Genton, Union Centriste34), to mention the EC delegations in the constitution in order to transform it into a seventh standing committee and failed to give the body an autonomous right to centralise the opinions of the permanent committees. The literature interprets this as an ‘auto-limitation tacite’35 by the MPs (Nuttens 2001, 30), but it instead probably reflects the continuing will of those MPs organised in other standing committees to leave the internal parliamentary hierarchy untouched.


The following incremental improvements of the prerogatives of the chambers take place during the years 1994 and 1995, during in which a powerful anti-Maastricht coalition exists among the MPs of the governing majority (Stanat 2006, 189; Szukala and Rozenberg 2001) – in particular against a pro-European pole in the government Balladur. Leading personalities who publicly declare having voted against the Treaty of Maastricht obtain important positions in the parliamentary hierarchy. The three most important personalities are Philippe Séguin, the speaker of the Assemblée nationale; Robert Pandraud, the chairman of the Delegation for the European Communities; and Robert Mazeaud, chairman of the Law Committee, all three of whom have important parliamentary experience. At the same time, the political posts of chairmen of the parliamentary party groups are held by personalities who have only little political weight because they are at the end of their career or still have little parliamentary experience. A number of experienced MPs leave parliament to join the Balladur government after the parliamentary elections in 1993, which lead to the second ‘co-habitation’ under the Socialist president François Mitter-

34 Union Centriste (today Union des démocrates et indépendants – Union centriste) is a center right pro-European Sénat parlementary party group.
35 ‘Tacit self-restraint’.
36 President François Mitterrand, Prime Minister Edouard Balladur (second co-habitation).
37 President Jacques Chirac, Prime Minister Alain Juppé.
rand. After a landslide victory of the right-wing centrist-Gaullist coalition, the majority of the MPs have a parliamentary mandate for the first time, and most of them are mostly interested in the work in the circumscription (Stamat 2006, 188–89).

In close cooperation with Philippe Séguin, Pierre Mazeaud, and the speaker of the Sénat, René Monoroy (UDF), Robert Pandraud tries to use the amendment of the ‘Josselin’ law in 1994 to obtain extended information rights, including on the second and third pillars of the newly created EU. All parliamentary party groups adopt the draft law except for the Communists, who consider it not to be far-reaching enough. They claim an obligation of examination for EC/EU draft acts by the Delegation, and the obligation of the government to notify the Council of ministers in Brussels about an adopted parliamentary opinion (Stamat 2006, 190).

Following the adoption of the law, the government argues that a simple law cannot break the constitutional law (from 1992) and that it is thus not bound legally to the new submission rights. Informally, however, it is not possible for the government to ignore the political claims. As compensation, prime minister Juppé grants parliament an examination period of four weeks during which government ministers shall not agree to an act in the Council of Ministers through a government decree or circulaire Balladur (known as reserve parlementaire) to give parliament enough time for deliberation (Stamat 2006, 257–58). Symbolically, this step is important because the government grants parliament a right of influence in a domain of foreign/EU policy, which in the ‘usual ways of doing things’ was reserved for the executive in constitutional practice.

Improvements of parliamentary prerogatives in 1995 follow the same pattern. Robert Pandraud tries to use the constitutional revision of 1995 (initiated by the new president Jacques Chirac and his prime minister Alain Juppé) to amend article 88.4 of the Constitution, and to finally oblige the government to submit all EU/EC draft acts concerning the second and third pillars, all interinstitutional agreements, and all acts under the sole competence of the European Commission, as well as consultative documents by the European Commission.

His amendment is refused by the Law Committee on legal grounds: the amendment is supposedly not sufficiently closely linked to the original

38 In the final law, the term European Communities is replaced everywhere with European Union, e.g. in the name of the Delegation.
39 The parliamentary reserve does not have much weight in practice (Auel, Rozenberg, and Thomas 2012).
a) Participation patterns and their meaning

Until the end of the 90s, there are no clear patterns for how MPs in the Assemblée nationale participate in EU affairs, in terms of neither the use of formal instruments nor the more informal roles they play. The wishes that MPs attribute to the Assemblée nationale’s role in EU affairs vary strongly. Rozenberg has described that the chairmen of the Delegation for the EC/EU in the Assemblée nationale have considerably varying ideas about the major objective of the parliamentary participation in the EU decision-making processes depending on their motivational roles (Rozenberg 2009, 2019).

Robert Pandraud and Henri Nallet have widely differing preferences for formal instruments of control. For Pandraud, hearings and resolutions are the most efficient tools of parliamentary control. For Nallet, on the other
hand, the best instrument for parliamentary participation in EU decision-making is information reports. All of these tools are mainly destined for the ex ante phase of decision-making, either as instrument for the provision of information, as instrument for the expression of a parliamentary opinion, or as a longer-term tool for dialogue with the government.

There is another important difference between Robert Pandraud and Henri Nallet concerning the importance of resolutions. While both would like these resolutions to be generators of plenary debates (which is not the case), only Robert Pandraud considers them to be a useful tool for the expression of the opinion of the parliament. For him, resolutions are a public tool of control, engaging ‘the ministers’ political responsibility’ (interview 3).

In contrast to this, for Henri Nallet resolutions are a complicated and unsuccessful tool for the expression of the opinion of parliament. In his view, they are unable to produce the necessary debates in the plenary. These are primordial for him as the Delegation is dependent on the standing committees to adopt or debate them under the Maastricht version of the article 88.4. For him, resolutions are without any major consequence because they are agreed upon between the government and the parliamentary majority (‘Because it is always telephoned between the majority and the government. It’s telephoned, it’s agreed upon. They need to find an agreement. Because we are not used to parliamentary control.’ (interview 6).

Nicole Catala, member of the Delegation since 1988, also confirms that because of the usual dominance of the executive in EU affairs, there is little open debate about the government’s EC/EU policy in this phase, with the exception of the debate about the Treaty of Maastricht (interview 1).

Pandraud’s preference for resolutions is uncommon among the chairmen of the Delegation succeeding him. This exceptional position can probably be explained by three factors. The first is that Pandraud is chairman during a co-habitation phase with the socialist president François Mitterrand from 1993-1995 (member of the RPR/UDF majority in the Assemblée nationale). Furthermore, interviews show that the real cleavage in EC/EU policy perceived by the MPs is not the one between the govern-

40 ‘la responsabilité politique des ministres.’
41 ‘[… ] parce que c’est toujours téléphoné entre la majorité et le gouvernement. C’est téléphoné, on se met d’accord. Faut se mettre d’accord. Parce qu’on a pas l’habitude du contrôle parlementaire.’
ment and the parliament, but the one between the government majority and the government ministers against the ministerial administration (see e.g. interview 3; see a similar observation for the German case (Beichelt 2009)). As the ministerial administration is in the hands of a Socialist government from 1988 onwards (Mitterrand being in office already since 1981), it is probable that the mistrust in it is particularly high, as is the wish for the ministers of the new government majority to control it tightly.

Secondly, because of the strong cleavage within the Gaullist party between federalists and sovereignists which opened at Maastricht (see e.g. Rozenberg 2010; La Serre and Lequesne 1993; Szukala and Rozenberg 2001), some of the ministers seem to be too pro-integrationist in the view of the group of Maastricht-sceptical MPs to which Pandraud belongs: ‘For us it was a bit like that if you want, it was an enema that you shove up the ministers’ asses in order to make them think that there is still a Parliament and that there are French interests’ (interview 3). To fix ministers publicly on certain political positions is an exceptional tool for the parliamentary majorities of the Vth Republic due to these particular political circumstances.

The third explanation is that the parliamentary resolutions are a completely new tool that were put into place by the constitutional revision at the occasion of the ratification of the Treaty of Maastricht, and members of the then RPR and UDF opposition were important promoters of this tool. Pandraud certainly wants to prove this new provision useful and to use it as a tool for the enhancement of the position of the French parliament in EU affairs, as is the wish of his party fellows Séguin and Pasqua (Rozenberg 2009). He does this at the expense of other important instruments such as information reports (about the ‘economic and financial national interests, the representatives of the major associations, the Nations’ active forces’) and interparliamentary cooperation, as he admits himself (interview 3).

However, there are also similarities of perception that prefigure the role that the Assemblée nationale plays in the Lisbon period. For both chairmen, European Resolutions are not a means to replace the detailed work of the EP, meaning that they will not transform the Assemblée nationale

42 ‘Nous, c'était un peu ça si vous voulez, c'était une poire à lavement qu'on met dans le cul des ministres pour qu'ils pensent qu'il existe toujours un parlement et qu'il y a des intérêts français.’

43 les ‘intérêts économiques et financiers nationaux, les représentants des grandes associations, les forces vives de la Nation.’
into a ‘working parliament’. ‘It is not at all, like the EP, to revise a sentence or a single word of a draft directive’\(^44\) (interview 3). For Pandraud, resolutions are broad guidelines to show the government which broad opinion parliament has on an issue. Consequently, they are tools of representation and interest intermediation, as is ‘the spirit of the texts that constituted us’\(^45\) (interview 3). However, he also considers that ministers have to explain to the parliament why they cannot defend the position of the parliament.

But Pandraud’s vision of parliamentary control is a soft one and constrained by the ‘national interest.’ He stresses the fact that in international negotiations the government cannot guarantee anything to the parliament but has to do what is best in the national interest, and he considers the resolutions to have helped the government to defend the best positions in the French interest:

‘But overall, I think that it helped the government [...] On the aspect of the relations between the Delegation and the minister, it was when the minister had to defend in Bruxelles a decision which was unanimous to defend French interests, where it was useful for him to invoke the Parliamentary decision in order to be able to say “all the Parliament is behind me”.’\(^46\) (interview 3)

The difficulties of the handling of EU/EC affairs with reference to usual parliamentary practice are also illustrated by the fact that both Pandraud and Nallet describe their work as dominated by a mechanical screening of the projects of directives and regulations or other decisions that have been transmitted to them by the government and undergone an evaluation by the \textit{Conseil d’Etat} (to see whether they fall into the parliament’s competence according to art. 88.4 of the Constitution). This screening work is regularly described as being ‘extremely demanding’\(^47\) (interview 3), as occupying the majority of their time, and as concerning about 150 documents weekly (interview 3). It requires most of the chairmen’s time, even

\(^{44}\) ‘C’est pas du tout, comme le PE, de revoir telle phrase ou petit mot d’un projet de directive.’

\(^{45}\) ‘l’esprit des textes qui nous constituaient.’

\(^{46}\) ‘Mais en gros, je crois que ça a aidé le gouvernement [...] Sur l’aspect des relations entre la Délégation et le ministre, c’est quand le ministre devrait défendre à Bruxelles une position qui était unanime pour défendre les intérêts français, il lui était utile de s’appuyer sur une décision du Parlement pour pouvoir dire “j’ai tout le Parlement derrière moi”.’

\(^{47}\) ‘extrêmement lourd.’
at the expense of the work in the circumscriptions. The screening and selection of important documents to deal with, the ‘parliamentary scrutiny’\(^{48}\), is described as the basic duty of the chairmen of the Delegation: ‘No this needs to be done, that’s everyday business’\(^{49}\) (interview 6).

A major problem mentioned by all interviewees is the right to be informed about EU decision-making, while the government seems to distrust parliamentary interference too much.

For Henri Nallet of the Socialist party, and chairman of the Delegation from 1997 to 1999, the screening is a means to ‘make the Community’s institutions more democratic’\(^{50}\) (interview 6). On the other hand, for Robert Pandraud from the Gaullist RPR, chairman of the Delegation from 1993 to 1997\(^{51}\), it is a means to give the ministers a certain degree of democratic mandate, to provide the ministers negotiating in the Council ‘a certain competence linked to Brussels’\(^{52}\) (interview 3). Both consider that one of the most important challenges for the Delegation is to obtain access to information. Until the ‘Josselin’ law, the body did not have any formal guarantee for the transmittal of documents whatsoever. Until the late 90s, legal guarantees of document transmittal are restricted to documents falling under article 34 of the French Constitution, which restricts parliamentary legislative competence to a limited catalogue of policy areas. Both consider that they have to ‘bang our fists on the table’\(^{53}\) at the Secretary General of the Interministerial Committee for Questions of European Economic Cooperation (SGCI)\(^{54}\), the administrations, the minister for European affairs, and even the prime minister, to obtain necessary information, despite good relationships.

For Pandraud, the most important issue concerning information is the access to all EC/EU draft acts (not only those being judged as falling under the ‘domaine de la loi’), and later for Nallet the issue is more the access to all necessary documents. However, both consider that with considerable effort it is always possible to obtain the necessary information. MPs are most-

\(^{48}\) ‘examen parlementaire’
\(^{49}\) ‘Non, ça faut le faire, c’est le travail quotidien’
\(^{50}\) ‘rendre les institutions communautaires plus démocratiques’
\(^{51}\) From 1993 to 1995 under the second ‘co-habitation’ of President François Mitterand, PS, and prime minister Edouard Balladur, RPR. Pandraud is known as being Eurosceptic and voted against the Treaty of Maastricht (Rozenberg 2009).
\(^{52}\) ‘une certaine compétence liée à Bruxelles’
\(^{53}\) ‘taper du poing’
\(^{54}\) former name of the SGAE.
ly interested in relating information to their circumscriptions and to alert the government ‘ahead of the decisions’\(^5\) (interview 3).

Both chairmen consider the capacity of the Assemblée nationale as a whole to follow EU decision-making as deficient, even if the number of resolutions submitted in the 90s is relatively high in comparison to in the Lisbon period (see sub-section page 175). Both regret that especially public debates in the plenary are too rare and attended by only a few MPs. Nallet even suggests that it is necessary to have regularly programmed debates about EU issues in the plenary. This would be the only way to properly fulfil the Assemblée nationale’s ‘role’ in EU affairs (interview 6). From 1989 to 1997, only 14 debates and 4 public government declarations take place regarding EC/EU issues (based on art. 132 of the rules of procedure); these are listed below.

\(\textbf{Table 4: Assemblée nationale: Plenary debates (1989-1997)}\)

<table>
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<th>Date</th>
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<tbody>
<tr>
<td>12 December 1989</td>
<td>Perspectives of the European Community after the Strasbourg European Council</td>
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<tr>
<td>10 April 1990</td>
<td>France and the future of Europe</td>
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<tr>
<td>10 October 1990</td>
<td>The future of the European Community and its democratic control</td>
</tr>
<tr>
<td>19 June 1991</td>
<td>The proceedings of the Intergovernmental Conferences on the political Union and the Economic and Monetary Union</td>
</tr>
<tr>
<td>27 November 1991</td>
<td>The state of the work of the Intergovernmental Conferences before the European Council of Maastricht</td>
</tr>
<tr>
<td>24 June 1992</td>
<td>The reform of the Common Agricultural Policy</td>
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<tr>
<td>18-19 May 1993(^*)</td>
<td>Europe</td>
</tr>
<tr>
<td>25 November 1995</td>
<td>The organisation of electricity and gas in the European context</td>
</tr>
<tr>
<td>14 June 1994</td>
<td>Europe</td>
</tr>
<tr>
<td>7 December 1994(^*)</td>
<td>Europe</td>
</tr>
<tr>
<td>20 June 1995</td>
<td>The European policy of France</td>
</tr>
</tbody>
</table>

55 ‘en amont des decisions’.
In practice, participation in EC decision-making is low and occurs late in the decision-making phase in Brussels. Scrutiny ex ante, i.e. before the final decision is taken in the EC/EU institutions, is carried out exclusively in the EC/EU Delegation, while the transposition of EU acts in the implementation phase is performed by the standing committees (Sprungk 2007; Szukala and Rozenberg 2001).

b) Interaction with EU transnational actors

Until the end of the 90s there are only few contacts with transnational actors. MPs of the Assemblée nationale only seldom interact with the European Commission. Contacts with Members of the European Parliament (MEPs) are most frequent, especially with the French MPs. Institutionalised parliamentary contacts with the EP are rare, despite an ongoing effort to invite MEPs to the meetings of the Delegation. MPs and MEPs meet mainly in meetings especially organised through their parties.

There is some rare bilateral contact with other national parliaments, but it consists of selective official interactions. Only when MPs write legislative

<table>
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<th>Date</th>
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<tbody>
<tr>
<td>21 November 1995</td>
<td>The Mediterranean Policy of France and of the European Union in the run up to the Barcelona Conference</td>
</tr>
<tr>
<td>13 December 1995</td>
<td>The European policy of France in the run up to the European Council of Madrid</td>
</tr>
<tr>
<td>20 February 1996*</td>
<td>The Economic and Monetary Union</td>
</tr>
<tr>
<td>13 March 1996</td>
<td>The preparation of the perspectives of the Intergovernmental Conference</td>
</tr>
<tr>
<td>18 June 1996</td>
<td>The European ‘summit’ of Florence</td>
</tr>
<tr>
<td>27 November 1996</td>
<td>The European policy of France in the run up to the European Council of Dublin</td>
</tr>
<tr>
<td>2 December 1997</td>
<td>The European policy of France in the run up to the European Council of Luxemburg</td>
</tr>
</tbody>
</table>

Source: (Hochedez and Patriarche 1998, 221).

Notes:
- Table translated by the author
- * indicates government declaration
or information reports may they happen to organise individual visits to other European parliaments. The multilateral parliamentary fora are welcomed by the EU experts but their impact is still considered to be low (Hochedez and Patriarche 1998; Assemblée nationale and Pandraud 1994).

There is not much direct exchange with the members of the European Commission or its civil servants. MPs only rarely take part in visits to the European institutions or organise individual meetings with Commission representatives. The only exchange activity that develops in this phase takes place in the domestic framework: since the passing of the law of 10 May 1990 (‘loi Josselin’) the delegations have the right to organise hearings with representatives of the European Commission (even though there were already selective hearings before the implementation of the law (Hochedez and Patriarche 1998, 83)). From 1990 to 1998 the Delegation thus organises eight hearings with members of the European Commission and five meetings with directors general or directors of the different services of the Commission.

Contact with the EP is slightly more frequent but happens mostly through specialised meetings within the national parties to which MPs belong (interview 5). These meetings are mainly seen in the context of the extension of the diplomatic networks through which French EU policy is made. Other contacts are organised through the government. From 1994 onwards, the French Deputy Minister for European Affairs organises a monthly consultation between representatives of French parliamentary party groups and the chairmen of the delegations of the Assemblée nationale and the Sénat (Hochedez and Patriarche 1998, 206; Assemblée nationale and Pandraud 1994, 264). Furthermore, French MEPs receive a liaison document written by the European services of the Assemblée nationale and the Sénat on the occasion of each plenary session of the EP.

Starting in 1990, the MEPs can also take part in the meetings of the Delegation, and the delegations can invite MEPs for hearings. This possibility is rarely used until 1998, even if Robert Pandraud puts considerable effort into inviting the MEPs to the meetings of the Delegation to discuss information reports on certain topics (Hochedez and Patriarche 1998, 207). The agendas of the EP and the Delegation are not compatible (interview 14). Hearings are not frequent either. Between 1990 and 1998, the Delegation

56 Still in 1994, a report of the delegation (written by R. Pandraud) considers that the direct elections of the EP and thus the end of the ‘lien organique’ (Assemblée nationale and Pandraud 1994, 264) of the national parliaments with the European institutions was an error.
only invites a French or other MEP to be heard 10 times (Hochedez and Patriarche 1998, 83).

On a more formal level, there is some other selective contact with the EP, such as meetings of the Delegation chair with the President of the EP, working meetings of the Delegation with individual committees of the EP to discuss individual topics, and the participation of individual members of the Delegation in conferences organised by the EP (Hochedez and Patriarche 1998, 83). However, all of this is sporadic.

Exchanges with parliaments of other member states is also sporadic at best during the IXth legislative period from 1988 to 1993, during which Michel Pezet is chairman of the Delegation for the European Communities (Assemblée nationale and Pandraud 1994, 266). There is no exact number of meetings with other parliaments from EU member states for the successive period, but Robert Pandraud, chairman of the Delegation from 1993-1997, assesses himself that ‘there remained a lot that needed to be done’ (interview 3). In the first 14 months of the Xth legislature, there are no meetings with other national parliaments whatsoever (Assemblée nationale and Pandraud 1994, 266).

Interviewed after his time as Delegation chairman, Robert Pandraud admits that he took part in official meetings with other national parliaments, but that he was not ‘an important instigator of travel’ (interview 3). His interparliamentary work consisted mainly of the reception of delegations from the candidate countries for the foreseen enlargement in Paris (interview 3).

In practice, interparliamentary cooperation does not play much of a role in the day-to-day work of the Delegation, and even less in the Assemblée nationale as a whole. Communication is one-directional. After the failure of the information network between the specialised EU bodies in national parliaments (in place from 1993-1995), the Delegation diffuses its documents, in particular information reports, to the EU committees of all other national parliaments (and receives documents from some of them); however, opinions of other national parliaments only irregularly appear in par-

57 ‘il restait beaucoup à faire’.
58 ‘très instigateur de voyager’.
59 However, in his parliamentary report he considers that the promotion of convergent opinions of several parliaments would have a much greater weight in EU decision-making processes and that it would be necessary to establish a real network of national parliaments (Assemblée nationale et al., 1994, pp. 266–267).
On the level of the standing committees, the Assemblée nationale launches two initiatives: the conference of presidents of the Committees of Finance, launched in 1984 upon Franco-Italian initiative; and the biannual meetings of the presidents of the Foreign Affairs Committees, launched by the chairman of the Foreign Affairs Committee in 1993 and enlarged successively to the higher chambers and the EP. The success of the former is judged to be limited however: it is considered to deal with topics that are too general, ‘or even academic’\textsuperscript{60} (Hochedez and Patriarche 1998, 208).

The multilateral parliamentary coordination on the EU level is seen by the actors in the Assemblée nationale as an important tool for which important French parliamentary actors have fought, but their success and even future prospects are judged as being mitigated. The Conference of the Speakers of EU Parliaments every two years since 1981 are judged to be problematic: the statutes of the parliaments and the prerogatives of the speakers are supposed to be too different (Hochedez and Patriarche 1998, 209–10). The ‘Assises’ in Rome in 1990 (258 members: 2/3 MPs, 1/3 MEPs) on the Treaty of Maastricht, is even judged to have been a failure. This is because of fights between MPs and MEPs over the ratio of representation and because of differences on a text demanding a federal basis of the EU – on which a majority of French MPs abstained. Furthermore, it is also considered to be too complicated for the day-to-day business of the EC/EU (Hochedez and Patriarche 1998, 209–10).

Only the COSAC, a conference of bodies responsible for European affairs in national parliaments (COSAC 2015), is supposed to have good future prospects according to the Assemblée nationale’s report, with its information, exchange of texts, networking, and thematic work on big topics of the EU agenda, which were put into place following a proposal by then speaker of the Assemblée nationale Laurent Fabius.

Despite these difficulties, French MPs’ self-perception is that they are the major driving forces behind collective parliamentary participation on the European level. To associate national parliaments collectively with European integration has always been a way forward pursued by French MPs. For example, Philippe Seguin initiated the parliamentary group of reflection in parallel to the Intergovernmental Conference on the Treaty of Amsterdam, whose proposals were finally taken up in the protocol on the role of national parliaments (Hochedez and Patriarche 1998, 211–12).

\textsuperscript{60} ‘voire académiques’.
This qualitative evidence gained from interviews and parliamentary documents is confirmed when examining the data gathered in the European Members of Parliament Study coordinated by Bernhard Weßels in 1996 (Weßels et al. 1999) (see table 6).

The preceding analysis showed that neither actors nor action follow a typical logic in the Assemblée nationale during the 80s until the end of the 90s. The following sub-chapter analyses actors and action in EU affairs in the Bundestag in the same period. In accordance with hypothesis 1, the German lower chamber agency in EU affairs is also still weakly developed and action in EU affairs does not follow clear-cut typical action patterns.

\textbf{B – Bundestag}

This second sub-chapter examines the handling of EU affairs in the German lower house during the Maastricht period. The first section shows that despite the generally pro-integrationist stance of the Bundestag’s MPs, there is no ‘community of practice’ sharing knowledge about parliamentary affairs that could have provided a clearly defined agency. Despite a high interest in the question about the future shape of European integration, interest of the Bundestag’s MPs in day-to-day EU affairs is low, as is awareness of the impact of EU legislation. Actors who have EU experience lack parliamentary experience and vice versa. The shape of a potential European affairs body is strongly contested. From 1983 onwards, there is a succession of widely differing European affairs bodies, which have neither the same logic of membership, nor the same competences. A major problem is the fact that competences provided to the succeeding bodies do not enable them to fit into the ‘usual ways of doing things’ in a chamber where a high number of specialised sectoral committees have a high degree

<table>
<thead>
<tr>
<th></th>
<th>Country’s MEPs</th>
<th>EU Civil Servants</th>
<th>European Commission</th>
<th>MP of Other EU Member State</th>
</tr>
</thead>
<tbody>
<tr>
<td>France (1996)</td>
<td>33/144 (23%)</td>
<td>10/144 (7%)</td>
<td>3/143 (2%)</td>
<td>7/143 (5%)</td>
</tr>
</tbody>
</table>

Source: European Members of Parliament Study (Weßels et al., 1999).

Note: Ratio of positive answers to overall number of MPs taking part in the representative study (percentage).
of autonomy from each other because they mirror one of the federal ministries.

As in the Assemblée nationale, actors successful in pushing for the reform of the formal framework for EU participation mainly have other motives of action than the day-to-day EU participation of the chambers, be they ideological concerning the role of the EP, or the defence of fiefdoms within the chamber and in the federal state structure.

The second section demonstrates that this results in the introduction of prerogatives and organisational solutions that do not allow ‘competent’ action with reference to parliamentary practices. Real activity is low and while actors seem to have the same wishes for improvement, the proposals for instruments vary considerably.

1) Actors and agency

This first section focuses on the actors who carry out EC/EU-linked action in the chamber. It first investigates the different European affairs bodies that are created in the Bundestag from 1983 onwards. Their nature and logic of membership are subject to regular and fundamental change during this period. Their members either lack knowledge about EU institutions and procedures or they do not have the necessary knowledge about parliamentary ‘ways of doing things’ in the Bundestag. This is the case when the Europe Commission is constituted by members of the EP. The low interest of MPs and the changing nature of the committees inhibit the emergence of a community of practice.

The second part analyses who the successful agents are who push for the successive organisational solution of the coordination of EU affairs and the legal and regulatory framework for ‘doing EU’ in the chamber. Motives are various but they derive only marginally from the experience of – or shared knowledge about – day-to-day EU decision-making.

a) European affairs body and EU experts

As the Delegation for the European Communities, the different European affairs bodies in the Bundestag do not play an important role in the German chamber and, with are considered to be lower-raking bodies by the established committees. Even more than in the Assemblée nationale in the Maastricht period, the type of membership in the different European af-
fairs bodies changes regularly. Throughout most of the period, members either have in-depth EU/EC knowledge and networks, or important positions in the chamber but no experience with EU decision-making. There is no emergence of a community of practice with shared EU and parliamentary knowledge. As a general rule, as in the Assemblée nationale, MPs are not aware of the (potential) impact of EU legislation on their areas of competences.

There are only a few EU experts in the Bundestag, even though there are no data about the concrete number of MPs interested in EU affairs until the end of the 90s. In a first phase, the MPs in the Bundestag try to remedy this lack of expertise through fostering the links with the EP. In 1983 the Bundestag creates a Europe Commission (Europa-Kommission) with the participation of German MEPs. This commission initially aims both for a stronger exchange with the EP and for a better coordination of the deliberations on EC draft acts in the sectoral committees\(^6\). In practice, however, the Europe Commission is a committee supporting the claims of the EP for the EU level and not the concerns of the Bundestag. It turns out to be much more frequented by the members stemming from the EP than by the members of the Bundestag itself (Töller 1995, 71), and thus paradoxically lacks national parliamentary expertise or at least a stable connection to the Bundestag. This means that there is no ‘community of parliamentary EU practice’: the members of the European affairs body only share knowledge about EU institutions and procedures but not about the parliamentary ‘ways of doing things.’ The Commission is not at all able to provide EC expertise to the Bundestag in matters of parliamentary participation, and is instead a body promoting the pro-integrationist stance of German MPs.

The succeeding EC Committee in turn lacks EC expertise. MPs who have been MEPs (or have had other significant EU transnational experience) before joining the Bundestag are rare. One exception is an an important member of the the Sozialdemokratische Partei Deutschlands (SPD) and former minister, who joined the Bundestag in 1986 after having been MEP since 1979. In an interview, she confirms having decided to run as a candidate for the Bundestag after discussions with other EC/EU politicians in her party that showed her the need to have further EU expertise in the parliamentary arena on the national level:

\(^{61}\) The Committee was created on the basis of the article for Enquête-Commissions (Art. 56 Standing Orders of the Bundestag).
‘I was member of the European Parliament from 1979 to 1987. After this I became member of the Bundestag’s parliamentary party group. As politicians specialising in EU affairs we considered at the time that it was necessary to be present on a national level as well.’

The lack of EU experience and knowledge of MPs is confirmed by a study in 1995 based on the official handbook of the Bundestag: an evaluation of the short biographies of the members of the first EC Committee established in 1991 shows that especially among the members of the SPD parliamentary party groups, only 17% have any EU experience. Even if 40% of the members of the Chrstlich-Demokratische Union (CDU) / Christlich-Soziale Union (CSU) parliamentary party group have such experience (Töller 1995, 132–33), only one of them has been an MEP, while the others have diffuse professional experience with the EC or are members of professional associations (e.g. the MP Manfred Schell who was the president of the independent European Trade Union of Train Drivers). Two are or were members of a European parliamentary assembly (Töller 1995, 133) – an office that is far from providing expert knowledge about the complex decision-making procedures of the European Community. Overall two-thirds of all MPs in the EC Committee probably hold a ‘pro-integrationist’ attitude, but do not have any of this already broadly defined EU experience.

Even if a pro-European attitude is widespread among German MPs, as in the Assemblée nationale, MPs are not aware of the breadth of EU legislation in this first phase. Neither do they know how MPs can pursue their interests in the multi-level system of the European Community:

‘[…] because at the time it was not as clear as it is today that one needs to know how to stand in for one’s own (national) interest in the European Union (today the word has spread a bit more) and on the other

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62 ‘Ich war von 1979 bis 1987 Mitglied im Europäischen Parlament und bin dann praktisch in die Bundestagsfraktion gewechselt, weil wir innerhalb der Europapolitiker damals gesagt haben, es ist eigentlich notwendig, dass wir sozusagen auch ein europapolitisches Lager auf der nationalen Ebene haben […]’

63 European experience was understood broadly as membership in the EP, one of the European parliamentary assemblies (e.g. of the Council of Europe, of the WEU, …), an office in a European association or federation, or other professional experience with the EU (Töller 1995, 132).
hand about where the European legal obligations are, how far one can go.\[64\] (interview 44)

The former vice-chairwoman of the SPD party and speaker on European affairs of the SPD at the time of the Treaty of Maastricht, estimates that today, MPs (2013) generally have more EU knowledge. At the time, however, having EU experience qualifies her to be the EC expert both in the working group (Arbeitskreis) for foreign affairs, in the board of the parliamentary party group (Fraktionsvorstand), and for the office of rapporteurs (Berichterstatter) of the SPD parliamentary party group in the European Union Special Committee for the ratification of the Treaty of Maastricht:

‘And then I was basically responsible for European Affairs in the working group for Foreign Affairs and then also in the bureau. We had a sort of cross-sectional group, which I chaired. This is why it was attributed to me, because of my function – I was also vice-chairwoman of the SPD party.\[65\] (interview 44)

In comparison to the EC Committee, EU expertise is an even less important criterion for the European Union Special Committee that the Bundestag establishes in 1991 to deal with the ratification of the Treaty of Maastricht, thereby circumventing the already existing EC Committee (Beichelt 2009; Sturm and Pehle 2006; Töller 1995, 137).\[66\] After the signature of the Treaty of Maastricht, the parliamentary party groups agree to establish this special committee for the parliamentary negotiations for the adoption of the ratification law. It allows sectoral experts from other committees to be included in the parliamentary deliberations (interview 38; interview 39) and politically higher-ranking MPs to be sent into the newly established committee. The first priority for the committee is swift parliamentary negotiations to assure a quick ratification of the Treaty of Maas-

\[64\] ‘[…], weil damals weniger als das heute der Fall ist, heute hat sich’s ja etwas mehr rungeschoprochen, aber doch eben klar war, dass man dass man auch wissen muss, wie man seine eigenen Interessen vertritt, national in der Europäischen Union und umgekehrt auch die Grenzziehungen, wie weit man an bestimmten Fragen europapolitisch gesetzlich verpflichtet ist, wie weit man da gehen kann.’

\[65\] ‘Und dann bin ich praktisch in der Arbeitsgruppe Außenpolitik für Europapolitik zuständig gewesen und dann auch im Fraktionsvorstand. Wir hatten dann so eine Art Querschnittsgruppe, die ich geleitet habe. Insofern ist es mir eigentlich einfach aufgrund der Funktion, ich war auch stellvertretende SPD-Vorsitzende, ist mir das zugewachsen.’

\[66\] The latter is a further indication of the fact that the EC Committee does not play much of a role for the Bundestag as a whole at the beginning of the 90s.
tricht in the German Bundestag (interview 38). Therefore, it is necessary to involve important MPs from the parliamentary party groups.

To be appointed to the EU Special Committee, it is important to have either a good standing in one’s own parliamentary party group; more general expertise in German foreign affairs, the law committee, or the finance committee; or expertise regarding the ongoing negotiations taking place in parallel in the Common Constitutional Commission (Gemeinsame Verfassungskommission) of the Bundesrat and Bundestag. The latter was established to make proposals for the reform of the German Basic Law after reunification. Because of the negotiation of the ‘Europe Article’ of article 23 in the German Basic Law (which replaces the old article 23, which had foreseen the accession to the Federal Republic of Germany), the two subjects are intrinsically linked.

In an interview the former chair of the EU Special Committee confirms that he does not have any real EU expertise prior to his appointment. In his view, the important criterion for his appointment is the fact that he is both the parliamentary secretary of the SPD parliamentary party group and the spokesperson for Foreign and European Affairs for the latter in the Common Constitutional Commission. In this function, he has some media presence during the sittings of the Commission. Furthermore, it is the opposition’s turn to have the chairmanship of the committee:

‘And you have to take into account the latter’s [the Joint Constitutional Committee’s] deliberations into your reflections. In this Joint Constitutions Committee I was the rapporteur for Foreign, Security and European Affairs. And as Europe was high on the agenda because of Maastricht, we dealt with it in the beginning of the proceedings of the Constitutional Committee, tackling some very, very fundamental issues. And this led in the end, when the Treaty was signed and the ratification had to start, to the shared opinion between the government and the parliamentary party groups that this could not be dealt with in the course of the normal parliamentary proceedings and that a special committee was needed. And as it was the opposition’s turn for the post of chairman and, as it is sometimes in Germany, as I had had some presence in the media on the subject, one turns suddenly into the expert for the subject. I had never prominently stepped forward on EU affairs before.’

67 (interview 38)
The SPD and other parliamentary party groups also send their leading politicians in matters of foreign affairs to the committee: Peter Glotz and Karsten Voigt (SPD), Karl Lamers (CDU/CSU), and Ulrich Irmer (Freie Demokratische Partei, FDP) (Töller 1995, 138). Twenty-two members of the EU Special Committee (overall 39 members) are also members of the EC Committee; additional members stem mostly from the foreign affairs, law, and finance committees.

To be a member of the EU Special Committee, political standing and expertise regarding the internal constitutional issues of Germany and its reunification and the Bundestag are thus more important than genuine EC/EU expertise.

There are great hopes in the academic literature at the time and among EU experts that the new EU committee and the prerogatives stemming from the 1992 constitutional revision will change the handling of EU/EC affairs in the Bundestag. This is not the case, however. The new formal prerogatives do not change the informal parliamentary ‘ways of doing things’. Despite including some prominent members – the former foreign affairs minister Hans-Dietrich Genscher for example – the EU Committee is as marginalised within the German lower chamber as is the Delegation in the Assemblée nationale.

Furthermore, despite the tradition in the Bundestag of ensuring a relatively strong continuity of MPs in parliamentary committees throughout different legislative periods, only 12 out of 39 members have been members of the EC committee before. Moreover, only 11 have been members of the EU Special Committee before. The prominent foreign affairs specialists who are members of the EU Special Committee all return to the Foreign Affairs Committee in the following legislative period. is the former chairman of the EU Special Committee, chooses the Foreign Affairs Committee
as well – despite the fact that he confirms having used the chairmanship of
the special committee and the associated media attention to relaunch his
political career:

‘I shamelessly used this opportunity to come into play again myself. My career had been quite on the ropes, hadn’t it? And my political comeback began precisely with this. I admit openly that I used this shamelessly. I mean, shameless, this is legitimate, isn’t it?’ 68 (interview 38)

The EU Committee does not possess the capacities necessary to handle the enormous number of documents that are submitted to it by the German government because it does not fit into the ‘usual ways of doing things’ in parliament, i.e. it does not fit into the hierarchy and working methods of the chamber. A lacking reputation is also a problem of the Delegation in the Assemblée nationale. The former chairman qualifies it as a ‘coincidence’ when the EU Committee finds something that is important in the pile of documents:

‘At the time […] very clearly […] the European Affairs Committee of the Bundestag was not very effective, because it worked comparatively without attention, did not have high prestige and was snowed under with paper by the government. You could not cope with this, it was simply impossible. And then you sat there in front of these mountains, right? And so it was pure coincidence if you happened to find something.’ 69 (interview 38)

He considers that the different governments are pleased by this situation, because they do not want parliament to disturb their EU policy. Once the dossier is decided in Brussels, the national MPs cannot do much anyway besides transpose the act into national law:


69 ‘Damals […] war ganz klar […] der Europaausschuss des Bundestages […] nicht wirkungsvoll, weil der arbeitete relativ unbeachtet, hatte keinen hohen Stellenwert und der wurde von der Regierung einfach zugeschüttet mit Papier. Das konntest du gar nicht bewältigen, das war einfach nicht möglich. Und da saßst du vor solchen Bergen, nicht? Und also das war einfach also reiner Zufall, wenn die mal was gefunden haben.’

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‘And each government was quite happy with the fact that the parliament did not interfere with its EU policy. And at the end you have a more or less automatic adoption, as it is called in Switzerland, the government has given its consent to some compromise. Afterwards this has to be transposed into national law. What should one do?’70 (interview 38)

Thus, the EU Committee cannot develop into a focal point of EU expertise in the Bundestag. Its prerogatives and form are not adapted to existing parliamentary hierarchies and working methods.

b) Agents of change of formal rules

As in the Assemblée nationale in the Maastricht period, successful agents of change of formal rules are not EU experts and the reform of formal rules is not driven by agents with experience with the day-to-day parliamentary participation in EU/EC. EU/EC affairs are the field for battles over power positions and, to a lesser extent, over votes. Given the strong consensus regarding European integration, unlike in the Assemblée nationale there are no ideological battles, but conflicts regarding power positions within the chambers between the Bundestag and the Bundesrat, and between government and opposition.

The agents of change in the Bundestag in this first period are powerful politicians in the parliament’s and the parliamentary party groups’ hierarchies, who pursue aims that are not linked to parliamentary participation in EU decision-making in the first place.

70 ‘Und jede Regierung hat sich damit sehr wohl gefühlt, dass das Parlament ihr in der Europapolitik nicht reingeredet hat. Und am Ende haben sie dann im mehr oder minder automatischen Nachvollzug, wie man das in der Schweiz nennt, die Regierung hat in Brüssel irgendeinem Kompromiss zugestimmt. Hinterher musste es in nationales Recht umgesetzt werden. Was sollte man machen?’
Table 6: Bundestag: Evolution of formal prerogatives (Maastricht period)

<table>
<thead>
<tr>
<th>EU events</th>
<th>Date</th>
<th>Change/introduction of formal rules</th>
<th>Conflicts in parliament</th>
<th>Successful actors</th>
</tr>
</thead>
</table>
| Direct elections of the EP               | 1983  | **Europe Commission**  
- On basis of the investigation committee  
- MEPs could be members  
- Aims: improve parliamentary participation and relations to the EP | - Missing coordination of scrutiny; Council of the Elders for integration (failure: only six meetings in one legislative period) | Established parliamentary committees                                           |
| Single European Act                      | 1987  | **EC sub-committee in the Foreign Affairs Committee**  
- exception to the standing orders: MEPs could be members | - Missing coordination of scrutiny; failure of Europe Commission (only MEPs present)  | Foreign policy experts of the FDP parliamentary party group                         |
| Negotiations on the Treaty of Maastricht | 1991  | **EC Committee**  
- Aims: 1) Parliamentary participation in treaty negotiations, 2) Interinstitutional questions, 3) Cooperation with the EP, 4) Deliberations on EU acts | - Coordination of EU scrutiny: a central body was against the principle of Bundestag committees mirroring federal ministries | SPD opposition                                                                  |
<p>| Ratification of the Treaty of Maastricht | 1992  | <strong>EU Special Committee</strong> (six weeks); <strong>Joint Constitutional Commission</strong> | - Preparation of quick and swift parliamentary ratification (high-ranking body necessary) | n.a.                                                                            |</p>
<table>
<thead>
<tr>
<th>EU events</th>
<th>Date</th>
<th>Change/introduction of formal rules</th>
<th>Conflicts in parliament</th>
<th>Successful actors</th>
</tr>
</thead>
</table>
| Ratification of the Treaty of Maastricht      | 1993 (effective) | New art. 23 GG and 45 GG; Law on the cooperation of the federal government and the Bundestag on matters of the EU  
- constitutional rank for EU Committee with special participation rights in substitution to the plenary  
- broad and earliest as possible information of the Bundestag  
- Government must give the Bundestag the opportunity to issue an opinion and must consider this opinion  
- Government must also send consultative documents | - See above  
See above | Members of the Bundestag, important members of the Common Constitutional Commission, important members of the EU Committee, and key actors in all three major parliamentary party groups |
| Ratification of the Treaty of Maastricht      | 1994 (effective) | EU Committee                                                                                                                                               | - See above; longer negotiations on standing orders, establishment only in new legislative period to avoid continuity with EC committee | See above |
The established sectoral committees: Europe Commission, 1983

The actors that manage to shape the institutional outline of the Bundestag’s first European affairs body – the Europe Commission – are the established parliamentary committees and the parliamentary party groups supporting their chairmen. After the failure of a special ‘Council of the Elders for Integration’ in 1969, several reflections are considered regarding how the Bundestag could become more efficient in handling EC draft acts. A central issue is the better coordination of the decentralised scrutiny in the Bundestag. The idea of establishing a committee for EC matters is already discussed in 1979, but is quickly abandoned because of the opposition of the established committees (Töller 1995, 71).

Likewise, in 1983, the established committees do not welcome the new rival and opt for other ‘softer solutions’. A Europe Commission is created on the basis of the existing standing orders. The article for the establishment of committees of inquiry serves as legal basis (Enquête-Kommission) (§ 56 Standing orders). This proceeding makes it possible to a body that does not rival the sectoral standing committees, because it does not have the same prerogatives and status. It is not allowed to issue opinions to the plenary and can only issue reports on its deliberations (Töller 1995, 71).

The Bundestag largely ignores the activities of the Europe Commission and the MPs participate less actively in its meetings than the MEPs do (who are also full members). In the end, the body serves as a platform to discuss broad issues of European integration and to promote plans for the strengthening of the EP. Considered widely as a failure, the Europe Commission is not established again in the subsequent legislative period.

The liberal foreign affairs office holders in parliament and government: EC sub-committee in the Foreign Affairs Committee, 1987

Successful actors shaping the scope and function of the succeeding European affairs body in the Bundestag are the FDP parliamentary party group and the FDP party. At that time, the latter usually holds the Foreign Office when in coalition with one of the two people’s parties.

After the failure of the Europe Commission, the SPD opposition argues again for the establishment of a new standing committee for EC matters. Even if there is some support in the CDU/CSU parliamentary party group

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71 CDU/CSU-FDP coalition, Chancellor Helmut Kohl (cabinet Kohl II).
72 The body was supposed to coordinate incoming EC draft acts, but did never really convene.
73 CDU/CSU-FDP coalition, chancellor Helmut Kohl (cabinet Kohl III).
for the solution proposed by the SPD (Töller 1995, 72), the chosen institutional solution is the FDP parliamentary party group’s proposal for the establishment of a sub-committee for matters of the European Communities in the Foreign Affairs Committee.

The Federal Foreign Minister (Hans-Dietrich Genscher) and important figures in the Foreign Affairs Committee in the Bundestag are all FDP politicians. The FDP parliamentary party group favours a solution that will not endanger the competences of the minister for foreign affairs. As the standing committees in the Bundestag ‘mirror’ the federal ministries, the creation of a separate committee on European affairs could potentially prefigure the creation of an independent federal ministry for European affairs. This is not in the interest of the foreign ministry (Sturm and Pehle 2006).

The sub-committee for European affairs proves to be completely inefficient because of the tensions between the genuine competences of the Foreign Affairs Committee and the issues dealt with by the sub-committee. These are often domestic policy issues: 12 members of the sub-committee stem from the Committees on Economics, Budget, Finances, and Agriculture (Töller 1995, 72). It already stops working in the ongoing legislative period.

*The opposition: EC committee, 1991*

The Social-democrat opposition successfully pushes through the shape of the succeeding European affairs body in the Bundestag against the CDU/CSU/FDP government.

When the Intergovernmental Conferences on the Treaty of Maastricht are imminent, the Bundestag is forced to act and to quickly find a solution for a body that can follow the negotiations. This gives the SPD opposition the opportunity to put the government under pressure and to successfully push for the establishment of a new parliamentary committee.

As in the previous legislative period, numerous solutions are discussed, but no solution is found for over 12 months. Again, the SPD parliamentary party group in the opposition is in favour of an independent EC Committee, while the FDP coalition partner in the government is against such a body. Within the CDU/CSU parliamentary party group, support for a committee solution increases.

The SPD puts pressure on the government by tabling its proposal from the previous legislative period again. The government coalition rejects this

74 CDU/CSU-FDP coalition, Chancellor Helmut Kohl (cabinet Kohl IV).
proposal, but the latter obliges it to act. Together the parliamentary party groups of the government coalition and the SPD parliamentary party group work on a compromise proposal. While the new body will have the statute of a committee, its competencies are only vaguely mentioned. On the other hand, the follow-up of the negotiations on the Treaty of Maastricht, of institutional issues of the European Community, and the promotion of close relations with the EP are mentioned as main objectives of the work. The deliberation of EC drafts is only mentioned late in the list of competences (Töller 1995, 75).

During the time of its existence, the EC Committee is only rarely endowed with the responsibility of an EU/EC draft act.

The party hierarchies and the Länder opposition: EU Special Committee, 1992

There is no consensus in the literature about who the successful actors were behind the major changes of formal prerogatives for the Bundestag with the Treaty of Maastricht (Beichelt 2009; Janning 1994; Läufer 1993; Sturm and Pehle 2006; Töller 1995; Wolf 1992). Interview and archive evidence shows that the major agents of change of the formal rules of participation of the Bundestag in EU matters are members of the Bundestag who have important positions in the Common Constitutional Commission and in the EU Special Committee established for the ratification of the Treaty of Lisbon from all three major parliamentary party groups. With minor exceptions, these actors do not have any major experience in the day-to-day business of EC affairs in the Bundestag.

75 Interestingly enough, the members of the then-established EC Committee do not share this prioritisation of tasks. In a survey organised during the 12th legislative period by Annette E. Töller, the majority of its members answer that the most important task of the committee is to coordinate the decision-making process of the Bundestag in EC matters (Töller 1995, 76).

76 Common constitutional commission, CDU/CSU-FDP coalition, Chancellor Helmut Kohl (cabinet Kohl IV).
Table 7: Bundestag: Participation rights – ratification of the treaty of Maastricht

<table>
<thead>
<tr>
<th>Date</th>
<th>Change/introduction of formal rules</th>
<th>Important / successful actors</th>
</tr>
</thead>
<tbody>
<tr>
<td>16 January 1992</td>
<td>Because of German reunification, crucial parts of negotiations over parliamentary participation rights take place in the Joint Constitutional Commission (Gemeinsame Verfassungskommission) of Bundestag and Bundesrat</td>
<td>64 members (39 Bundestag MPs, 25 Bundesrat representatives) Chairman Rupert Scholz (CDU, Bundestag) and Henning Voscherau (SPD, president Bundesrat)</td>
</tr>
<tr>
<td>April 1992</td>
<td>Government politically accepts a stronger participation guarantee in the Council for Länder representatives</td>
<td>Leading actors for compromises: Johannes Rau (SPD, NRW), Edmund Stoiber (CSU, Bavaria)</td>
</tr>
<tr>
<td>26 June 1992</td>
<td>First draft of art. 23 (foresees only Länder participation rights)</td>
<td>Helmut Kohl convinces Scholz, Bundestag, to agree – otherwise ratification in danger</td>
</tr>
<tr>
<td>Date</td>
<td>Change/introduction of formal rules</td>
<td>Important / successful actors</td>
</tr>
<tr>
<td>--------------</td>
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<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>October 1992</td>
<td>Government puts pressure on Bundestag through sending late the draft acts for ratification instrument and the constitutional revision to Bundestag</td>
<td><strong>Kohl</strong> and his cabinet promote EU integration as ‘historic milestone’, German ratification must be guaranteed because of ‘historic necessity’</td>
</tr>
<tr>
<td></td>
<td>Bundestag establishes a <strong>European Union Special Committee</strong> to discuss ratification instruments and constitutional revision</td>
<td><strong>SPD</strong> nominates its parliamentary secretary, <strong>Günter Verheugen</strong> as chairman (rapporteur for <strong>SPD</strong> on EU and foreign policy in Joint Constitutional Commission) Only 12 members of the EU Special Committee are also members of the EC Committee, dealing with EU affairs on a day-to-day basis</td>
</tr>
<tr>
<td></td>
<td><strong>Government accepts participation rights for Bundestag</strong> laid down in art. 23 GG for Bundestag in the Joint Constitutional Commission</td>
<td><strong>Important authors for art. 23</strong>: <strong>Scholz</strong> (CDU) and <strong>Hans-Jochen Vogel</strong> (SPD); pushed for it: <strong>Stoiber</strong>, <strong>Rau</strong> and <strong>Vogel</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Joint Constitutional Commission proposes to institute a committee for EU affairs in art. 45 GG</strong></td>
<td>Proposal by <strong>Scholz</strong>: only as a consequence of the claims of the Länder for more participation</td>
</tr>
<tr>
<td>December 1992</td>
<td>Adoption of ratification instrument and constitutional revision (543 MPs in favour, 17 against, 8 abstentions)</td>
<td></td>
</tr>
</tbody>
</table>
As in the Assemblée nationale at the occasion of the ratification of the Treaty of Maastricht, the motivation to establish more participation rights for the Bundestag in this phase is not primarily the experience of incompetent handling of EU affairs in the Bundestag – i.e. of conflicts of action in EU affairs with established practices and ways of doing things in the Bundestag. Instead, major issues of debate are the constitutionality of the further transfer of competences to the European level and the interests of the Bundestag in the equilibrium between the Bundesrat and the Bundestag.

The actors in the Bundestag who bring about the constitutional changes (mainly laid down in art. 23 and 45 GG and in the following implementing laws) are found in the Joint Constitutional Commission appointed in February 1992 and in the EU Special Committee appointed in October 1992 (see also page 94).

Under the chairmanship of an MP from the Bundestag and the Bundesrat, the Joint Constitutional Commission is supposed to discuss the revision of the German Basic Law (Grundgesetz) after German reunification (Goetz and Cullen 1995). It is composed of 39 members of the German Bundestag and 25 representatives of the Bundesrat. The former chairman stemming from the Bundestag considers he was appointed to the committee because of his reputation as constitutional lawyer: ‘[…] I was member of the Bundestag and as I was not completely unknown as constitutional lawyer; already at that time this was beyond question, I believe’\textsuperscript{78} (interview 39).

As the establishment of the Commission is parallel to the signature of the Treaty of Maastricht, the relationship between the German Basic Law and European integration are discussed in the beginning of the proceedings of the Commission (interview 38). The Joint Constitutional Commission and its members thus become important actors: in the debate about constitutional revisions prior to the Treaty of Maastricht.

The parliamentary ratification of the Treaty of Maastricht as such is prepared in the aforementioned EU Special Committee, which is appointed in October 1992, in a consensus among the major parliamentary party groups (Töller 1995, 137). Several sectoral committees and the EC Committee compete to take the responsibility for the ratification procedure. In the highly unusual appointment of a special committee, commentators see the attempt to circumvent the parliamentary rivalries, and the necessity to

\textsuperscript{78} ‘[…] ich war Mitglied des Deutschen Bundestages und da ich als Verfassungsrechtler nicht so ganz unprominent gewesen bin, auch damals schon, war das, ich glaube, überhaupt keine Frage.’
appoint a mix of sectoral experts to the committee and to ‘upgrade’ the issue politically (Töller 1995, 138).

The government puts enormous time pressure on the Bundestag by submitting the draft acts for the ratification instrument and the constitutional revision to the parliament only at the beginning of October. It is not clear whether the government’s behaviour is the fruit of rational calculus or whether it simply underestimates the potential problems of parliamentary ratification. Several parliamentary actors at the time consider that the government is completely unprepared to discuss the political and constitutional aspects of the Treaty of Maastricht and their impact for Germany (interview 38, interview 39, Interview 44) and its Basic Law.79 Furthermore, Chancellor Helmut Kohl creates a discursive environment in which criticism of the Maastricht Treaty appears to be ‘petty-minded’80 (interview 38).

The government also has reason to believe that the parliamentary ratification will be a smooth process because of the general ‘pro-integrationist attitude’ among MPs in Germany. In principle, the SPD parliamentary party group, which is the only important opposition party representing a significant weight for the negotiations81, already made a decision in 1991 to agree to the ratification of the treaty (interview 38, interview 44).

As the ratification was supposed to be concluded before the summit of Edinburgh scheduled in mid-December, the margins of manoeuvre for the Bundestag are tight. The leading actors in the parliamentary party groups of the Bundestag need to ensure quick deliberations so that the European treaty does not fail in Germany: ‘[in] Frankreich schon, Deutschland nicht’ (interview 38). Furthermore, the Bundestag must show some active and serious deliberations given the strong demands by the Länder. The former chairman of the EU Special Committee (SPD) describes his role as chairman as follows:

‘And therefore I was chosen and my main objective was to organise the work, so that Germany would not be responsible for a delay, and so that the ratification procedure would be decently, but rapidly completed. Decently, in the sense that no problems were swept under the carpet, that everybody who needed to vote was conscious about the entire

79 The government considered that only one constitutional revision (on the voting rights for EU citizens) was necessary prior to the ratification.
80 ‘[… ] das galt als kleinlicher Widerstand’
81 PDS/Linke Liste and Greens only have meagre scores at the parliamentary elections in 1990 after reunifications, which are not sufficient for forming a parliamentary party group of their own.
issue, but rapidly, in the sense that this committee had to accomplish more than is usually the case in a relatively short time span.\textsuperscript{82} (interview 38)

Who are the leading agents of change for the parliamentary participation rights that the Bundestag obtains in parallel to the ratification of the Treaty of Maastricht?\textsuperscript{83} These major agents are the Länder together with major actors of the SPD in the Joint Constitutional Commission, which has been deliberating since the beginning of 1992.

The signature of the Treaty of Maastricht has caused major political debate in Germany. At the beginning of 1992, the Länder, parts of the SPD, and also members of FDP and CSU threaten not to agree to its ratification. They even ask for renegotiations, but draw back this claim relatively quickly because none of the actors the Treaty of Maastricht to fail because of Germany (Wolf 1992, 314–15).

Under the leadership of Johannes Rau (minister president of NRW) and Edmund Stoiber (Minister president of Bavaria), the Länder decide instead to obtain further participation rights by putting pressure on the internal ratification procedure in Germany. Major actors from the SPD support the idea of an article 23 as well, including Hans-Jochen Vogel (speaker for the SPD parliamentary party group in the Joint Constitutional Commission) and Heidemarie Wieczorek-Zeul (speaker of the SPD parliamentary party group on European issues). They are in close exchange with Rau and Stoiber about the strategy to convince the government that a major revision of the German Basic Law is necessary for a further transfer of competences to the EC/EU (Interview 44).

Until late in 1992, however, the important issues for the actors of the Bundestag are only those points of article 23 that define limits, aims, and

\textsuperscript{82} ‘Und so fiel mir das zu und mein Hauptziel als Vorsitzender war, die Arbeit zu organisieren, ohne dass Deutschland schuld sein würde an einer Verzögerung, der Ratifizierungsprozess ordentlich, aber auch zügig umgesetzt werden konnte. Ordentlich in dem Sinne, dass keine Probleme unter den Teppich gekehrt werden, dass allen, die hinterher abstimmen mussten, die gesamte Problematik vollständig bewusst war, aber zügig auch in dem Sinne, dass dieser Ausschuss in relativ kurzer Zeit mehr Arbeit leisten musste, als das normalerweise der Fall ist.’

\textsuperscript{83} That is: the necessity of constitutional majorities for future ratifications; the guarantee of ‘earliest possible information’ about EC/EU draft acts and of ‘consideration’ of the Bundestag’s opinions (laid down in article 23 of the Basic Law and the legislation implementing it); the introduction of an EU Committee stipulated at the level of the constitution, through a revision of article 45, Basic Law; and the (non-binding) parliamentary vote before the entry into the third step of EMU.
fundamental questions of the competence transfer to the EC/EU, and in particular the constitutional empowerment for competence transfer to the EC/EU and the voting majorities in the Bundestag and Bundesrat to authorise the ratification of treaty changes (interview 38, interview 39, interview 44). Parliamentary participation in day-to-day EC/EU decision-making does not play much of a role.

The government in the Joint Constitutional Commission already accepts stronger participation rights for the Länder in EU decision-making in April 1992 (Läufer 1993, 300–301). This is done against the legal assessment of the CDU chairman of the Joint Constitutional Commission, who estimates that the Länder prerogatives as too far-reaching and that they interfere in federal competences (interview 39). He considers that his party colleagues and in particular chancellor Helmut Kohl persuaded him to accept them for political reasons, in order not to endanger the ratification. A first version of article 23, containing only the participation rights of the Länder, is drafted during the summer of 1992 (Classen 1992, 57) (interview 38, interview 39):

‘[…] well, with the 23 we tried at that time, well, fundamentally the aim with the 23 was to create for Europe, for the European integration process, legal grounds that go beyond article 24. That is, the 24 that says that it is possible to transfer powers to a collective entity. […]

This would have been sufficient in the following, for what happened in the following years, but the 23 was strictly speaking a demand of the Länder. The Länder said clearly at that time – and this was then related to Maastricht – that they would not agree, to Maastricht, the Euro, if they did not get better participation in the Basic Law in European integration. […]

As I already said, we had to give in at that time, I myself was no advocate of giving in, because fundamentally, implicitly very constitutive participation rights were asked for the Bundesrat. […]

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84 The point was not consensual in the SPD either, because of the fear that future SPD governments would suffer from the new constitutional prerogative (interview 38).

85 In particular because of the fact that EC drafts that fall under Länder competence usually also concern the federal level.
But at that time, also the Chancellor, that is Helmut Kohl, I remember one conversation with him in which he pushed very hard for this, said: “You need to do this now, otherwise we will not be able to carry Maastricht off. And then we will have a lot of trouble, with the French as well. In particular with the French.” And as a consequence this was then agreed, that is a bit of time pressure, the 23 were modified once in the meantime, but was still not a felicitous provision” (interview 39).

The Bundestag’s own participation rights have not played much of a role for a long time. Only in October 1992, once the government has presented the draft laws for the constitutional revision and the ratification instrument, does the Bundestag ask for the inclusion of its rights in article 23 for information and expression of opinion in the negotiations in the Council. Key actors across parties, such the chairman of the EU Special Committee, consider that the Bundestag’s position is already sufficiently ensured and
that German MPs only need to be more active in EU affairs. The inclusion of the Bundestag’s participation rights in article 23 is merely promoted as a means to ensure its equality with the Bundesrat:

‘I held this view already at that time. […] We have the prerogatives; we only need to use them. And this was then put into place only because of the principle of equality with the Bundesrat. Later, in the course of time, it became clear that my assessment was wrong, right? Well, I say today that my assessment was wrong.’87 (interview 38)

Even in the deliberations of the EU Special Committee, the rights for the Bundestag’s participation in the negotiations in the Council of Ministers only play a subordinated role. Topics of major importance are the Economic and Monetary Union (EMU) and the more fundamental question of the authorisation of the transfer of competences to the EU on the basis of article 23.1 German Basic Law and the necessary parliamentary majorities (interview 38, Interview 44). Deliberations about the EMU and the constitutional revisions linked to it take most of the committee’s time, and particularly the independence of the European Central Bank and the Bundestag’s claim to have a parliamentary vote before the introduction of the third step of the EMU (interview 38) (On the restricted binding effect of this vote see Läufer 1993, 301).

Furthermore, parliamentary participation rights are no fruit of the pressure of ‘backbenchers who fight back’ (Raunio and Hix 2000). The then speaker of the SPD for European affairs considers that there are no such proposals by backbenchers on the table, even if the elite of the parliamentary party groups later use the new rights to calm down anti-Maastricht backbenchers (Interview 44):

‘Yes, in the SPD parliamentary party group, there were definitely also people critical of the Maastricht Treaty […] And in this respect there were definitely critics who said that the political union was missing, the social union, the ecological union. I say this now a bit casually. They would have preferred a refusal considering these points, right? Or at least an abstention. Well, for those the parliamentarian participation was, of course, so to speak a concession from our side. Interviewer: […]

87 ‘Ich habe die Auffassung damals schon vertreten. […] die Rechte haben wir, die müssen nur wahrgenommen werden. Und lediglich aufgrund der Gleichbehandlung mit dem Bundesrat wurde das dann gemacht. Es hat sich später im Laufe der Zeit ja gezeigt, dass meine Einschätzung falsch war, nicht? Also, ich sage heute, meine Einschätzung war falsch.’
You asked as it were [...] for more parliamentary participation because of these critical voices? No, this was independent from that point.88

In the Bundestag, the backbenchers of the major opposition party, which has publicly put into question the Treaty of Maastricht, thus play no role in the claims about more parliamentary participation rights in the decision-making processes of the EU.

The literature on national parliaments in the EU lends major importance to the formal participation rights in EU decision-making acquired with the Treaty of Maastricht. In the Bundestag, however, these rights are only of a minor importance for the actors, given the whole package of points negotiated with the government with reference to the constitutional revision (in particular art. 23.1 Basic Law) and the ratification instrument (in particular the vote on the third step of the EMU). Apart from the political debate about the content of the treaty itself and especially the outlook of EMU reflections regarding the parliamentary participation in future steps of European integration, the power distribution between the Länder and the federal level and the compatibility of the German Constitution with the state of European integration laid down in the Maastricht Treaty are far more important.

The Bundestag still has little experience participating in day-to-day decision-making in Brussels, and has not managed to accumulate this experience in a standing committee or other types of permanent structures. Key actors in the Bundestag who negotiate the new participation rights are mainly important politicians in the parliamentary party groups and constitutional or foreign affairs experts, and not EC/EU experts. The codification of the participation rights of the Bundestag in the constitution is the fruit of the late awareness that the Bundestag needs to be factored in as well if the Bundesrat obtains far-reaching participation rights in the first draft of

article 23. This is also underlined by the fact, that throughout the negotiations on the implementation of the participation rights of article 23 that follow the ratification, the important cleavage (about a strong or weak design of these rights) runs between the Bundestag and the Bundesrat, rather than between the government majority and the opposition or the different parliamentary party groups within the lower chamber (interview 38). The law on the cooperation of the federal government and the Bundestag in matters of the EU has to be agreed upon in the conciliation committee between the Bundestag and the Bundesrat in February 1993 (Töller 1995).

Yet another illustration of the weak agency of EU experts is the genesis of the codification of the EAC in article 45 of the Basic Law. The proposal does not originate in the EU Special Committee, and even less in the EC committee. Instead, it originates in the Joint Constitutional Commission, and is based more on theoretical considerations about the constitutional equilibrium of the Bundestag and the Bundesrat than on concrete experience with the realities of the handling of EC acts by the EAC and the sectoral committees in the Bundestag. The Bundesrat has obtained the establishment of a ‘Europe Chamber’ (Europakammer) in article 52.3a of the German Basic Law, enabled to make decisions for the plenary on EC/EU issues. The constitutional lawyer Rupert Scholz, chairman of the Joint Constitutional Committee, considers that the Bundestag needs such a central superordinate committee as well. Accordingly, he drafts a project for a revision of article 45 in the German Basic Law (interview 39). This draft is officially proposed by the Joint Constitutional Committee (Töller 1995, 143) and then discussed in the European Union Special Committee. However, the idea for the committee does not take into consideration that the decision-making structures of an executive organ such as the Bundesrat and those of a parliamentary body such as the Bundestag function completely differently. Already, the implementation of the constitutional article into the standing orders of the Bundestag shows that to enable a committee to decide instead of the plenary is against the usual ‘ways of doing things’ in parliament, and even against the ‘DNA’ of the institution. This results in a high number of preconditions necessary before the EAC is able

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89 The Bundestag’s participation rights remain weaker and more indirect in article 23 than those of the Bundesrat, which receives detailed direct participation rights in the negotiations.

90 The Bundesrat’s Europe Chamber and its efficient consultation structure with the governments of the Länder are considered to be one reason why the parliaments of the Länder have even fewer real options for participation (Brückner 1993, 230).
to statute in the place of the plenary. In practice, this right of plenary substitution is thus almost never used.

2) Action and participation patterns

This second sub-section discusses which action results from the actor constellations analysed above, and which interactions the MPs in the Bundestag have with EC/EU transnational actors. There is generally little EC/EU activity and actors are dissatisfied. The ideas about which roles the Bundestag should play in EU affairs, i.e. which action patterns MPs should favour, are more clearly defined in the Bundestag. However, the procedural solution to achieve this in the frame of established parliamentary practices is strongly contested.

a) Participation patterns and their meaning

During the Maastricht period, the action of the Bundestag in EC/EU affairs does not follow clear patterns. MPs in the Bundestag contest it. There is a feeling among the bureaus of the parliamentary party groups that the Bundestag’s handling of these affairs is insufficient.

As in the Assemblée nationale, activity in EC/EU matters is rare. In contrast to the Assemblée nationale, on the other hand, the Bundestag has prima facie strong plenary activity in EU affairs during this period. However, this is only the expression of a necessity stemming from the standing orders. The Bundestag’s working level, i.e. working groups of the parliamentary party groups and committees, does not deal with EC/EU issues. Unlike in the Assemblée nationale, the major problem identified is not so much the information provided by the government, but the internal organisation and coordination of decision-making on the working level.

In contrast to the French MPs, the German MPs’ idea about their role in EU decision-making is to participate in this process on EU level sufficiently early so that their opinions can still have weight in the preparation of the draft by the Commission or in the negotiation phase with the Council. However, for different organisational and ideological reasons this idea is not put into practice until the end of the 90s. At least until the beginning of the 90s, an important group of German MPs see the role of the Bundestag in the promotion of European integration. Among others, they hope that this role can be fostered through the development of a close con-
nection with the EP. A majority of MPs of the Bundestag see the legitima-
tion of EU decision-making as being guaranteed through a gradually
strengthened EP.

As in France, however, participation *in practice* comes in late in the deci-
sion-making phase in Brussels. The several procedural changes discussed in
the preceding chapter are not adequate. In contrast to the practice in the
Assemblée nationale, the standing committees exclusively carry out the
scrutiny. From the 80s onwards, they start to create sub-committees for the
European Community. There is no EAC in place until 1991, and even the
impact of the committee for the affairs of the EU, which exists from the
end of 1994 (following the Maastricht ratification), is not strong in this re-
spect (Beichelt 2009).

In the 70s, individual MPs in the Bundestag start to complain about the
inefficiency of the parliamentary participation in the decision-making
phase in Brussels. Out of principle, some well-known members of the Bun-
destag, such as the chairman of the SPD parliamentary party group, Her-
bert Wehner, vote against EC draft acts (Töller 1995, 66).

Many MPs see the major problem that the Bundestag produces an enor-
mous amount of paper work, as each draft act is dealt with as a law and is
distributed to all MPs in printing (*Bundesdrucksache*), while at the same
time parliamentary proceedings are so slow that parliamentary decisions
(which have to be taken by the plenary) are only adopted once the decision
has already been taken in the Council of Ministers. MPs describe this situa-
tion as a sort of ‘parliamentary theatre’:

‘[…] which sense does it make to permanently present to us docu-
ments, which we have to take note of, which we are not able to take
note of, to make a committee deliberate on them, which – everybody
knows this – will not take note of them either, then let the committee
report that it took note of them to finally present a document here,
which the plenary has to take note of again’91 (MP Norbert Gansel
(quoted in Töller 1995, 66)).

91 ‘[…] welchen Sinn hat es eigentlich, uns ständig Papiere vorzulegen, die wir zur
Kenntnis nehmen sollen, die wir nicht zur Kenntnis nehmen können, einen
Ausschuss darüber beraten zu lassen, der – das weiß jeder – sie auch nicht zur
Kenntnis nimmt, dann den Ausschuss berichten zu lassen, daß er davon Kenntnis
genommen hat und dann hier noch einmal ein Papier vorzulegen, von dem das
Plenum noch einmal Kenntnis nehmen muss.’ (MP Norbert Gansel (quoted in
Töller 1995, 66)).
Therefore, in contrast to the Assemblée nationale, the plenary deals with a large amount of EC draft acts. However, in the Bundestag, decisions are taken on the level of the working groups (Arbeitskreise) of the governing parliamentary party groups and of the committees. Thus, the important plenary activity is no sign of a ‘competent’ handling of EU affairs in coherence with domestic practice for MPs in the Bundestag. It is simply a necessity stemming from the standing orders. Almost none of the documents dealt with in the plenary have been properly debated on the working level of the Bundestag, and this is a major sign of incompetence in the handling of EU/EC affairs in the Bundestag. Individual MPs concerned by EC/EU affairs start to realise that there is an important amount of paperwork being done that is disconnected from the decision-making processes in Brussels and parliamentary practice.

The main causes of this incompetent handling of EC/EU affairs in the Bundestag are the standing committees’ organisational overload of paperwork, and the latter’s incapacity to select the important EC draft acts. This leads to a high amount of EC acts of which only the Bundestag officially takes note, but on which MPs do not produce a further recommendation for a decision (Beschlussempfehlung) for the plenary. From 1972 to 1986, only about 10% of the EC draft acts lead to a recommendation for a decision by the plenary (Töller 1995, 66–69). For the period from 1980 to 1986, Klaus Hänsch calculates that about 65% of these plenary decisions are taken after the publication of the final act in the Official Journal of the European Communities (Hänsch 1986, 197).

This situation continues despite a first slight adaptation in 1980 (§ 93 Standing Rules of the Bundestag), according to which EC acts are no longer transmitted by a plenary decision, as was usually the case, but are submitted to the responsible committees directly by the bureau (Präsidium) and the Council of the Elders (Ältestenrat). Within the committees, the documents are supposed to go through a selection procedure by a group of MPs appointed by each parliamentary party group. The selection is carried out on the grounds of information provided by the federal ministry for the economy, which is responsible at the time for the coordination of EU policy within the government. A better coordination within the government is supposed to provide the parliament with exact information about the timing of the decision in the Council of Ministers. Only those documents on which the committee recommends a decision to the plenary are published as official printings (Bundesdrucksache) and distributed to all MPs. All other documents are only published and distributed in the form of a list with titles (Töller 1995, 68).
In contrast to the Assemblée nationale, the problem in the view of the MPs in the Bundestag in this phase is not so much the access to information, but the processing of the information provided. This is also a problem for the Assemblée nationale, but is less pressing because of the concentration of EC scrutiny in the EC Delegation. Different standing committees discuss major political dossiers in parallel without any coordination – often with the result that the Bundestag does not manage to compile one joint parliamentary opinion (Töller 1995, 76).

This problem is not solved with the introduction of the first EC Committee nor later with the ‘Committee for the Affairs of the European Union’ which exists until today: both of them are rarely selected as main responsible committee. They are an ‘anomaly’ in the ‘usual ways of doing things’ or the domestic practices.

During the Maastricht period, the administration of the Bundestag usually decides which committee is the responsible one in coordination with the committees and the parliamentary party groups. The act is normally directly addressed to the committee mirroring the ministry from which the draft act stems within the government. Finally, the secretariat of the committee to which the act is attributed is then responsible for asking which other committees are interested in the question as well. The formal decision is finally taken in the Council of the Elders, but in reality difficult decisions are taken in advance on the level of the whips of the parliamentary party groups (Töller 1995, 89).

Logically, the EC Committee could thus be automatically responsible for all EC/EU acts transmitted by the two ministries, ensuring EU coordination within the German government. However, given the close cooperation between the sectoral committees and the ministry having the line responsibility in the government for the act, and given the existent expertise of the sectoral committees, this proceeding is not possible in parliamentary reality.

Furthermore, the EC Committee is in competition with prestigious committees such as the Foreign Affairs Committee and the Committee for Economic Affairs, and therefore cannot change existing practices.

92 Since the sixth legislative period, the standing committees of the Bundestag have always mirrored the ministries and their sectoral competences.
93 The Federal Foreign Ministry usually assures this function in cooperation with either the Ministry for the Economy or the Ministry of Finance.
94 After massive protests by the speakers of the parliamentary party groups in the EC Committee, the possibility of providing a sectoral committee with the status
The new competences of the Committee for the Affairs of the EU, which is constituted for the first time in December 1994, only change this situation at the margins, as neither the procedure for the attribution of the responsibility, nor the committee hierarchies are changed in practice. A major adaptation, however, is the fact that the EU Committee officially obtains the central position in the coordination of the transmittal of EC/EU draft acts to the responsible committees. All EU acts have to be transmitted first to the EU Committee (§ 93.1 Standing orders). The coordination of the process of transmittal thus moves from the Department XII in the parliamentary administration to the secretariat of the EU Committee and its Europabüro (Europe Office).

In practice, however, the EU Committee is only the designated responsible committee when it comes to general European integration and institutional matters. From 1998 to 2002, it is only responsible for 14.5% of all Bundestag printings stemming from EU decision-making processes, of which only 3.6% correspond to EC draft laws (Beichelt 2009, 253). This is slightly more than the EC Committee has obtained and means that these subjects are no longer automatically dealt with in the Foreign Affairs Committee.

Ex post control of the government negotiations in Brussels is not highly important.

b) Interaction with EU transnational actors

The Bundestag’s contact patterns are above EU average (conversely, those of the Assemblée nationale are below average), but the overall frequency of contacts with transnational actors is low except for contacts with the EP. This means that the Assemblée nationale and the Bundestag have the same type of contact pattern in the Maastricht period, in which the exchange with MEPs is the most frequent contact pattern for domestic MPs. As in the Assemblée nationale, this exchange is not institutionalised in parliament, but happens through the party channels. Contacts with the European Commission and other national parliaments are more frequent than in the Assemblée nationale. According to actors at that time, the contacts with the EP and other national parliaments (comparatively high in the Bundestag) do not happen in the course of specific EC/EU decision-mak-
ing procedures, but serve as exchange on ‘constitutional’ issues about the evolution of the EU system.

The data situation regarding transnational contacts of MPs is difficult. Fortunately, there is the aforementioned European Representation Study (Weßels 2013; Weßels et al. 1999), which provides detailed comparative insight into the contact structures of the MPs in the Bundestag (and compares them to other member states, including France).

The Bundestag MPs’ contact with the European Commission and EU civil servants is above European average: in 1996, 7% compared to 4% of MPs, respectively, have contact, which increases to around 10% of MPs in both cases in 2003. Nevertheless, these figures are somewhat low, especially when compared to government ministers and their bureaucracies, with which between 74.4% and 90.1% of MPs, respectively, have at least one monthly contact in 1996 (Weßels et al. 1999, 206–7).

Conversely, even if only compared to the EU average, the contacts of MPs in the Bundestag with German MEPs on an at least monthly basis are frequent: 48% of Bundestag MPs are in at least monthly contact with German MEPs (see table 9).

**Table 8: Bundestag: Contact with EU transnational actors (1996)**

<table>
<thead>
<tr>
<th>Country’s MEPs</th>
<th>EU Civil Servants</th>
<th>European Commission</th>
<th>MP of other EU Member State</th>
</tr>
</thead>
<tbody>
<tr>
<td>Germany (1996)</td>
<td>150/311 (48.2%)</td>
<td>27/308 (8.8%)</td>
<td>20/307 (6.5%)</td>
</tr>
<tr>
<td>Germany (2003)</td>
<td>39.9%</td>
<td>9.8%</td>
<td>10.2%</td>
</tr>
</tbody>
</table>

Source: for 1996: European Members of Parliament Study (Weßels et al. 1999); for 2003: (Weßels, 2013)

Note: ratio of positive answers to overall number of MPs taking part in the representative study (percentage); at least monthly contacts.

MPs in the Assemblée nationale and the Bundestag thus have the same pattern concerning transnational EC/EU contacts, even if the German contacts are more than doubly as frequent. In France, only 23% of MPs of the Assemblée nationale have at least monthly contact with MEPs (see table 6).

Table 9

There is a difference between the Assemblée nationale and the Bundestag with regard to contact with MPs from other national parliaments.
While in France only about 5% of MPs have contact with a colleague from another national parliament at least once a month, in Germany the percentage is almost three times as high. Overall, however, the exchange with MPs of other national parliaments can be considered to be low.

This is also in line with MPs in the Bundestag’s self-assessment in the first half of the 90s. The former chairman of the EU Special Committee considers that there is ‘absolutely no parliamentary culture’ to cooperate on EC/EU issues. After the signature of the Treaty of Maastricht, he often travels abroad, but he claims to do this to ‘relaunch’ his career and to be ‘present in the media,’ and not to coordinate positions on the Treaty of Maastricht or even on parliamentary participation rights. The administrative staff follow the ratification debates in other countries, but only to be informed of what they mean for the German position (interview 38). Rupert Scholz agrees with this assessment (interview 39).

For the former speaker of the SPD for European affairs, this type of coordination does not play much of a role either. If there are attempts to coordinate positions, they happen only with the German MEPs who participate in the bodies in the Bundestag and within the SPD party structures (interview 44). This corresponds to François Loncle’s assessment of the same time period in France (interview 5).

The preceding sub-chapter showed that during the Maastricht period, actors in EU affairs in the Bundestag are still not typical actors. Different interest constellations between government and opposition, and between the Bundesrat and the Bundestag and German MPs’ strong pro-European ideology decide who leads the game in EU affairs in the chamber independently of concrete participation in day-to-day EU decision-making. Action in EU affairs is low and weakly patterned.

The following conclusion summarises the main findings of the comparative analysis of the participation in EU affairs in the Assemblée nationale and the Bundestag. The results of the comparison according to the most similar systems logic are so far coherent with Hypothesis 1. Despite widely differing parliamentary functions on national level in the Maastricht period, there are few stable patterns in EU affairs in either of the chambers.

C – Conclusion

This chapter presented the results of the comparison of actors and patterns of action in EU affairs in the Assemblée nationale and the Bundestag during the Maastricht period. The analysis showed that in both the Assemblée
nationale and the Bundestag, EU affairs are only weakly institutionalised. One cannot observe ordered practices of ‘doing EU’ as there is no clearly defined agency, nor distinct or typical action patterns of EU/EC participation. Successful motives for action in both chambers are various, but rarely stem from the experience of day-to-day participation in EU/EC decision-making and of incompetent action in EU matters with reference to domestic practices.

In both chambers, the majority of parliamentary actors do not have much EU expertise, either within the different European affairs bodies or in the sectoral committees. Furthermore, awareness about the impact of EU legislation is low. Despite different traditions of parliamentary working procedures, in both chambers the ‘new’ European affairs bodies are largely isolated and lack standing and prestige in the hierarchies of committees.

Agents of change in this period are clearly not, or not primarily, the MPs who can be qualified as experts of day-to-day European decision-making. Major agents of change are either Eurosceptic MPs in the French case, or politicians in important power positions in the parliamentary party groups (or outside the Bundestag), as well as constitutional lawyers in the German case.

In both chambers, changes to the constitutional and regulatory framework of EU affairs are not pushed by a community of practice of experts on parliamentary proceedings of EU matters, but instead possibly by specific political interest constellations. In France, this includes the fierce ideological opposition to the Treaty of Maastricht by parts of the Gaullist RPR (see for an analysis of the sovereignist rhetoric Rozenberg 2010) and the Sénat’s attempt to use the constitutional amendment necessary before the ratification to improve its role in French asymmetrical bicameralism. In Germany, major changes are possible because of the Bundesrat’s and parts of the major opposition parties’ strategy to use the ratification of the Treaty of Maastricht to push for constitutional changes and the strengthening of the Länder position in EU affairs. Strengthened participation rights of the lower chamber in day-to-day decision-making are only a sort of coincidental by-product of this negotiation process.

While the actors’ orientations concerning their desired role and ensuing action in EU affairs as well as their ideological conviction on the scope of European integration are highly different in France and in Germany, the concrete action in day-to-day decision-making in both chambers is similar. At the end of the Maastricht period, both parliaments have created European affairs bodies with centralised sifting competences. In both parlia-
ments, the sifting is considered to be inefficient and an administrative burden.

Major instruments for parliamentary participation, such as the European Resolutions in France or the possibility of the EAC of the Bundestag to substitute itself to the plenary, and the organisational solutions found for EU affairs remain largely void letters, because they do not correspond to institutionalised practices in the chambers and their usual ‘ways of doing things’. They prove to be inefficient and do not improve parliamentary scrutiny of EU affairs, even if they are often substantial enhancements of prerogatives from a formal-legal perspective.

The following chapter will analyre actors and patterns of EU-related action in the Assemblée nationale and the Bundestag during the Lisbon period. From the middle of the 90s onwards, EC/EU binding decision-making strongly increases, and MPs (and their voters) are supposed to more strongly feel the concrete output and outcome of this decision-making by the end of the decade. Therefore, Hypotheses 1 proposed that one should observe emerging types of actors playing an important role in parliamentary EU affairs, as well as emerging typical action patterns in EU affairs.

In both chambers, EU experts indeed take a more central role in EU affairs in this phase, and EU action more steadily follows the same logic.
CHAPTER IV 2000-13 – The Lisbon period – 
Performing Europe

This chapter presents the results of the comparison of parliamentary EU practices in the Assemblée nationale and the Bundestag during the period that is referred to as the ‘Lisbon period’ for the purposes of this study. This period covers the years 2000 to 2013. In the beginning of this period, MPs are supposed to have experienced the full effects of the Treaty of Maastricht (and its successors) in parliamentary day-to-day activity, and notably the steep increase of the stock of EU legislation in the middle of the 90s. The chapter shows that in both parliaments, MPs attempt more and more to ‘perform’ Europe in accordance to domestic practices, notwithstanding the ideas or interests they pursue. New action patterns adapt EU affairs to typical domestic parliamentary roles or functions.

As was done for the Maastricht period, this chapter compares evolutions in this period in the Assemblée nationale (sub-chapter A) and in the Bundestag (sub-chapter B) to determine whether there are similar evolutions in EU affairs despite them being parliaments in which MPs’ aggregate practices on the domestic level differ widely. Actorship and activities in both chambers are analysed in order to ascertain whether one can observe patterns that indicate the institutionalisation of ‘ordered practices’ (defined as specific agency and patterned action) in EU affairs.

In order to further investigate Hypothesis 1, each section first analyses (1) actorship in EU affairs, paying particular attention to the European affairs bodies and EU experts more generally in the chambers. It then proceeds to investigate which actors are successful protagonists for the introduction or revision of formal rules for the chambers’ EU participation. Next, each chapter examines the chambers’ activities in EU affairs and the meaning that actors attribute to this activity (2).

The chapter is based on interviews with MPs and parliamentary clerks in office during the observation period (2000-2013), the analysis of archive material and the analysis of the existing secondary literature. For the complete list of interviews and sources see bibliography. For a comprehensive description and discussion of sources and methods see Chapter II under http://spire.sciencespo.fr/hdl:/2441/5i1k2o8mn49maohtdrake9dsfv.
The conclusion summarises the comparison between the Assemblée nationale and the Bundestag and shows that there are similar evolutions in both of them. In both chambers, the logic of the handling of EU affairs is stabilised, and the European affairs bodies’ shapes are less and less contested. The latter become typical actors in EU affairs in each chamber, albeit not at all in the same way. EU expertise increases in both chambers, but not to the same degree. In both chambers, a community of practice emerges that shares knowledge and experience regarding EU affairs. This group of MPs acquires agency and is the successful agent of change of formal prerogatives and organisational solutions for EU affairs in the chambers.

In both chambers, action is more patterned in the Lisbon period than was the case in the Maastricht period. In both, actors follow typical ‘ways of doing things’ in EU affairs and start to ‘perform Europe’ as an ordered practice. The chapter also demonstrates, however, that this typification and institutionalisation of Europe as a practice happen through a search for functional equivalents to domestic action patterns or roles, i.e. competent action in EU affairs with reference to the domestic practices and deeply enshrined ‘ways of doing things’ in both chambers.

As a consequence, MPs in the Assemblée nationale develop activity patterns that allow them to fulfil roles that they have at the domestic level, in particular the responsiveness to voters in the circumscriptions. In contrast, MPs in the Bundestag develop activity patterns that allow them to take on roles in EU affairs that are oriented towards the direct control of the decision-making and legislation in Brussels. Patterns of interaction evolve accordingly.

The institutionalisation of the EU as an ordered practice in both chambers thus leads to the stabilisation of social structures and has ‘fixed ideas’ in people’s minds about ‘doing EU’ in each of the parliamentary chambers. Paradoxically, however, after the important impact of the Treaty of Maastricht, this institutionalisation leads to more differences in the participation patterns between the chambers regarding EU affairs and the roles, meanings, and background to which these activities are intrinsically linked.

A – Assemblée nationale

The first sub-chapter discusses the handling of EU affairs in the French lower house during the Lisbon period. The first section shows that the European affairs body slowly acquires typical features of a ‘usual’ standing
committee in the chamber, and develops into one central actor for EU affairs. Interest and EU knowledge increase among the MPs, albeit slowly. Within its ambit, a community of practice slowly emerges, sharing knowledge about parliamentary EU affairs. This community acquires agency and successfully participates in the reform of the formal and regulatory framework for EU affairs in the Assemblée nationale.

The second section shows that the action in EU affairs of both the European affairs body and the chamber as a whole is more patterned and less contested. MPs have gained experience and adapted their deeds to produce more competent action with the chambers’ ‘usual ways of doing things’ and practices. Action patterns help the MPs to better and competently fulfil their domestic role of interest intermediation (and to a lesser extent of public deliberation) for EU affairs as well. The government’s wish for control expressed in the Maastricht period is mostly abandoned, and decision-making in the Council is largely left to the government. This is in accordance with the fact that the government’s exclusive competence on legislation is largely accepted on the domestic level in the Vth Republic. The Europe Resolutions, which some of the actors understood as instruments of public control of the government in the Maastricht period, are partially reinterpreted as information instruments for the chamber as a whole. The MPs carry out the sifting and scrutiny of documents in ways that allow (some of) them to recover a certain degree of the chamber’s usual style of responsiveness. During the Lisbon period, actors are more satisfied overall with participation in EU affairs than they report being in interviews conducted during the Maastricht period.

According to the new activity patterns that represent functional equivalents to the roles of the Assemblée nationale on the domestic level, interaction with the EP increases in the Lisbon period to increase responsiveness. For the same reason, interaction with the European Commission also increases slowly to nourish a ‘steady dialogue’ with the European executive to raise its awareness about issues potentially difficult for French voters.

1) Actors and agency

The first sub-section focuses on the actors who carry out EU-linked action in the Assemblée nationale. The first part examines the European affairs body, which stabilises as a ‘political’ body. The logic of politically representative membership allows it, throughout the Lisbon period, to play a role that reinterprets the ‘usual’ role of the standing committees for the cham-
ber as a whole in European affairs. The European affairs body tries to be
the hub for information for the Assemblée nationale as a whole, not the
least through a fundamentally ‘political’ (albeit fragmented) sifting of in-
coming EU documents. MPs’ EU expertise and interest rise, even if they
are still lower than in the Bundestag. A community of practice sharing
knowledge and expertise about day-to-day parliamentary participation in
EU affairs emerges in the ambit of the European affairs body. The second
part of this sub-section discusses how this EU agency successfully partici-
pates in the reform of the formal framework and organisation of the cham-
bers’ EU activities.

a) European affairs body and EU expertise

During the Lisbon period, the meaning and role that actors attribute to
the European affairs body slowly stabilise. Its agency within the Assemblée
nationale is ‘constructed’ and becomes clearer (Adler and Pouliot 2011).
The European affairs body develops into a committee whose membership
and action attempt to reproduce the roles played by the standing commit-
tees – however reinterpreted for the purposes of EU decision-making. It
slowly develops action patterns that represent a functional equivalent to do-
mestic roles. These action patterns are less contested during this period,
and a constitutional revision in 2008 more strongly supports the already ex-
isting practice. The de jure materialisation of the new practices is the fact
that during the Lisbon period the body acquires the statute of committee,
even if it does not equal the prestige of some of the traditionally important
committees of the Assemblée nationale. This fact is not surprising given
the role as interface for European affairs that the body plays through its
‘double membership’ for the chamber as a whole. In contrast to the Maas-
tricht period, actors estimate that more MPs are interested in EU affairs
and have EU expertise in their sector.

The typification of the membership of the committee happens earlier
than expected by the periodical sequencing of the comparative framework.
Up until 1993, the body is a ‘technical’ body that does not correspond to
the usual parliamentary working mode. This leads to an ‘incompetent’
handling of the scrutiny of EU affairs in parliamentary practice, in the
sense that the body simply cannot carry out the main function of commit-
tees in the Assemblée nationale, which is the selection of draft legislation
important for French voters in the circumscriptions along a political logic
of input legitimacy. This will be shown later.
As a consequence, the other standing committees do not pay much attention to the body’s scrutiny activities. The composition of the European affairs body is changed in 1994 and has not been changed since. From then on, the members of the European affairs body are designated according to a logic of political representativeness of the parliamentary party groups in the Assemblée nationale. This turns the body from a technical into a political one. The extension of its membership from 36 in 1994 to 48 in 2009 (Avril, Gicquel, and Gicquel 2014, 134) is only a quantitative change, and not a qualitative one.

A ‘normalisation’ towards a more political body from the 90s onwards is further confirmed by the selection logic for members of the body. A member of the then UDF parliamentary party group and MP from 1993 to 2007, reports that he does not manage to join the Delegation despite his wishes, for ‘seniority and political reasons’, which are also the common selection criteria for the membership of the standing committees:

‘I did not succeed in becoming part of the Delegation, because it was a rat-race to enter it and the arbitrations in terms of politics and in terms of seniority that govern, despite whatever one may say, the life of the Assemblée nationale did not allow me to do so.’

Pierre Lequiller confirms that the competition is already high to become a member of the EAC when the membership passes to 36.

‘[…] There is a strong competition […]. For example, I belong to the UMP group and we have 24 seats at the European Delegation. The European Delegation is composed of 36 members, and given the results, we fill them in proportion to the parliament, there are 24 seats and, well, at the moment when the delegation was designated, at the opening of the parliamentary session, six months ago, eight months ago, there were 82 candidates for 24 seats, and so the competition is quite strong.’

96 ‘Je n’ai pas réussi à faire partie de la délégation, car cela a été une foire d’empoigne pour y entrer et les arbitrages à la fois politiques et l’ancienneté qui gouverne quoi qu’on en dise la vie de l’Assemblée Nationale ne m’ont pas permis de le faire.’

97 ‘[…] il y a une forte concurrence […]. Par exemple j’appartiens au groupe UMP et on a 24 places à la délégation européenne. La délégation européenne est composée de 36 membres, et là du fait des résultats, on fait ça en proportion à l’intérieur de l’enceinte il y a 24 places et bah au moment où la délégation s’est composée, là à la rentrée parlementaire il y a 6 mois, 8 mois, il y avait 82 candidats pour 24 places donc la concurrence est assez forte.’
Alain Barrau, PS, chairman of the Delegation from 1999 to 2002, and Pierre Lequiller, Union pour un Mouvement Populaire (UMP), chairman of the Delegation from 2002 to 2012, both report that they associated hopes of a ministerial post with taking up the mandate (interview 7, interview 8). This is an additional indicator that the Delegation has developed into a more political body that receives at least some minimum attention from the parliamentary party groups.

From the end of the 90s onwards, there is also an increase in the parliamentary expertise of the European affairs body’s chairman – a knowledge important to foster competent action of the body with existent parliamentary practice. Alain Barrau has some direct experience in EU institutions and within the national party, and he has of seven years of experience in parliament (albeit dating some years back) when he takes up the chairmanship of the European affairs body in 1999. With Pierre Lequiller (2002-2007), for the first time the Delegation has a chairman who has considerable experience with both European decision-making and with the working modes of the Assemblée nationale. Moreover, he has been active regarding EU questions in the conservative party and speaker for European Affairs for the UMP since 2002. He has been member of the French lower chamber without interruption since 1988 and has considerable experience in foreign affairs before taking care of European affairs. Furthermore, he was Secretary and Vice president of the Assemblée nationale from 2000 to 2002.

EU competence and motivation of the members of the European affairs body are more of an issue for the chairmen of the Delegation in the Lisbon period. While the important part of the work of the body was carried out almost exclusively by its chairmen during the Maastricht period, the succeeding chairmen put more effort into disciplining the members of the Delegation (later EAC) (interview 8). In that same vein, Pierre Lequiller states that he has the habit of ‘recalling’ the duties of an MP in the European affairs body in case members are not active. He even tries to replace inactive members.

‘[…] What is the most difficult is to have a sufficient number of competent and motivated MPs who follow this debate. And that, that requires permanent reminders. When we see that somebody starts to let

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98 Paying out for neither of them, however.
99 Alain Barrau was member of the EP from 1979 to 1984, national delegate of the Socialist party for European affairs from 1979 onwards, and technical adviser to the minister for European affairs in 1981.
loose during two or three months, we need to try to work something out in order to have him replaced, which is not easy, even with people from one’s own group. [...] Because they always explain that they have had a difficult moment, but that they will be back.¹⁰⁰ (interview 7)

In interviews 10 years later (2012), a parliamentary clerk considers that there are about 30 MPs in the Assemblée nationale who are active in EU affairs (interview 21)¹⁰¹. Even if this number is much lower than what is estimated for the Bundestag (see page 192), this is a considerable shift compared to the Maastricht period. As will be shown subsequently, in the Assemblée nationale’s practice of providing participation in EU affairs mainly through input regarding voters’ concerns, a smaller number of MPs who are directly concerned than there are in the Bundestag might even be sufficient to perform this role.

During the Maastricht period, the sectoral committees showed limited interest in EU affairs and the Treaty of Maastricht. Respondents of the 2002 interviews consider that MPs beyond the EAC have integrated the ‘European dimension’ more into their day-to-day considerations. Since the middle of the 90s, MPs working on draft legislation are much more aware of its European dimension, while previously this did not play a role at all (interview 1). One member of the law committee affirms in 2005 that the committee examines many more draft laws with a EU dimension than was the case before (interview 4), even if he considers the share of such draft acts to still be low in 2002. He also considers that, at the beginning of the 2000s, there are fewer and fewer cases in which national laws are adopted for electoral purposes, despite the fact that their initiators know that they can never be applied because of existing European legal frameworks to which they are contradictory (interview 4).

Throughout the 2000s, the sectoral committees’ attention to EU issues slowly continues to increase. Even if the EAC is at the heart of the scrutiny

¹⁰⁰ ‘[...] ce qui est le plus difficile, c’est d’obtenir qu’on ait assez de parlementaires compétents et motivés qui suivent ce débat. Et ça, ça demande en permanence des relances. Quand on voit que quelqu’un commence à décrocher deux trois mois, il faut essayer de se débrouiller pour qu’il soit remplacé ce qui n’est pas facile, même avec des gens de son propre groupe […]. Parce qu’ils expliquent toujours qu’ils ont un passage difficile mais qu’ils reviendront.’

¹⁰¹ Since the constitutional reform of 2008 and its implementation in the Standing Rules of the Assemblée, the number of members of the Committee on European Affairs has increased from 36 to 48. MPs have the right to participate in the meetings of standing committees of which they are not members (Standing Orders Assemblée nationale Art. 38 (1)).
of EU affairs in the *ex ante* phase, in the XIIIth legislative period
(2007-2012) it examines 12 proposals of resolutions that originate in one of
the sectoral committees. In the XIIth (2002-2007) legislative period, in con-
trast, no such proposals for resolutions exist (Commission affaires eu-
ropéennes 2012, 20). Exceptionally, sectoral committees, i.e. the Law Com-
mittee, even second one or two clerks to the scrutiny of EU draft acts
(Thomas and Tacea 2015).

However, the standing committees mainly change the amount of atten-
tion that they pay to the EU dimension during domestic legislative proce-
dures, in which a transposition of EU legal acts is usually deeply inter-
twined with domestic legislation. Furthermore, domestic legislation is in-
creasingly subject to pre-existing European legal frameworks. This trans-
lates also into a rising number of information visits to the European Com-
mission by MPs from the Assemblée nationale (interview 14).

As there are more MPs interested in EU affairs during the Lisbon period,
the European affairs body’s working style in practice draws slowly nearer
to the standing committees, insofar as one can consider that it functions in
a multitude of highly specialised ‘sub-committees’ composed of MPs inter-
ested in a specific EU issue in coordination with the standing commit-
tees. A similar working mode has been described for the standing com-
mittees. Despite their generalist nature, in practice the committees meet
as highly specialised sub-committees. In the literature, the rate of partici-
pation in permanent committees’ meetings is estimated at about 30% (Kimmel 1991, 99), i.e. those members who are interested in the issue at
stake.

Other interview evidence further confirms a more general integration of
‘usual’ practices of the permanent committees throughout the Lisbon peri-
od. Interviewed in 2002, Nicole Catala, member of the Delegation from
1988 to 2002, considers that the working style of the Delegation has be-
come much more similar to the one in the sectoral committees compared
to 1992:

‘I think that it has become, I would say, more professional, it has
strengthened, we work more, and we work a lot, a lot more than 10

\[102\] Its members have a double membership in the European affairs body and one
of the standing committees.

\[103\] Permanent committees in the Assemblée nationale usually have a very impor-
tant number of members (because of the limited number in the French Consti-
tution).

\[104\] MPs have the right to take part in meetings of all standing committees.
years ago. There are more meetings, a larger number of reports, and
the themes being addressed are more diverse. There is a work pace that
is as least equal to that of the busiest committees of the Assemblée na-
tionale, that is to say the law committee, the financial committee or
that of social affairs, the rhythm is at least equal.  

In that same vein, Pierre Lequiller confirms the professionalisation of the
Delegation. MPs have to show that they are strong workers to become
members.

‘One needs to display a strong commitment, to show that one is will-
ing to work, because it is a Delegation that works enormously, because
we examine all of the directives and regulations that pass before going
to the Council of Ministers. We have a lot of meetings.’

In contrast to the situation in the 90s, almost all interviewees underline the
EAC’s consensual working style during the Lisbon period (interview 14,
interview 20). At first sight, this seems to differ from the practice in the
standing committees. However, as the committee work is part of the ‘invis-
ible’ politics, it is not clear whether the committee working style in the
Assemblée nationale is as conflictual as is often pretended (Costa and Ker-
rrouche 2007). For the Bundestag’s committees participant observation has
recently refuted the often-described conflictual working style in the litera-
ture (Oertzen 2006). The emphasis on a consensual working style in the
committee might be a conscious or unconscious means by French MPs to
describe the EAC’s working style in accordance with the role expected
from them: the representation of French voters’ interests.

The European affairs body takes slowly up functions that are partially
functional equivalents for EU affairs to the usual practice of committees in
the Assemblée nationale: 1) MPs in the European affairs body put impor-
tant EU legislation concerning French voters again on the French political

105 ‘Moi, je trouve qu’elle s’est, je vais dire professionnalisée, elle s’est renforcée, on
y travaille plus, on y travaille beaucoup, beaucoup plus qu’il y a une dizaine
d’années. Les réunions sont plus nombreuses, les rapports sont plus nombreux,
les thèmes abordes sont plus divers. Il y a une cadence de travail qui est au
moins égale à celle des commissions les plus chargées de l’Assemblée, c’est-à-dire
la commission des lois, la commission des finances ou celle de affaires sociales,
c’est un rythme au moins égal.’

106 ‘Il faut quand même euh si je puis dire montrer patte blanche, montrer qu’on a
envie de travailler parce que c’est une délégation qui travaille énormément
puisque on étudie toutes les directives et les règlements qui passent avant d’aller
en Conseil des ministres. On a beaucoup de réunions.’
agenda improving the chamber’s responsiveness, and 2) they provide information to the Assemblée nationale as a whole. Both serve in the first place the Assemblée nationale’s typical dominant functions of responsiveness to French voter’s concerns and information and deliberation.

Firstly, like the standing committees, the European affairs body offers the house as a whole a filter for politically interesting legislative acts. While the standing committees play the role of ‘grave-diggers’ (see page 70) (Miles 2011) of legislative proposals stemming from MPs who try to satisfy demands stemming from stakeholders in their circumscriptions, the EAC plays the inverted role of ‘grave-opener’ or ‘resuscitator’ of issues important for French stakeholders withdrawn from the political debate in France because policy-making takes place on the EU level. However, the parliamentary core function concerned is the same: being responsive with regard to the concerns of French stakeholders (and neither control, nor legislation). As will be shown in the following, the filtering is highly political and fragmented, and fundamentally different from the filtering carried out by the Bundestag. The latter’s sifting follows an almost bureaucratic logic that, in contrast to the Assemblée nationale, is all-encompassing, covering the whole breadth of EU decision-making.

All incoming EC draft acts are first sifted by the clerks of the European Affairs Service of the Assemblée nationale. These clerks distinguish between documents on which no further parliamentary scrutiny is necessary and those that need further examination (interview 21).

The clerks of the EAC’s European Affairs service sift the incoming EU documents in close coordination with the EAC’s chairman. This should not be mistaken for an ‘administrative’ screening of the documents, a ‘clerks-driven’ sifting exercise (see also Thomas/Tacea 2015), or even ‘agenda setting’ (Högenauer and Neuhold 2015). Parliamentary clerks are well instructed by the chairman of the EAC and its members about the areas of EU decision-making in which they are interested for their voters in the circumscriptions or more generally. Communication is regular and flexible (interview 21). This working mode in the Assemblée nationale finds its objectification and illustration in a similar working mode in the Sénat. The European Affairs Service of the Sénat has established ‘lists’ of priority areas for scrutiny, which change with the Senators who compose the EAC. Acts belonging to areas of issue that are not on the priority lists are cleared upon arrival and are not screened any further for parliamentary deliberation (interview 12).

During the Lisbon period, the sifting in the Assemblée nationale is increasingly a profoundly political intermediation and representation exercise.
fragmented along the selective choices of the members of the European affairs body and depending on the input from their circumscriptions. Issues of importance for the local or regional communities and the agricultural sector are represented the most strongly (interview 12). The sifting is destined in the first place to improve the input responsiveness of the Assemblée nationale, and not to control the breadth of the government’s negotiations in the Council or to impact the content of EU legislation.

This role orientation is also illustrated by the fact that central actors continue to describe the scrutiny work as a ‘fastidious’ bureaucratic exercise (interview 20) – despite major efforts undertaken by the European Affairs Service to systematise the screening (Thomas and Tacea 2015) – while actors in the Bundestag have a tendency to valorise the important efforts made to scrutinise the whole breadth of incoming documents. For the purposes of response to a selective number of issues that are potentially interesting to voters in the circumscriptions, the systematic screening of incoming documents is indeed an important effort to reproduce a functionally equivalent outcome.

The fact that the sifting is not destined for government control is illustrated by the recurrent description of the work by clerks as an exercise necessary to facilitate the government’s work, which would otherwise be bound by unnecessary ‘reserves’ while negotiating in the Council.\(^\text{107}\) Thus, the main aim of the reorganisation of the sifting is not the more effective screening of the incoming EU documents in order not to miss important issues. Instead, the aim is to ‘lighten’ the administrative burden for the government:

‘With the increase of documents, we had to organise the selection more systematically. The documents are sent to the administrator that is responsible for the issue area. The person then has 3-4 days to decide if the document can be cleared.

You know this is necessary because of the parliamentary reserve. This is a very administrative (‘une chose notariale’) thing, not very useful (‘inutile’) for most of the documents. Big parts of the document we get are technical documents and things not politically interesting. We

\(^{107}\) Interviews with civil servants in the permanent representation of France confirm that the ‘parliamentary reserves’ are likewise seen as a bureaucratic exercise from the government side (Auel, Rozenberg, and Thomas 2012).
wanted before all to simplify the life of the government. You know this concerns 60-80% of the document flow. (interview 21)

Already Alain Barrau, PS, chairman of the EU Delegation from 1999-2002, considers that the scrutiny is the ‘duty’ of the Delegation, but that the truly important work of the body is to foster public debate on the EU and to inform fellow MPs and to the citizens that the EU is an important political framework (interview 8). Accordingly, for his successor Pierre Lequiller, UMP, the aim of the work of the EU Delegation/Committee is to foster EU debates in the chamber, to organise public information hearings with EU actors, and to foster public debate on EU issues more generally (interview 7). This has repercussion in the action patterns of the Assemblée nationale during the Lisbon period (see page 209).

This shows again that the parliamentary reserves, which are an important achievement by chairman of the Delegation Pandraud during the ‘pre-Maastricht period’, do not match the parliamentary ways of doing things and the usual practice of interaction between the government and the parliament. In cases in which there are still open parliamentary reserves when the issue is tabled in the Council, the reserve is lifted in close cooperation between the government and the chairman of the Delegation (Auel, Rozenberg, and Thomas 2012).

Secondly, the European affairs committee is an information provider for the plenary and the house as a whole and tries to enhance in particular the deliberative function of the chamber in EU affairs.

Much more than in the Bundestag, the permanent committees in the Assemblée nationale have an information role for the plenary and the chamber as a whole (Kimmel 1991, 91–116). In parliamentary reality, they have much less of a role in decision-making and legislation. The role of the standing committees in the Assemblée nationale is to prepare the legislative debate in the plenary in terms of content and arguments, and not in terms of decision-making. The bulk of the amendments are presented in the plenary.

The Constitutional revision of 2008 only changes this practice at the margins. The basis for the plenary debates is presently the texts that the standing committees have already amended and not the original government draft laws, as was the rule before. In practice, however, amendments are still presented both in the committee and in the plenary. Usually, amendments rejected in the committee are even presented again in the plenary. The opposition continues to present its amendments regardless, preferably in the plenary because of the increased political and symbolical character of a rejected amendment in public (Gicquel 2011, 7). The legis-
lative function of the – since 2008 – eight standing committees is thus still restricted in practice. They serve mainly as a body for the information of the plenary and the Assemblée nationale as a whole, and for the preparation of the arguments for the plenary.

The EAC fulfils a similar information role first through the so-called ‘European Resolutions’ (see also page 175 for the chamber’s activity as a whole). The actors of the European affairs body have reframed these resolutions into an information tool for the standing committees and the Assemblée nationale as a whole. As shown in chapter III (see page 100), European Resolutions were introduced into the chambers during the Maastricht period to foster control of the government on EU issues. Actors from a powerful anti-Maastricht coalition prominently promoted and initially used them to control the government (see page 109).

In retrospect, however, this type of use was only important for a short period of time under the chairmanship of Robert Pandraud. The fact that dissatisfaction with EC/EU parliamentary participation at the time was high, leads to the assumption that the important use of European Resolutions was not ‘competent’ activity that was coherent with usual practice in the chambers, and more generally could not foster the chambers’ input legitimacy. Rather than being destined for the parliamentary control of day-to-day decision-making, it was destined for the public control of the integration-friendly policy of a Centrist executive. Since then, European Resolutions have lost their importance in number.

Since the Constitutional revision of 2008, the actors in the EAC have reframed them from an instrument of control into a tool for the information of the Assembly as a whole (see page 175). Through the change of the European affairs body’s statute from ‘delegation’ to ‘special committee’, the European affairs body can now adopt resolutions on its own. Before, the Delegation depended on the responsible standing committee for the adoption of a European Resolution. Under the threat of a European Resolution by the EAC, sectoral committees presently feel more obliged to debate communications of draft acts stemming from the EAC because they fear resolutions in their field of competence to which they have not taken the chance to contribute. As a consequence, the committee often uses them as a tool for ‘inciting’ the sectoral committees to debate an issue (interview 11).

In same line of argument, actors of the European affairs body have tried above all to promote formal rules that help the body to enhance this information role for the Assemblée nationale as a whole (see page 166), i.e. to act in a ‘more competent’ manner with the existing practices in the chambers.
The European affairs body selects in particular the following new competences as important to give it the possibility to inform fellow MPs early regarding issues in their interest:

Since 2008 the EAC has the right to deal with any EU document notwithstanding the sector or the stage of progress of the document in EU decision-making (Commission affaires européennes 2012, 24). The new version of the Constitution grants the two French chambers the possibility to debate and issue resolutions on any document stemming from EU institutions without being obliged to wait for the government’s submittal. For the first time, this also includes the documents on the Common Foreign and Security and Policy (CFSP) and the Common Security and Defence Policy (CDSP). While since a circular letter by the government in 1999 documents of other policy areas were regularly transmitted to both chambers on a voluntary basis, these policy areas were completely withdrawn from parliamentary control.

Furthermore, the EAC obtained the possibility to issue information on its own initiative to sectoral committees in case they deliberate on issues that have a link to European legislation\(^\text{108}\) (Thomas and Tacea 2015, 173–74). The EAC actively uses this right. In the XIIIth legislative period, for example, it produced 26 annexes for information reports of sectoral committees (Commission affaires européennes 2012, 24).

This evolution is also translated into a growing number of joint meetings between the EAC and the sectoral committees, from seven joint meetings in the XIIth legislative period to 32 in the succeeding one. The meetings mainly concern the committees for the economy, finances, sustainable development, and external affairs (Commission affaires européennes 2012, 24).

The committee obtained the right to engage in legislative dossiers linked to the competences of the EU, which are dealt with in the sectoral committees. The EAC actively uses this right as well. In 2009, the EAC engages in the legislative process on the postal reform, and in 2010 on a larger national environmental reform (Commission affaires européennes 2012, 24).

Furthermore, the standing orders of the Assemblée nationale foresee that one session during the parliamentary ‘control week’ is reserved to European issues. Thus, reinforcing the deliberative function of the chamber in EU affairs. According to the 2008 version of the Constitution, this week is reserved to ‘the monitoring of government action and to the assessment

\(^{108}\) 151-1-1 Standing Orders Assemblée nationale.
of public policies\textsuperscript{109}. Again, here control must probably be seen in an responsiveness and deliberation perspective. The European affairs body itself interprets this new prerogative in the standing orders as a possibility for the plenary to ‘[…] debate at least once a month about Europe\textsuperscript{110}’ (Commission affaires européennes 2012, 16). Questions to the government allow French MPs to gather information on dossiers that are interesting for their voters, and to obtain a possibility to publicly show that they defend stakeholder interests in their circumscriptions or to foster public debate about EU issues.

This evolution of the EAC into the information hub of the Assemblée nationale can be interpreted as an attempt to normalise the former’s functioning according to the usual parliamentary practices of committees in the Assemblée nationale. Actors use the formal instruments foreseen to participate in EU decision-making in a way that is ‘competent’ regarding domestic practice. During the Lisbon period, the EAC tries to develop its competence in distributing information to fellow MPs in order to give them the opportunity to fulfil their ‘representation and interest intermediation role’ towards both their stakeholders and the government.

b) Agents of change of formal rules

During the Lisbon period the European affairs body slowly becomes an agent of change. During the preparation of the ratification of the Constitutional Treaty, the Delegation under the chairmanship of Pierre Lequiller takes stock of the parliamentary rights acquired so far and issues an important information report of which most major proposals are finally implemented in the major reshuffling of French institutions in 2008.

While the EU experts only manage to push a small part of their claims through during the negotiations on the constitutional revision at the occasion of the (failed) ratification of the Constitutional Treaty, almost all claims formulated by the 2005 ‘Lequiller Report’ (Assemblée nationale 2005) are taken up in the Constitutional revision aiming to ‘modernise’ French institutions in the summer of 2008.

Important in this period is the fact that the battles on prerogatives for parliament in EU matters are much less mediatised than they were during the Maastricht period, in which the so-called sovereignists played an im-

\textsuperscript{109} Article 48.8 Standing orders of the Assemblée nationale.
\textsuperscript{110} ‘[…] débattre d’Europe au moins une fois par mois’.
important role. Negotiations about adaptations of parliamentary rights on
the control of EU issues seem to be carried out behind closed doors. The
preparation of the major constitutional revision in 2008 through an expert
committee chaired by Edouard Balladur is probably an important window
of opportunity for the EU experts to push their claims through. An impor-
tant argument used by members of the EAC for pushing their claims
through is the perpetual ‘mantra’ that, in particular, the new ‘denomina-
tion’ of the EAC would not change the ‘usual’ parliamentary ways of doing
things and would thus not interfere with the competences of the standing
committees.

The EAC: Constitutional revision 2008 and 2009
There is only one major change in parliamentary prerogatives for the
French parliament in the Lisbon period. It takes place in the summer of
2008 in the course of a reform of the French Constitution reaching beyond
the prerogatives on European affairs of the French parliament. The 2008
constitutional revision is a long-term project aiming among others to re-
balance the powers of the parliament and those of the executive, and to
strengthen the notoriously weak French parliament (Gicquel 2011;
Magnon et al. 2012; Mathieu 2008).

The constitutional revision is prepared by a specialist committee called
‘Comité constitutionnel’ (Comité constitutionnel 2008) under the chairmanship
of former French Prime Minister Edouard Balladur.

The new prerogatives concerning EU participation foreseen in the Con-
stitutional revision seem to be the fruit of a lobbying process by the EU ex-
erts of the Delegation for the EU, and in particular its chairman. In con-
trast to the Maastricht period, this happens without attracting much media
attention in exchanges between the government majority and the govern-
ment. Similarly to in the Bundestag, political windows of opportunity on
the national level seem to have finally helped to realise the claims.

As early as 2005 the Delegation uses the occasion of the upcoming ratifi-
cation of the Constitutional Treaty and its revision to take detailed stock of
its activities and the shortcoming of the dealings of European affairs in the
Assemblée nationale since the Treaty of Maastricht.

111 The prerogatives for national parliaments foreseen in the Lisbon Treaty (linked
to simplified treaty revision procedures, passerelle clauses, and the Early Warn-
ing Mechanism on subsidiarity) are already introduced in a minor Constitution-
al revision in February 2008.
‘After 12 years of existence, article 88-4 appears to have reached the age of reason. An equilibrium has been found which guarantees the Parliament good information of the European institutions’ normative activity and allows it to control the governments’ European policy. The difficulties encountered at the beginning of the implementation of article 88-4 have disappeared, whereas the evolution of the European integration process now makes new ones appear.’112 (Assemblée nationale 2005, 35)

The report is signed by the chairman of the Delegation, Pierre Lequiller, who has been in office since 2002 and who was member of the Convention on the Future of Europe from 2002 to 2003, holding thus important EU and parliamentary experience.

The claims formulated by the Delegation focused on certain central points, which concern information rights and the statute of the Delegation (Assemblée nationale 2005). All claims are carefully formulated. This is probably due to the knowledge that not only the government but also the chairmen of the six standing committees are reluctant to grant extended participants, as they fear a change in their power basis and the ‘usual ways of doing things in parliament’:

‘[…] The Delegation for the European Union should not simply change its name, but change its status too. The problem with this point is not so much the Constitution as the opposition from the committee presidents. This revision is the occasion to raise this problem again, a problem that for many is simply a matter of the interior rules of the Assemblée nationale. The current means are in any case not at the height of the importance of the issue ’113 (Pierre Lellouche quoted in Assemblée nationale 2005, 59)

112 ‘Après douze ans d’existence, l’article 88-4 semble avoir atteint son âge de raison. Un équilibre a été trouvé qui garantit au Parlement une bonne information de l’activité normative des institutions européennes et lui permet de contrôler la politique européenne du gouvernement. Les difficultés parfois rencontrées dans les débuts de la mise en œuvre de l’article 88-4 se sont estompées, tandis que l’évolution de la construction européenne en fait désormais apparaître de nouvelles.’

113 ‘[…] [L]a Délégation pour l’Union européenne ne devrait pas simplement changer de nom, mais de statut. Le problème sur ce point n’est pas tant la Constitution, que l’opposition des présidents de commission. Cette révision est l’occasion de poser à nouveau le problème, qui relève pour beaucoup simplement du règlement de l’Assemblée nationale. Les moyens actuels ne sont, en tout état de cause, pas à la hauteur des enjeux.’
Concerning the government, the report considers that the Assemblée nationale does not have problems gaining information anymore, as

‘the “Josselin” (1990) and “Pandraud” (1994) laws indeed guarantee the right to information, as they impose on the government to transmit to the Delegations for the European Union of the Assemblée nationale and the Sénat all necessary documents established by the different EU institutions, with the exception of nominative acts. The parliament also needs to be kept informed of the negotiations in progress’ (Assemblée nationale 2005, 36).

In the same paragraph, the report states that the Assemblée nationale can only issue resolutions on about one-quarter of the acts transmitted to it by the government because only they fall under article 88.4 French Constitution.

After praising the government for respecting the parliamentary reserve of four weeks that it imposed on itself, and emphasising the fact that the parliament has introduced a new emergency procedure in order to render the life of the government less difficult in case a rapid decision in necessary in the Council (Assemblée nationale 2005, 37–38), the report cautiously suggests that a reform of the procedure for resolutions would be much more efficient in avoiding dealing twice with the same issue, first in the Delegation and then in the permanent committee. Furthermore, the report stresses that the Delegation has highly positive experiences with the adoption of conclusions that it can send directly to the government: ‘Toutefois, les conclusions ont acquis au fil des années un poids politique dont tient compte le gouvernement dans le cadre des négociations européennes’ (Assemblée nationale 2005, 39).

The report argues that a reform of the procedure for resolutions would primarily remedy the steady decrease in resolutions debated in plenary sessions (and render them quicker) because it would lighten the burden on the permanent committees. The report underlines the fact that the existing logic of the procedure would be maintained (adoption though the permanent committees).

nent committee) but that if the permanent committee did not consider a deliberation on the resolution necessary, it would automatically become an adopted resolution of the whole chamber after a delay (Assemblée nationale 2005, 40).

In the following, the report cautiously explains that European Resolutions are only a political instrument and do not legally engage the government or oppose its positions: ‘In any event, the parliamentary resolutions under article 88-4 are not legally binding, their scope is exclusively political’ (Assemblée nationale 2005, 41).

Furthermore, the same sub-chapter explains that European Resolutions in France only have two effects in practice: either they strengthen the government’s position by supporting it, or they make the government’s positions slightly firmer. The report emphasises the fact that European Resolutions never oppose the government (Assemblée nationale 2005, 41).

It is only much later, after explaining that the new European framework has led to major changes, that the report cautiously formulates the claim that the distinction between the law and regulatory domain in the French Constitution should be abolished to render the control system more ‘comprehensible’ and ‘efficient’, because European legislation does not take care of the distinction made in the Constitution. The report proposes that the government by default submit all EU legislative acts and those acts that concern the law domain in the Constitution (Assemblée nationale 2005, 45). This would also make the interparliamentary cooperation more operational. The report emphasises that this submittal should without any doubt remain ‘optional’ for the government – i.e. there should not be an obligation for the government fixed in title XV of the Constitution.

Only in a sub-chapter even further, called ‘Beyond article 88.4’, does the report finally suggest that the government should accompany the transmittal of information by information notes on the state of the negotiations in the Council and on the French position. The report humbly presents this claim as a result of the best practice exchanges within COSAC, and cautiously suggests that such information notes would be ‘welcome’ (Assemblée nationale 2005, 54).

Finally, and also under the ambiguous heading ‘Beyond article 88.4’, the report cautiously asks for the change of statute of the Delegation by slightly misleadingly suggesting a ‘change of the denomination of the Delegation’. The argument is that neither French citizens nor the European part-

115 ‘En tout état de cause, les résolutions parlementaires de l’article 88-4 n’ont aucune valeur juridique contraignante, leur portée étant exclusivement politique.’
ners understand what the function of a ‘delegation’ is. In all other parliaments of the EU, the name of the European affairs body is ‘commission’ (Assemblée nationale 2005, 51–52).

The report underlines that the change of name would not impede on the role and statute of the standing committees, and that it would not be mentioned among the standing committees in article 43 French Constitution, but only in title XV of the French Constitution:

‘A change of name would not infringe on article 43 of the Constitution, which limits to six the number of permanent committees with legislative character and in charge of the general control of the government. The aim is indeed in no way to institute a seventh committee. This is why this committee would fall under title XV of the Constitution on the European Communities and the European Union, and not article 43, which addresses the six permanent committees’\(^\text{116}\) (Assemblée nationale 2005, 51).

It explicitly underlines the fact that the committee would keep its special and transversal nature and would in any case impede on the legislative prerogatives of the six standing committees:

‘Given its transversal composition, in the sense that is comprises members of the six permanent committees, the committee for the European Union would keep a specific role, sui generis, without infringing on the competences of the permanent commissions. Legislative projects or propositions would not be sent to this committee.’\(^\text{117}\) (Assemblée nationale 2005, 51).

The Delegation for the EU does not manage to include any of these claims in the constitutional revision of 2005 (before the potential ratification of the Constitutional Treaty), except for an obligation for the government to

\(^{116}\) ‘Un changement de dénomination ne porterait pas atteinte à l’article 43 de la Constitution, qui limite à six le nombre des commissions permanentes à caractère législatif et chargées du contrôle général du gouvernement. Il ne s’agit en effet nullement d’instituer une septième commission. C’est pourquoi cette commission serait visée dans le titre XV de la Constitution sur les Communautés européennes et l’Union européenne et non pas à l’article 43 qui traite des six commissions permanentes.’

\(^{117}\) ‘Du fait de sa composition transversale, dans la mesure où elle comprend des membres des six commissions permanentes, la commission pour l’Union européenne conserverait un rôle spécifique, sui generis, sans empiéter sur les compétences des commissions permanentes. Les projets ou propositions de loi ne lui seraient pas envoyés.’
submit a legislative act of the EU if it is asked by the speakers of either the Assemblée nationale or the Sénat, the chairmen of the EU Delegations, or either 60 Senators or members of the Assemblée nationale.\textsuperscript{118} This low level of success is remarkable, as the chairman of the Delegation considers himself close to the then Prime Minister, Jean-Pierre Raffarin (interview 7). Opposition to plans to change status and prerogatives of the Delegation for the EU are too high among the chairmen of the Assemblée nationale’s standing committees.

However, the claims by the EAC surface again in 2007 in the preparation of the already mentioned Constitutional revision. In its final report issued on 29 October 2007, the expert committee preparing the revision, chaired by former Prime Minister Edouard Balladur, takes up two central claims formulated in the 2005 Lequiller report into its proposals for a constitutional law reforming the French Constitution: first, the change of the denomination of the Delegation for the EU; and second, the definite end of the distinction between EU draft falling under the ‘law domain’ of the French Constitution and those which do not, and consequently the submittal to parliament of all documents stemming from an EU institution (Comité constitutionnel 2008, 10). Furthermore, the ‘Balladur committee’ takes up the suggestion in the 2005 report to simplify the procedure for transposals of EU acts into national law (to be transposed through the standing rules of the chambers).\textsuperscript{119}

This time, several factors facilitate the introduction of the new prerogatives. First, the proposals are elaborated by an expert committee, and as a consequence the opposition internal to the parliament is probably to some degree circumvented. Furthermore, Prime Minister Edouard Balladur and some members of the committee have long-term experience in EU affairs, either in governmental positions or within the EU institutions, such as ex-MEPs Jean-Louis Bourlanges and Olivier Duhamel (Comité constitutionnel 2008). In addition, the few political personalities from the right wing and centre in government heard by the committee include not only ex-Prime Minister Jean-Pierre Raffarin, to which the chairman of the Delega-

\textsuperscript{118} The latter prerogative is introduced by an amendment by the chairman of the Foreign Affairs Committee, former Prime Minister Edouard Balladur, and one of the members of the latter standing committee, Hervé de Charette.

\textsuperscript{119} With reference to European affairs, the ‘comité constitutionnel’ furthermore suggests reforming the provisions on a necessary referendum before the entry of new EU member states that were introduced in the French Constitution before the referendum on the Constitutional treaty. The convocation of a referendum is no longer obligatory but follows the ordinary procedure under article 89.
tion is close, but also several MPs interested in EU issues, such as Patrick Devedjian (UMP) and François Sauvadet (UDI). The chairman of the Delegation, Pierre Lequiller, has excellent networks both in his own party UMP and in the Assemblée nationale, where he has also been member of the Foreign Affairs Committee with minor interruptions since 1993. The Foreign Affairs Committee is one of the most prestigious committees in the Assemblée nationale, in which a number of his party colleagues are represented who held high government offices in the past, such as former Prime Minister Edouard Balladur. He also holds a particular position of trust within the EU Delegation, which has a consensual working style. The MPs who are members of the Delegation give Pierre Lequiller great leeway to manage European affairs and lobby for reformed prerogatives (interview 20).

The remaining claims of the 2005 report are finally taken up either during the parliamentary deliberations on the constitutional law or in the reforms of the standing orders of the two French chambers.

During the deliberations on the constitutional law, the Delegation even obtains in having the new body foreseen in article 88.4 of the French Constitution be called committee (‘commission’), such as the standing committees, and not only commission (‘comité’), as had been foreseen in the initial draft constitutional law. Two amendments in this sense are adopted, submitted by MPs François Sauvadet (Nouveau Centre, NC) and Jean Christophe Lagarde (NC) (Assemblée nationale 2008b), as well as Daniel Garrigue (no affiliation, Gaulliste) (Assemblée nationale 2008a). MP Daniel Garrigue withdraws another amendment that asks that the new EAC be able to express its view in the plenary on each draft legislative act for which it considers intervention necessary, but the chairman of the Law Committee promises that the question will be taken up in the new standing orders following the constitutional amendment:

‘M. Daniel Garrigue: I’ve come to understand that regarding European affairs, one really needs to go forward step by step and hence I take note of the date appointed for the reform of the regulation. I am happy about the openness displayed by Jean-Luc Warsmann, rapporteur and president of the law committee on the amendment number 22, which I withdraw.
Chairman: M. Pierre Lequiller has the floor.
M. Pierre Lequiller: I completely agree with M. Warsmann’s words on M. Garrigue’s amendment and I take note of them. I also believe that it would be useful if the committee in charge of European affairs could express itself during plenary sessions because the texts that we debate
can often be addressed from a European angle. Monsieur le rapporteur, we agree: it is useless to address this question in the Constitution. However, do not forget to think of the committee in charge of European affairs during the next modification of the regulation of the Assemblée nationale.

Chairman: Amendment n°22 is withdrawn. I put to the vote article 32, modified by the adopted amendments.120 (Minutes of the plenary debates, constitutional revision 2008).

Other central claims of the 2005 report, such as the reform of the procedure for the adoption of resolutions, are also put into place through the reform of the standing orders.

2) Action and participation patterns

This second sub-section analyses which action results from the agency in the chamber described above, and which interaction MPs in the Assemblée nationale have with EU transnational actors during the Lisbon period. Action is now more patterned, because actors try to find EU participation modes that fulfil as functional equivalents the role that MPs play at the domestic level, i.e. of ‘representation and interest intermediation’. EU activity mostly does not aim to control the government’s negotiations in the Council, and aims even less than in the Maastricht period to influence le-

120 ‘M. Daniel Garrigue : J’ai fini par comprendre que, sur les affaires européennes, il fallait vraiment avancer pas à pas et je note donc le rendez-vous pour la réforme du règlement. Je suis heureux de l’ouverture qu’a montrée Jean-Luc Warsmann, rapporteur et président de la commission des lois sur l’amendement n° 22, que je retire.
M. le président : La parole est à M. Pierre Lequiller.
M. Pierre Lequiller : Je suis tout à fait d’accord avec les propos de M. Warsmann au sujet de l’amendement de M. Garrigue et j’en prends bonne note. Je crois aussi qu’il serait utile que la commission chargée des affaires européennes puisse s’exprimer en séance publique car les textes dont nous débattons peuvent souvent être abordés sous l’angle européen. Monsieur le rapporteur, nous sommes d’accord : il est inutile d’aborder cette question dans la Constitution. En revanche, n’oubliez pas de penser à la commission chargée des affaires européennes lors de la prochaine modification du règlement de l’Assemblée nationale.
M. le président : L’amendement n°22 est retiré. Je mets aux voix l’article 32, modifié par les amendements adoptés.’
gislative draft acts. It focuses on establishing a ‘steady dialogue’ about broad guidelines with the government in order to raise the latter’s awareness about issues potentially problematic for French voters. Actors in the EAC try to reproduce the chamber’s deliberation function on the domestic level by increasingly opening their meetings to the public. The interaction of MPs with EU transnational actors reproduces the ‘steady dialogue’ on the European level to enhance the chamber’s responsiveness. This steeply increased exchange with French MPs in the EP and (to a lesser extent) the European Commission serves the representation of French voters’ interests.

a) Use and meaning of formal and informal instruments

During the Lisbon period, the activity of the chambers is more clearly patterned and typified as a functional equivalent in EU affairs to the chamber’s main domestic functions of responsiveness to stakeholders in the circumscriptions and (to a much lesser extent) public deliberation.

During this period, MPs in the Assemblée nationale develop patterns of activity that allow them to act more competently in EU affairs with reference to domestic parliamentary practice. The Assemblée nationale’s domestic role of ‘interest representation and interest intermediation’ is fulfilled in European affairs through a stronger role of the chamber as ‘partner’ of the government searching to ‘alert’ the latter in case EU draft acts might cause difficulties to French voters as a whole.

The role that MPs see for their parliament in EC/EU decision-making becomes increasingly clearly typified. In contrast to parts of the Maastricht period, in the years 2002 and 2012 (and thus after the implementation of the Treaty of Lisbon) MPs interviewed from different parliamentary majorities consider the relationship between the majority and the government to be a ‘good and honest’ one (interview 7, PS, interview 8, interview 21). In contrast to some of their colleagues in the first period, MPs consider that the government has an ‘honest’ relationship with the MPs of the majority as far as concerning the information about negotiations in the Council (interview 7, interview 8) and even with the opposition. This estimation is widely shared throughout both chambers among MPs and clerks in interviews carried out in 2012 as well.

A parliamentary clerk suggests that the more open governmental information policy than in the Maastricht period results from the fact that the government has learned ‘by doing’ that it does not have to fear anything publicly from its majority. On the contrary, to spread information to its
majority helps to identify potentially electorally difficult EU dossiers, because the MPs are close to the voters in the circumscriptions. The parliamentary clerk acknowledges that there is a sort of self-censure of parliamentary clerks to give away sensitive information potentially useful for the opposition MPs to use against the government (interview 14, interview 21).

A committee clerk describes the perception of the EAC in the following way:

‘We think that the parliament’s task is to alert the government on problematic issues. It is important for the government as well to avoid potentially politically problematic points. Problematic issues are raised only very late on the political level in EU decision-making processes. When parliament alerts, the government can put a small explanatory note in the file of the minister and he will pay attention.’ (interview 21)

Some MPs of the parliamentary majority already conceived of themselves as ‘partners’ of the government in EU decision-making in the first period, and defined their role as one of ‘alerting’ the government to potentially politically difficult issues that could cause problems in the circumscriptions. In the Lisbon period there seems to happen a clarification of ‘ideas in people’s minds’ (Adler and Pouliot 2011) about the relationship with the government.

Accordingly, information, which was a major problem during the Maastricht period, is no longer a problem in the Lisbon period. This is a reverse evolution to the perception of the MPs in the Bundestag, for whom information was no problem during the Maastricht period, but is a major one in the Lisbon period. MPs and clerks of the Assemblée nationale do not see strong problems in obtaining information about the negotiations in the Council during the decision-making or after the decisions have been taken. The positive working relationship between the officials of the Secrétariat Général des Affaires Européennes 121 (SGAE) or the government ministries and the administrators of the chambers, who have a comparable standing as high-ranking state civil servants, is of high importance here:

121 The General Secretariat for European Affairs (or SGAE) is a government agency that reports directly to the French Prime Minister. It is in charge of interministerial coordination of the position of the French authorities on issues related to the EU and the Organisation for Economic Co-operation and Development.
‘[…] we get a lot of information. This is the difference to the Bundestag for example. […] We have access to the cables from the representation, even if we do not see everything, like for example the instruction for the ministers.’ (interview 21)

This open information policy does not mean that the process of ‘alerting’ the government is always without difficulty in this second Lisbon period. Members of the government majority may use the European Resolutions as a menace to blame the government publicly. However, MPs of the Assemblée nationale and even of the Sénat first always use informal ways of informing the government about their concerns – or they at least use formal and informal ways in parallel:

‘If we want to influence on an issue, we will have to go two ways: the formal and the informal. The formal way is important because it gives you visibility and power. But you have to try out the informal ways at the same time to make yourself heard’ (interview 10).

As French MPs are in practice used to playing the function of ‘interest intermediators’ and not so much that of controllers or legislators in the literal sense, the Assemblée nationale’s MPs are furthermore only highly selectively interested in direct information about the details of the negotiations in Brussels. Furthermore, they do not systematically control whether their point of view has been retained after the decisions have been taken in Brussels. This is not as clear in the interviews regarding the Maastricht period. In the latter, interviewees sometimes express the wish to have more possibilities for control ex post.

MPs sometimes follow up dossiers in which they are interested individually via the parliamentary clerks who are in close contact with either the SGAE or the responsible government official. However, the purpose of this follow-up is not to control government activity, but again to fulfil their role of ‘interest intermediators’, i.e. to dispose of the necessary information to be able to show to stakeholders in the circumscriptions that they are ‘well informed’ about how things proceed (interview 12).

In accordance with the French MPs’ weak law-making role on the domestic level, during the Lisbon period parliamentary participation continues to come in mostly during the decision-making phase, even if actors describe participation as intensified. On individual dossiers there is now

122 The opposition can only hardly obtain the necessary majorities to adopt a resolution.
some activity in the preparation phase by individual MPs and the EAC (interview 9; interview 10; interview 21).

None of the interviewees in the Lisbon period (neither in 2002 nor in 2012) describes the relationship with the government as a process of public control. Instead, MPs describe their attempts to ‘remind’ the responsible government minister at every possible occasion about the important points that they see (interview 13), according to the proverb, ‘Constant dripping wears away the stone’.

The dominating mode of communication, a steady ‘dialogue’ (interview 21; interview 9; interview 10) with the government, can be seen as a sort of ‘awareness raising’. This dialogue takes place as an exchange through reports, questions and hearings to remind the members of the government of issues that are important for French stakeholders. These action patterns reproduce the role of French MPs as representatives of individual interests in their circumscriptions towards the government. Resolutions are mostly seen as serving this dialogue (interview 21).

In terms of their number, in practice the resolutions do not play a significant role during the Lisbon period. If one considers the important increase of documents submitted to the chambers throughout the first decade of the new millennium (which still increases after the Treaty of Lisbon) and the increasing number of documents on which a resolution is potentially possible, resolutions have decreased in importance. While during the 90s European Resolutions were adopted on between 6.6% and 13.5% of the submitted texts under 88.4 of the French Constitution, from 2000 on resolutions are only adopted on between 1 and 2.9% of the submitted texts (with two exceptions in the year 2000 and 2005, when the percentages are 4.5 and 5% of submitted acts, respectively, but are still low). 123

The evidence gained from interviews confirms these data on resolutions. Clerks in the Assemblée nationale acknowledge that MPs consider resolutions to be a slow and inefficient tool.

‘We do not care about formal resolutions. They are a slow instrument. If you have an urgent issue they are not sufficiently quick. You can use them to say something. This is a steady dialogue. You have to find a good political dialogue in the committee and with the government. There are not a lot of cleavages in European matters’ (interview 21).

123 The situation is different in the Sénat, where the amount of European Resolutions has increased since the coming into force of the Treaty of Lisbon.
Direct informal channels to the government are far more important. Even the reform of the procedure for resolutions through the constitutional amendment in 2008 implemented in the standing orders in 2009 does not change this situation. This strongly underlines the accuracy of the estimations that involved actors of the Assemblée nationale give in interviews both in 2003 and 2012.

Even in the Sénat, where interview partners see a stronger interest of senators in resolutions since the 2008 and 2009 reforms (interview 11), clerks and MPs consider them more as a tool to involve the sectoral committees into the scrutiny process than as a tool to interfere in detail with the negotiation processes in Brussels (interview 11). Resolutions are often described as a ‘last’ tool to remind the government of important points without interfering too much with the concrete text of the EU draft laws.

‘We are of the same political colour as the government. Our role is more to alert the government on things they have not seen in proposals coming from the EU level and to tell them what they have to change in order not to get into political trouble – and not to confront...

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**Figure 5:** EU resolutions – percentage of incoming texts falling under 88.4

Source: own calculation on the basis of (Rozenberg 2013, 69), own compilation for 2011-2014 on the basis of (Assemblée nationale 2015a; Sénat 2015b; Sénat 2015a).
the government. A resolution is not the first thing we will do. We will organise hearings with the government and also use our informal contacts. But sometimes we manage to even get joint resolutions with the AN. In this case the government is quite tied (“encadré”) and knows what to do’ (interview 9).

Despite the decreasing use of the highly symbolic European Resolutions since approximately the year 2000 in this Lisbon period, satisfaction with the involvement of the Assemblée nationale in EC/EU affairs has clearly risen and seems to continue to do so in the 2012 interviews after the implementation of the Treaty of Lisbon. This highlights the missing coherence between the European Resolutions with parliamentary practice, role understandings, and ‘usual ways of doing so’.

Interviewed in 2003, François Loncle, PS, member of the committee for foreign affairs in the Assemblée nationale and former member of the Delegation for the EU and the Convention on a Charta on Fundamental Rights, acknowledges that there has been considerable progress in EC/EU-linked parliamentary activity since Maastricht.

He considers that the Assemblée nationale was largely absent from EU affairs throughout the 70s and 80s and that it is only since the Treaty of Amsterdam that there is some movement in parliamentary participation. For him, the Convention on a Charta on Fundamental rights is an important impulse as well (interview 5). Nicole Catala, UMP, member of the EC/EU Delegation from 1988 until the end of her mandate in 2002 and member of the law committee at the time of the interview, considers that the handling of EU affairs in the chamber has become much more professionalised (interview 1).

The perception of a general progress in satisfaction about parliamentary participation is also a common red line through all interviews carried out in 2012. This is again in strong contrast to the acknowledgements of MPs active in parliamentary EC affairs during the Maastricht period. Of course, this does not mean that MPs who are experts in EU affairs are satisfied with the situation.

Actors, mainly from the EAC, have tried to reinforce the Assemblée nationale’s activity with regard to its other main role: public deliberation, information, and legitimation to render EU affairs more coherent with parliamentary practice.

As shown above, the activity of the European affairs body is highly important for the overall activity pattern of the chamber because it carries out a substantial part of participation in EU affairs in the Assemblée nationale. The EC/EU Delegation/Committee has steadily extended the number of its
meetings even from the Treaty of Amsterdam onwards. The average number of its meetings since the Treaty of Amsterdam is 47.3 per period of parliamentary sittings, while this used to be only 27.3 per year in the period from 1980 to 1995.

*Figure 6: Meetings of the EC/EU Delegation/Committee (1980-2014)*

Source: Assemblée nationale: Activity Reports 1980-2014/2015 (Assemblée nationale 2015a)

Note: The Assemblée nationale changed the basis for the calculation from annual to legislative sitting periods. For better visibility both periods are represented in the same graph, with a discontinuity indicating the new calculation rules; all downward peaks correspond to periods before general elections (1988, 2006/2007 and 2011/2012).

More important than this extension, however, is that, from the beginning of the 2000s onwards, if the trend after half of the current legislative period holds, the meetings that are open to the press might more than quadruple from the XII (2002-2007) to the current XIV (2013-) legislative period in absolute numbers under chairmen from different parliamentary majorities. Unfortunately, there is no comparable data evidence from the Maastricht period, but interview evidence and an analysis of the parliamentary documents suggest that the publicity of the meetings played less of a role in the previous period (interview 3).
Table 9: Meetings of Assemblée nationale’s European affairs body (2002-2015)

<table>
<thead>
<tr>
<th>Year</th>
<th>2002-2007 (XIIth legislative period)</th>
<th>2007-2013 (XIIIth legislative period)</th>
<th>2013-Sept 2015 (XIVth legislative period)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chairman</td>
<td>Pierre Lequiller, UMP</td>
<td>Pierre Lequiller, UMP</td>
<td>Danielle Auroi, EELV</td>
</tr>
<tr>
<td>Number</td>
<td>69</td>
<td>136</td>
<td>129</td>
</tr>
<tr>
<td>Percentage of overall number of meetings open to the public</td>
<td>34%</td>
<td>62%</td>
<td>90%</td>
</tr>
</tbody>
</table>

Source: XIIth and XIIIth legislative periods (Commission affaires européennes 2012); XIVth legislative period (Assemblée nationale 2015a).

According to wishes expressed already in the Maastricht period, the activity of the European affairs body in the Assemblée nationale thus develops in the direction of more interaction on EU dossiers with the general public, thus increasing information and deliberation functions. Activity reports and official statements by the European affairs body underline this as an important evolution. The increasing opening of the European affairs body to the public serves to a certain extent to compensate the still low presence of EU affairs in the plenary and thus to help to enhance the chamber’s deliberation and interest intermediation functions. MPs have the possibility to showcase that they defend French voters’ interests before the government and they can try to foster public debate about EU issues.

MPs in the European affairs body have claimed a more general involvement of the plenary on EU affairs for a long time. Even if there are no data, at the beginning of the Lisbon period there are some modest improvements concerning EU debates in the plenary according to actors (interview 4). In general, the involvement of the plenary remains low. In 2002, one of its long-term members judges the missing presence of its work in plenary debates as being the weakest point of the work of the Delegation for the EU (interview 1).

Ten years later, interviewees consider the involvement of the plenary as having improved, even if still low. A clerk of the EAC considers that almost all plenary debates with a European dimension continue to be initiated by the EAC of the Assemblée nationale (interview 20). Comparative data on activity in EU affairs indeed show a weak involvement of the plenary of the
Assemblée nationale in EU affairs, while the number of committee meetings is relatively high (Auel, Rozenberg, and Tacea 2015).

The reinforced parliamentary participation in the meetings of the European Council, which was introduced in 2005 after the failed referendum on the Constitutional Treaty, follows the same logic. During the Maastricht period, the European affairs body of the Assemblée nationale only exceptionally organised hearings with the minister of foreign affairs or his or her deputy minister/state secretary for European affairs to question them on the preparation or the outcome of European Council sessions (the president is only rarely allowed to speak in the chamber, and was not at all before 2008). Plenary debates were even rarer (see table 5).

The Assemblée nationale now systematically organises plenary debates the day before ordinary European Council meetings (Rozenberg and Wessels 2012), and the foreign affairs minister or his deputy state secretary for European affairs are invited to the EAC after the meetings to report about the sessions in Brussels. Again, the logic of these meetings is not to mandate the government or to control it publicly or non-publicly ex post, but to entertain the ‘steady dialogue’ between the parliamentary majority and its government on EU issues, to showcase the MPs’ defence of French voters’ interests, and to inform the wider public about important points on the EU agenda. The latter point can help French MPs in their function. MPs refrain from publicly holding to account their government (Rozenberg and Wessels 2012).

Plenary debates before the European Council are organised too late to have an impact on the negotiations. They do not take place with the president, who represents France in the European Council (interview 14). The president’s political accountability is thus not at stake. Furthermore, the debates are only organised before ordinary European Council meetings, because MPs in the Assemblée nationale themselves argue that a fruitful debate cannot be organised on short notice before extraordinary and special European Council meetings. This is a further indicator that for the longer term these plenary debates are supposed to provide information about ongoing EU issues to the chamber and the wider public, and not to serve immediate control purposes (Rozenberg and Wessels 2012).

The hearings organised after the European Council meetings are mostly not public. However, they do not serve immediate control purposes either as they are a strongly formalised exercise. The meetings start with a statement given by the government minister present, and then time is allocated to individual MPs for their comments. There is no time allocated for the minister to answer the comments. In the interviews with actors of the Lis-
bon period, this can only be interpreted as a formal activity in line with the ‘steady dialogue’ between the government and its majority present as an institutionalised leitmotiv for parliamentary participation in EU affairs. The hearings thus serve the function of informing the MPs about important – more or less confidential – outcomes of the European Council, and the government minister receives immediate feedback about issues on which MPs wish to ‘alert’ the government for future proceedings.

b) Interaction with transnational actors

Interaction patterns with transnational actors change from the Maastricht to the Lisbon period. The Assemblée nationale’s interaction with transnational actors during the Lisbon period focuses on the European Commission and the EP. They are more coherent with domestic role models in the second period. Experience with EU affairs seems to have led to different real interaction patterns.

While the interaction with the MEPs was moderate in the Maastricht period and only lowly institutionalised, things change substantially here. According to clerks MPs consider the exchange with the French MEPs to be an important tool for information gathering and exchange on political positions (interview 20). For the French MEPs, the exchange with the national MPs gives them some visibility in the domestic arena.

Several interview partners in 2012 speak of a new ‘culture’ of the French MPs. While they did not take the EP seriously throughout the 90s, they are increasingly interested in information and political exchange with MEPs later on. This even increases after the implementation of the Treaty of Lisbon. There are several formal and informal channels through which interaction with the EP takes place.

The French MPs in the different parliamentary party groups in the EP represent an important platform for exchange on political positions. The EP’s groups increasingly invite their national counterpart to meetings. For the Green group, this exchange is even decisive for positions on the national level, but for the bigger parliamentary party groups these exchanges are increasingly important as well (interview 18).

While Robert Pandraud already tried to regularly invite MEPs to the meetings of the Delegation for the EC/EU in the 90s, during the first decade of the new millennium, procedures are adapted in a way that ensures that MEPs can be present in EAC meetings. They are no longer systematically invited to the meetings, but there is a concrete bilateral cooper-
ation to arrange for special meetings in the week reserved for MEPs’ external activities. The European affairs bodies of the Assemblée nationale and the Sénat jointly decide the agenda of these meetings. All parliamentary party groups of both houses are present in these meetings (interview 14). The meetings take place on a regular basis of three to four times a year (interview 18).

This again means that they are a forum for the exchange on longer-term issues aiming to increase the Assemblée nationale’s input function in EU affairs, but they are not a tool for enhancing influence on concrete legislative acts in the decision-making phase in Brussels.

Whereas during the Maastricht period there was almost no contact with the European Commission apart from sporadic invitations to Commissioners and Commission civil servants to the Delegation for the EC/EU, during the Lisbon period French MPs slowly extend their contacts with the European executive. These new contacts must be interpreted as a fulfilment of their role of representation of individual interests and interest intermediation, and as a prolongation of the ‘steady dialogue’ with the executive on the domestic level. Contacts are destined neither to control the Commission, nor to influence EU legislation in early stages.

In contrast to patterns in the Bundestag, MPs of the Assemblée nationale’s contact with the Commission does not take place in the preparation phase of European decision-making, but in the framework of national legislative procedures in which MPs wish to exploit the European dimension of the dossier at stake. They are not individual informal contacts either, such as one can find in the case of the Bundestag, but are usually officially organised for small groups of MPs by the parliamentary representative of the chamber in Brussels (interview 18, interview 21).

The interest in these visits to Brussels of groups of MPs working on a specific legislative dossier has increased from the beginning/middle of the first decade of the years 2000 and has become more rapid since the 2008 Constitutional revision, for reasons independent of EU affairs. There are no official statistics on these meetings, but a former parliamentary representative of the Assemblée nationale during this period estimates the number of these visits at about one mission per week during the parliamentary

124 The new legal framework grants the parliament a period of six weeks between the tabling of a new draft law and its scrutiny by the responsible committee (interview 14). This means that the rapporteurs responsible for the legislative draft acts have more time to visit the European Commission to explore the European dimension of an issue.
sitting period (interview 14). Ninety per cent of these visits are experts’ meetings between a group of MPs specialised in a certain policy field and the responsible civil servants of the Commission. In a smaller number of cases, these meetings consist of larger groups of MPs who wish to meet important political EU actors, such as the presidents of the institutions or the French Commissioner (interview 18), which is often the case for the Bundestag.

These new forms of parliamentary visits are not attempts to directly influence the European decision-making procedures. They must rather be seen as a tool to establish a ‘dialogue’ with the European Commission, and as a supplementary tool of information gathering by the parliament to inform stakeholders and entertain a steady ‘dialogue’ with the Commission to nourish the ‘partnership’ with the French government. They are never described as attempts to control the information provided by the government. In contrast to the Bundestag, the increased interaction with the European Commission (which remains low) must be seen in the context of the representation function that MPs fulfil for their constituency. The visits are a tool that provides MPs with the necessary knowledge to share with their stakeholders at home about important regulatory developments on the EU level. According to interviewees, they serve to sensitise civil servants of the European Commission to issues that can be potentially problematic for French voters.

In support of this line of argument is the fact that the only complaint about the European Commission in this context – which is usually described as highly interested in this type of meetings to enhance successful transposition of EU law – is about a Commission civil servant refusing to meet with stakeholders whom a Senator had invited to Brussels to be able to present their concerns (interview 10).

The use that the Assemblée nationale makes of the opinions addressed to the European Commission in the framework of the so-called ‘Barroso dialogue’ must also be seen as a means of ‘steady dialogue’ with the European Commission and not as a policy-making tool. This is further illustrated by the fact that the reasoned opinions that parliaments are enabled to send in the framework of the Early Warning Mechanism on subsidiarity since the implementation of the Treaty of Lisbon are almost not used by the Assemblée nationale.125

125 The situation might be different in the Sénat, where Senators have opted for a legalistic interpretation of the subsidiarity check and a systematic screening of
Table 10: Assemblée nationale: Political dialogue and EWM (2006-2014)

<table>
<thead>
<tr>
<th>Type</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political dialogue</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>11</td>
<td>9</td>
</tr>
<tr>
<td>Reasoned opinion</td>
<td>/</td>
<td>/</td>
<td>/</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

Source: (Thomas and Tacea 2015, 182); own completion for 2013 and 2014 on the basis of the same source (European Commission 2015).

The French Assemblée nationale uses the Political Dialogue with weak to moderate frequency, even if there are unfortunately no concrete data (and in the official documents the absolute number seems to be lower than the number of opinions sent by the Bundestag), since until 2012 there was a conflict between the European Commission and the Assemblée nationale as to which document should be counted in the Political Dialogue. Interview evidence suggests that what the Assemblée nationale considers to be usual numbers of opinions in the political dialogue from 2013 onwards is adequate.

In practice, this means that the Assemblée nationale has simply extended its ‘dialogue’ with the government to the European Commission. Documents (conclusions, communications, European Resolutions) that are sent to the government are now also submitted to the European Commission in parallel. Interview partners in the Assemblée nationale suggest that the Political Dialogue with the Commission is an important symbolic tool for MPs as it opens a direct channel of exchange with the European Commission for them (interview 14, interview 18). Again, this does not mean that the MPs see the Political Dialogue as a means to circumvent the government. On the contrary, MPs use it because it gives them the opportunity to express some important political longer-term points of principle that are usually in line with the government policy. In contrast to the opinions (Stellungnahmen based on Beschlussempfehlungen stemming from the committees) of the Bundestag, which may be highly detailed, the conclusions, communications, and even resolutions submitted by the Assemblée nationale usually contain a certain number of broad political guidelines.

126 Conversation with assistant of parliamentary party group.
Interview partners suggest that the reasoned opinions on subsidiarity are rarely used exactly for that same reason. MPs do not want to interfere with the government in the early phase of the decision-making in Brussels. According to domestic practices, they consider the check of subsidiarity and the definition of the objectives of European integration to be a matter of the government, and refrain from expressing themselves early in the decision-making process. In case a reasoned opinion on subsidiarity is submitted, this is usually coordinated with – or at least checked by – the government (interview 14). Thus, it is a means of supporting the government.

Such a clear vision about which role parliament should play vis-à-vis the government and vis-à-vis Brussels did not exist during the Maastricht period. The idea defended in France that national parliaments should have direct representation on the national level is thus more likely to express the will to extend information channels and to advocate the interests of French voters.

The only interaction with the European Commission that already existed in the Maastricht period was the invitation of Commissioners and their civil servants to the hearings in committees in the Assemblée nationale. In line with the MPs of the Assemblée nationale’s growing attention to the EU as a political framework, this activity increases considerably (even if not as much as EC/EU legislation). While there were 13 such hearings throughout the entire Maastricht period up to 1997, between 2002 and 2012 alone there were 31 hearings with Commissioners and 58 hearings with other ‘European personalities’127 (Commission affaires européennes 2012, 20).

A growing practice of interaction with other national parliaments starts at the end of the 90s with the preparation of the accession to the new member states, the Convention for a Charter on Fundamental Rights (interview 5). The idea that develops in this context and that has already been discussed in this book is that, according to their representation role on the national level, MPs should be representatives of France and French positions to other national parliaments (interview 7, interview 8). In 1999, Alain Barrau attributed one candidate country to each of the interested members of the Delegation. The respective MP served as a diplomatic representative of the Assemblée nationale to the parliament of the candidate country. When asked about his role regarding other member states’ parliaments, Pierre Lequiller, the chairman of the European affairs body of the Assemblée nationale from 2002 to 2012, also affirms feeling like an ambassador of

127 The report unfortunately does not explicitly indicate who is counted in this category.
French positions to other parliaments. Such ideas were less clearly shared among actors during the Maastricht period. The control of the government through an enhanced role for parliaments was an important demand by Robert Pandraud and Philippe Séguin, for example.128

Throughout the first decade of the 2000s, interparliamentary cooperation is supported and strengthened despite changing parliamentary majorities. In 1999 (Sénat) and 2005 (Assemblée nationale), both chambers establish parliamentary representatives in Brussels. They are seen as part of the French diplomatic networks in Brussels (interview 14). The physical expression of this fact is that their office is located in the Permanent Representation of France to the EU. When the EP offers office space to accommodate all parliamentary representatives on its premises, the French parliamentary representatives retain two offices (interview 14, interview 18). Interviews in 2012 show that they feel closely connected to the civil servants of the Permanent Representation, and that former permanent representatives were among the leading drivers of the establishment of parliamentary representatives in Brussels (interview 14).

The type of work that the parliamentary representatives conduct underlines the fact that the post is not primarily conceived for supporting parliamentary participation before decision-making in Brussels. Two-thirds of their time is spent on the organisation of the information visits described above. In the remaining time, they fulfil the role of representatives of the Assemblée nationale or Sénat to the network of other parliaments, communicating the chamber’s point of view on certain issues. It is only then that they take care of the information of the parliamentary administration back home about proposals in the pipeline in Brussels (interview 14, interview 18). Their diplomatic function is underlined by the fact that in the Sénat all official communication with EU institutions must at least be notified to the parliamentary representative (interview 18).

Interviewees underline the fact that even if almost all member states of the EU do have a parliamentary representative in Brussels, the status and tasks of these representatives are different, which makes cooperation difficult despite their common location. Furthermore, they underline that by

128 There is one exceptional period to this rule: the control of the subsidiarity principle plays an important role for the Committee for the Affairs of the EU from 2012 to 2013 under Socialist chairman Simon Sutour. This seems to have been the consequence of the Sénat being exceptionally of another political colour than the government and thus in opposition, rather than being the expression of a changed perception of parliamentary participation in EU decision-making.
being in Brussels, parliamentary representatives are somewhat cut from the parliamentary agenda and practice at home, and for the MPs they often represent only one possible channel of information on proceedings of EU affairs – and certainly a less important one than the government (interview 14, interview 18).

On the bilateral level there seems to be some increase in interparliamentary cooperation since the Maastricht period, but not much. Institutionalised cooperation (i.e. regular meetings of chairmen of standing committees) even seems to have decreased because the meetings proved to be inefficient or were absorbed by larger parliamentary frameworks, such as the parliamentary assembly on CFSP/CSDP. Initiatives for such cooperation seem to be ad hoc and depending on individual chairmen or MPs’ personal contact. The Assemblée nationale has developed some regular exchange with the Bundestag and with the Italian and Spanish parliaments (Thomas and Tacea 2015, 185). Contact still seems to be more intense with parliaments that share the same language family, i.e. parliaments of countries with Roman languages (interview 9). This type of interparliamentary cooperation does not correspond to the usual parliamentary practice, and not only is coordination with other parliaments difficult to organise because of different political and parliamentary agendas, but it does not promise much interesting output either.

Interviews show a somewhat paradoxical situation concerning multilateral parliamentary fora. On the one hand, interparliamentary fora or representative institutions on the European level have been an important priority for the diplomatic efforts of succeeding French MPs since the Maastricht period. COSAC is seen as an important French initiative among French MPs, and the former chairman of the Assemblée nationale’s EAC seems to have been an important driver behind the idea of introducing a parliamentary assembly in article 13 of the Treaty on Stability, Coordination and Governance (TSCG) (interview 20). On the other hand, the satisfaction with concrete achievements of these parliamentary fora on the European level is low. Even if participation in these fora is now regular and even increasingly ensured by chairmen of sectoral committees, they are qualified as being too general (interview 13) and heterogeneous. They are mostly appreciated for the possibility of informal exchanges of views at their margins (interview 19).

During the Lisbon period, typifications operate in the Assemblée nationale. EU experts with important national parliamentary experience and networks become the ‘typical’ actors in EU affairs in the chamber. MPs’ activities on the aggregate level represent role models of the chambers on the
domestic level. The following sub-chapter shows that one can observe similar evolutions in the Bundestag for the Lisbon period.

**B – Bundestag**

The second sub-chapter examines the handling of EU affairs in the German lower house during the Lisbon period. The first section shows that the European affairs body in the Bundestag also undergoes a *typification* in the direction of a ‘normal’ committee. However, this happens differently than in the Assemblée nationale. In the Bundestag, a cross-party community of practice clearly emerges that shares knowledge and experience about ‘doing EU’ in the chamber. This group of MPs has a significant agency for the reforms of organisation and legal frameworks for EU participation in the Bundestag during the Lisbon period. EU expertise in the chamber more generally increases.

The Bundestag’s action follows more distinct patterns. As in the Assemblée nationale, MPs attempt to reproduce *functional equivalents* for the roles that the Bundestag has on the domestic level. Accordingly, the committees in the Bundestag try to establish close links with the ministries of the government to ‘accompany’ the responsible unit on the negotiations in the Council. This reproduces the close cooperation between government and parliamentary majority on the detailed legislation on domestic level, and also attempts to fulfil the Bundestag’s expert *control* and *co-governance* role in EU matters. Interaction with EU transnational actors more clearly follows this dominating role model for the Bundestag as well.

According to the same logic, interaction with the EP decreases during the Lisbon period. Instead, interaction with the European Commission in the preparatory phase of decision-making increases and serves either direct attempts to influence European decision-making or the better control of government information.

1) Actors and agency

The first sub-section focuses on the actors who carry out EU-linked action in the chamber. In a first part, it discusses the European affairs body, which has become a *typical* committee of the Bundestag and loses the coordination role for EU affairs for which did not fit to existing practices in the chamber. According to its administrative logic, the sifting and coordina-
tion of incoming documents between the standing committees is done at the administrative level. Sectoral experts are increasingly interested in EU affairs.

The second part shows that the actors successfully pushing for the fundamental revision of the legal framework for EU participation during the Lisbon period stem from a cross-party community of practice that shares knowledge about the day-to-day participation in EU decision-making.

a) European affairs body and EU expertise

The European affairs body in the Bundestag is remodelled in a long process of ‘trial and error’ in the chamber. With the experience of ‘doing EU’ and of the incompetence of subsequent bodies to enhance participation of the Bundestag in EU affairs within the framework of established parliamentary practices and ‘ways of doing things’, the body is remodelled several times throughout the Maastricht period (see page 127).

During the Lisbon period, the role and practices of the European affairs body – whose membership is definitely fixed in 1994 – become more typical. As a consequence of established parliamentary practices, the EAC only rarely has the lead responsibility for an EU draft act in sectoral policy fields. Therefore, it develops into a body that ‘mirrors’ the Chancellery and the two coordinating ministries in the government for German EU policy (Beichelt 2015). This can be considered a typical role for a Bundestag committee. Its activity radius only encompasses the institutional and procedural issues of the EU in particular and European integration in general.

This logic corresponds to the usual organisation of the committees in the Bundestag. The Bundestag establishes one committee per government ministry to ensure a close cooperation between minister and ministerial administration, the parliamentary party groups of the majority, and the ‘expert’ committees. The specialisation of the EAC must therefore be interpreted as a ‘normalisation’ of the committee with reference to the ‘usual ways of doing things’ in the Bundestag. The attempt to transform the Bundestag’s European affairs body into a coordination body superordinate to the sectoral committees underestimates this established parliamentary practice. Members of the EAC must be seen as experts on ‘constitutional’ questions of the EU. During the Lisbon period, MPs in the EAC thus handle questions about EU accession, the modifications of EU treaties, all issues regarding EU institutions, and cross-cutting issues, such as EU 2020, which do not clearly fall under the competences of one of the sectoral
committees. Other policy-related subjects are dealt with in the sectoral standing committees.

The overall number of EU experts is higher in the Bundestag than in the Assemblée nationale during this period. Observers consider that there are about 100 EU experts in the Bundestag in 2012 (Callies and Beichelt 2013). This must be seen from the perspective of the patterns of activity that the Bundestag develops during this second period (see page 209). It develops participation patterns that allow it to reproduce the MPs’ main roles as experts, law-makers, and controllers of executive policies for European affairs. This means that, in contrast to the Assemblée nationale, in the Bundestag MPs need to cover the whole range of EU legislative and decision-making output to produce action patterns that represent functional equivalents to their domestic role of expertise and co-governance in the sector of EU affairs. As was shown previously, in the Assemblée nationale, to fulfil their role of interest intermediators MPs need to be interested in EU affairs only insofar as their stakeholders’ interests are at stake.

During the Lisbon period, the EAC retains a fundamentally symbolic function of administrative coordination of the submittal of EU documents to the sectoral committees. However, the important functions in terms of the content of EU draft acts, such as the sifting and prioritisation of the incoming documents, are carried out in an administrative unit that is only under the auspices of the EAC for a short period of time (for the meaning of the sifting practice see page 209). It is then quickly integrated into the general administration of the Bundestag under the control of the latter’s general political steering bodies.

In 2005 (1.4.2005), the Bundestag creates a ‘Task Force Europe’ in the office of the Bundestag’s director. The name of this organisational unit is changed on 1 May 2006 to ‘Unit PA 1 – Europe’ (PA1). It obtains further tasks, is broken off from the director’s office, and integrated in the ‘Department P – Parliament and Members of Parliament’, in which it becomes an autonomous sub-unit of the ‘Committees’ sub-department where all secretariats of the committees are pooled. From 1 July 2007 onwards, the ‘Europe Office’ located in the EAC’s secretariat is transferred to this new ‘PA 1 – Europe’ unit (Feldkamp 2010). The institutional anomaly of having an administrative unit responsible for document sifting centralised under the auspices of the EAC, which was introduced with the Treaty of Maastricht, is thus abandoned again.

This means that the allocation of EU documents is again presently a matter of the coordination of an autonomous unit of the administration – in coordination with the president of the Bundestag, the Council of the El-
ders, and the parliamentary party groups – and not a matter of the secretariat of one of the committees. This development is reinforced when an autonomous sub-department ‘PE – Europe’ is created in 2013, which definitely and formally breaks the selection and distribution of documents from the sub-unit comprising all committee secretariats (Feldkamp 2010).

This organisational change corresponds to the way in which the attribution of documents to the standing committees always fundamentally worked out in practice. The EAC did not have any real power on the incoming EU documents and its secretariat merely acted as a neutral hub of documents. For an in-depth selection of documents, it was terribly overloaded. At the same time, there is an important increase in the number of staff in ‘PA 1 – Europe’ to ensure a more systematic pre-selection of the incoming documents, which increase sharply with the new legislation implemented in 2005 and 2006.

The newly created administrative unit (PA1) allows the Bundestag to cope with the particularity of the EU issues that are both cross-sectional and too numerous to be dealt with alone with the usual distribution by the plenary or the president of the Bundestag in cooperation with the Council of the Elders – and the First Secretaries of the parliamentary party groups to which PA1 sends the document selection (interview 31).

Draft acts in the Bundestag are usually formally attributed to the standing committees by the plenary or in a simplified procedure by the president of the Bundestag in accordance with the Council of the Elders (Standing Orders § 80). In practice, the First Secretaries of the parliamentary party groups take the decision, and then the Council of the Elders formally enacts it (Töller 1995, 89).

As the Bundestag is strictly organised in accordance with the federal ministries, the attribution of the responsibilities to the committees usually

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129 At best, the right to be informed about all incoming EU documents, which was first granted to the Committee for the Affairs of the European Community, ensured that the committee was informed about all EU draft acts with which the Bundestag dealt. The important information overload of the ‘Europe Office’ however, later hindered the Committee for the Affairs of the EU in concentrating on the important dossiers dealing with fundamental questions of the EU.

130 The parliamentary party groups agree in 90% of the cases with the pre-selection. One interviewee explains this as the fruit of the close cooperation between the sectoral committees and the fact that parliamentary clerks base their selection on the interests of the respective committees (interview 31).

131 EU draft acts are usually all attributed according to the simplified procedure to speed up parliamentary scrutiny and to cope with the short deadlines of the Council negotiations.
exactly follows the line of responsibility for a draft act among the government ministries. In matters of the EU, this distribution logic has always been applied as well, and has never been modified, notwithstanding the changing arrangements for the formal coordination competence of the incoming documents on the administrative level.132

The establishment of PA1 thus corresponds to a reinterpretation of ‘usual ways of doing things’ to find functional equivalents to the old practices. The decision to put into place an autonomous administrative unit for distribution and selection also finally and formally cements the Bundestag’s decentralised dealing in practice with matters of the EU:

‘This is why we have the Europe unit and why we are not attached to the EU Committee. This was the organisational decision behind this. […] As a unit we will exist until 2006. And in the previous discussions, before the establishment of the unit, [the “mainstreaming” of EU policies] was the decision that was taken.’133 (interview 31).

b) Agents of change of formal rules

As in the Assemblée nationale, throughout the Lisbon period experts in day-to-day EU decision-making push through the change of formal rules for EU affairs in the Bundestag. A group of long-time EU parliamentary specialists, including among others Michael Stübgen (CDU), Michael Roth (SPD), and Rainder Steenblock (Bündnis 90/Die Grünen), form a sort of community of practice across party groups and government and opposition cleavages. They are the leading agents of change of formal rules for the

132 Until the establishment of the first Committee for the Affairs of the European Community, the secretariat of the Bundestag submitted EU draft acts to the ‘Specialist Division XII – European Community’ of the Scientific Service of the Bundestag, which transferred the draft acts according to the line ministry communicated by the government. The Committee for the Affairs of the European Community was then at least informed about all incoming EU documents. The ‘Europe Office’ of its successor, the Committee on Matters of the EU, was finally formally charged of the coordination of the distribution in the Bundestag.

133 ‘Deswegen haben wir auch das Europareferat und sind nicht angedockt am EU Ausschuss. Das war die Organisationsentscheidung dahinter. […] Uns als Referat gibt es seit 2006. Und in der Diskussion im Vorfeld, vor der Gründung dieses Referats war das [“mainstreamen” der EU Politik] die Entscheidung, die getroffen wurde.’
handling of EU affairs in the Bundestag from the beginning of the year 2000 onwards. The group of MPs shares knowledge and ideas about parliamentary participation and tries to convince changing governments and own majorities about the necessity of introducing more far-reaching participation rights for parliament. To push their claims through, they use political ‘windows of opportunity’.
### Table 11: Bundestag: Evolution of formal prerogatives (Lisbon period)

<table>
<thead>
<tr>
<th>EU events</th>
<th>Year</th>
<th>Parliamentary prerogatives</th>
<th>Conflicts in parliament</th>
<th>Agents of change</th>
</tr>
</thead>
</table>
- extension of information rights  
- establishment of an office of the Bundestag in Brussels | Late participation of the Bundestag in the decision-making cycle; lack of sufficiently early information; coordination problems | ‘Club of EU experts’ (from CDU/CSU, SPD, FDP, Bündnis 90/Die Grünen) in intergroup working group |
| Treaty of Lisbon | 2009 | Law on the Cooperation of the Federal Government and the German Bundestag in matters of the EU (*novel of EUZBBG*)  
- definition of type of documents to be sent to the Bundestag  
- additional information rights on selective foreign policy matters  
- obligation for the government to inform Bundestag about Council negotiations  
**Responsibility for Integration Act** (*Integrationsverantwortungsgesetz*) | Lack of sufficiently early information, Lisbon judgement of the German Constitutional Court | EU experts of CDU/CSU, SPD, FDP, Bündnis 90/Die Grünen in intergroup working group; parliamentary secretaries of the same parliamentary party groups |
<table>
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<tr>
<th>EU events</th>
<th>Year</th>
<th>Parliamentary prerogatives</th>
<th>Conflicts in parliament</th>
<th>Agents of change</th>
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<tbody>
<tr>
<td>Treaty of Lisbon (follow-up of 2009 legislation after ‘monitoring phase’); context: Eurozone crisis</td>
<td>2013</td>
<td>Law on the Cooperation of the Federal Government and the German Bundestag in matters of the EU (novel of EUZBBG)</td>
<td>Monitoring report commissioned by the Bundestag showing information failures by the government, in particular concerning information provision Lisbon judgement of the German Constitutional Court Judgement of the Constitutional Court on action by the Green Party</td>
<td>EU experts of CDU/CSU, SPD, FDP, Bündnis 90/Die Grünen, and Die Linke</td>
</tr>
</tbody>
</table>
An interparty working group of EU experts: Agreement between the federal government and the Bundestag, 2006

Between 1993 and 2003, the parliamentary dealings of EU affairs are in principle based on the Law on the Cooperation of the German Bundestag and the Federal Government in matters of the EU (EUZBBG), which is relatively short. It repeats the prerogatives for the Bundestag as they are fixed in article 23 of the German Basic Law, substantiates the circumstances of the information of the Bundestag, and introduces the possibility for the Bundestag to issue opinions before decisions in the Council (Beichelt 2015, 302).

After the public debates about the European Arrest Warrant and the Service Directive, and the debate about the legitimacy of the EU with the Constitutional Treaty, there is much debate in the Bundestag about the impact of European legislation on German domestic law (interview 42).

‘On the one hand there was the debate that many decisions, specialist decisions, were determined in Brussels and that the Bundestag gets a corridor, so to say, within which it can decide itself about 50 or 60 or I do not know what percentage of a legislation. This was new for many MPs, and therefore the interest in how one could actually do something in the preparatory phase and how one could organise government control, this was a very important debate at that time.’  

There is a widespread feeling among MPs in the Bundestag that there have been changes that no longer allow them to fulfil the Bundestag’s genuine role of participation in the governance.

In contrast to what happened when the parliamentary prerogatives were enhanced with the Treaty of Maastricht, the EU experts of all parliamentary party groups (except for the then Partei des Demokratischen Sozialismus (PDS) group) are important agents of the new parliamentary reforms that are prepared around 2004 and 2005. Whereas in 1992 many EU experts are not convinced about the necessity of having a new legislation for parlia-

134 ‘Auf der einen Seite gab es ja die Debatte, dass eben viele Entscheidungen, fachpolitische Entscheidungen in Brüssel determiniert sind und der Bundestag eben sozusagen, sagen wir mal, Korridor bekommt, indem er selber entscheiden kann für 50 oder 60 oder wie viel Prozent einer Gesetzgebung. Das war für viele Abgeordnete neu und von daher war so das Interesse, wie kann man im Vorfeld eigentlich was machen und wie kann man Regierungskontrolle machen, das war schon eine ganz wichtige Debatte in der Zeit.’
mentary participation, in 2004 and 2005 the EU experts from the majority and the opposition fight for changes in their respective political camps. In 2004 and 2005, the patterns appear that will structure the struggle for enhanced parliamentary participation rights until the present day. A well-connected interparty group of EU experts fight to convince their parliamentary party groups’ establishment about necessary reforms. Parliamentary party groups in the government are reluctant to grant new rights, and reforms come about when there are either windows of opportunity caused by the political cycle or pressures on the governing parties, usually from the public and the actions filed at the Constitutional Court.

The pattern of interaction between the government and the opposition in this period is characterised by the fact that the opposition must choose between playing the political game of publicly claiming further participation rights and accusing the government of information failures, or negotiating behind closed doors with the EU experts of the parliamentary party groups in government to obtain more rights against the government together. One CDU member of the European Affairs committee confirms:

‘Because we are always strong in cases in which we propose something together with the opposition. And I preach this always, and often it does not work out. When the opposition overdraws, that is launches a campaign – it must always decide between campaigning in the hope of gaining something for the next elections – then it fails, because we block them […]. Or we try to achieve something regarding content. In this case I can always use the opposition against the government as hostages, like for example you say, they will agree, but we have to give them this, like this. This is a kind of game, usually you get better results like this. For the opposition it is a dilemma, of course, that it does not appear publicly.’ 

(135 interview 46)

135 ‘Weil wir sind immer dann stark, wenn wir mit der Opposition zusammen was bringen und das ist das, da predige ich immer und oft klappt es nicht, wenn die Opposition überzieht, das heißt, eine Kampagne macht – sie muss sich eigentlich immer entscheiden, will sie eine Kampagne machen, in der Hoffnung sozusagen für die nächste Wahl irgendwas ziehen zu können – dann scheitert sie, weil wir blocken sie dann weg […]. Oder wollen wir inhaltlich was erreichen, dann kann ich die Opposition immer sozusagen benutzen gegenüber der Regierung als so Geiseln, also dass man sagt, die stimmen zu, aber das müssen wir ihnen geben, so. Das ist so ein Spiel, da kommt man in der Regel zu vernünftigeren Ergebnissen. Für die Opposition ist natürlich das Dilemma, dass sie öffentlich nicht vorkommt.’
The inner-parliamentary process leading to a novel of the EUZBBG and to the Agreement between the Federal Government and the Bundestag is a complex negotiation process. In 2004, an interparty working group on the reform of the legal framework of the Bundestag’s participation in EU affairs is established.

The question of who the parliamentary party groups should send to the working group is decided in favour of the EU experts (instead of sending the parliamentary party groups’ secretaries), who have to campaign intensely for this. The main argument for sending the EU experts is that the First Secretaries (or Chief Whips) do not have the necessary expertise to negotiate parliamentary participation rights:

‘[…] [It] was also controversial, […] if the whips from the parliamentary party groups should negotiate it or the Europe people, and I fought a lot to have the Europe people do it, because the whips are not able to do this, they know far too little about it. But there were also controversies about this, internally, because the competition is relatively high. Finally, the Europe people did it.’\textsuperscript{136} (interview 42)

In contrast to the Maastricht period, within parliament a ‘club’ now exists of long-standing EU experts from different parliamentary party groups who have good personal relationships and who have promised each other to fight for strengthened parliamentary participation rights, including against the elite of their own parliamentary party groups and their own government (interview 42).

‘[…] at that time there was a club of people who got along with each other very well from the parliamentary party groups. We had promised each other solemnly that we would also fight with our own people in the bureau of the parliamentary party group or in the government.’\textsuperscript{137} (interview 42).

\textsuperscript{136} ‘[…] [Es] war auch umstritten, […] ob es die Geschäftsführer verhandeln sollten aus den Fraktionen oder ob das die Europaleute verhandeln sollen und da habe ich sehr dafür gekämpft, dass das die Europaleute waren, weil die Geschäftsführer das nicht können, die wissen da viel zu wenig drüber. Aber da gab es auch Streitereien drum und so, also intern, weil die Konkurrenz da bei allen relativ groß ist. So, und dann haben es die Europaleute gemacht.’

\textsuperscript{137} ‘[…] zu der Zeit hat es eben so ein Klub von Leuten, die sich persönlich alle gut verstanden, aus den Fraktionen, gegeben, die sich sozusagen in die Hand versprochen haben, wir streiten uns auch mit unseren eigenen Leuten im Fraktionsvorstand oder in der Regierung.’
In 2005, the CDU/CSU parliamentary party group launches a draft law containing substantially enhanced information rights for the Bundestag, and campaigns strongly in public for this new law (Gesetz zur Ausweitung der Mitwirkungsrechte des Deutschen Bundestages in Angelegenheiten der EU) (Deutscher Bundestag 2005)).

The EU experts from the other parliamentary party groups consider the law to be an excellent legislative framework for the Bundestag’s participation in EU affairs, in particular concerning the broadened information rights throughout the negotiations in the Council (interview 42). For the EU experts from the governing coalition, and in particular parts of the Green parliamentary party group, the situation is highly difficult. They support the content of the opposition draft law and try to convince the government to find a solution to grant the Bundestag further rights. However, the Green Federal Minister for Foreign Affairs in particular is not interested in having stronger prerogatives for the government. The EU experts fight fiercely internally in the first half of the year 2005 within their parliamentary party groups, but without much success.

‘[…] we [had] at that time, I mean in the parliamentary party group, and I in particular, a strong interest […] in using the opportunity, to extend the participation rights […] The background was that the CDU […], which at that time, 2004, 05, in the first half-year was still in the opposition […] had produced a quite good draft of a participation law, because they had not anticipated, well nobody had anticipated that we would have general elections so soon. […] technically, all should have been adopted by the Bundestag in the summer 2005 and I had had a lot of controversies with the government, because Fischer as foreign secretary did not have any interest in this, to strengthen the rights of the Bundestag.' (interview 42)

138 The Federal Foreign Ministry is traditionally in one of the two ministries that coordinate the EU instructions for the Council of Ministers within the German government.

139 ‘[…] wir [hatten] damals, also aus der Fraktion heraus, und ich ganz besonders, ein großes Interesse […], die Chance zu nutzen, die Beteiligungsrechte […] zu erweitern, […] der Hintergrund war, dass die CDU […] die war ja damals 2004, 05 im ersten Halbjahr noch in der Opposition […] einen ziemlich guten Entwurf für so ein Beteiligungsgesetz gemacht [hatte], weil die nicht damit, also da rechnete damals ja keiner damit, dass wir so schnell Neuwahlen bekommen würden. […] eigentlich sollte das im Sommer ’05 alles durch den Bundestag abgesegnet werden und ich hatte mich auch ziemlich rumgestritten mit der
A coincidence of the electoral agenda finally helps EU experts to obtain a more far-reaching law than the SPD/Green government would have authorised. Parliamentary proceedings cannot be finalised in summer 2005, however, because after a disastrous electoral defeat in the Land North-Rhine-Westphalia the Schröder government surprisingly calls for early elections\textsuperscript{140}, which lead to a grand coalition led by chancellor Angela Merkel.

‘And basically we finally managed it, and this was also a condition to passably get away with it with the Constitutional Court. The fact that we had a relatively good legislation, we wouldn’t have had it if the government had not changed. What the red-green coalition, well what they would have allowed the parliament, would have been much less than what we achieved later on.’\textsuperscript{141} (interview 42)

Once in government office, the CDU/CSU-led government is much less keen on its own draft law on parliamentary participation. The SPD-led Federal Ministry for Foreign Affairs opposes strengthened information rights as well. Both the fact that Angela Merkel strongly supported the draft law in public when still in opposition and the fact that the CDU/CSU majority of the government was keen on containing the new SPD Foreign Minister give the EU experts the opportunity to push major parts of the original draft law through in the new legislature. The then Green speaker for European affairs assumes: ‘And it was just because the CDU did not have the Foreign Ministry and wanted to treat on Steinmeier’s foot a bit, and therefore – well it was an extremely, for the Parliament extremely favourable situation, something like this is rare’\textsuperscript{142} (interview 42).

\textsuperscript{140} In Germany the government cannot dissolve parliament. In a constitutionally contested move, the chancellor asked for the confidence of the parliament, which he was denied. He then asked the Federal President for the dissolution of parliament and the call for early elections.

\textsuperscript{141} ‘Und das haben wir im Grunde nur letztendlich positiv hingekriegt und das war ja auch eine Voraussetzung, dass wir nachher beim Verfassungsgericht einigermaßen durchgekommen sind [“Lisbon Judgement”, author’s comment]. Dass wir eine relativ gute Gesetzgebung hatten, wir hätten sie nicht gehabt, wenn nicht die Regierung gewechselt hätte. Also unter Rot-Grün, also das, was unsere Regierung damals dem Parlament erlaubt hätte, war sehr viel weniger als, was nachher durchgesetzt worden ist.’

\textsuperscript{142} ‘Und die CDU eben, sie hatte eben nicht das Außenministerium und wollte dem Steinmeier da auch ein bisschen auf die Füße treten und so – also das war eine extrem, für das Parlament eine extrem günstige Situation, hat man selten.’
However, some points are weakened and the information rights of the Bundestag are finally only fixed in an implementation agreement (Bundestags-Bundesregierungs-Vereinbarung, BBV (Bundesgesetzblatt 2006)) and not in a federal law. A long-time member of the European Affairs committee of the CDU recalls:

‘[…] well, we introduced a bill in parallel, which we called differently at that time however, a sort of duty-for-information-law for the government. And this was, of course, rejected by the coalition. And […] then we railed at the government, well evil and bad and upsetting, this will not work. […]

And the thing was taken up in the coalition negotiations, we had the anticipated general elections. And then the agreement was, we make a BBV, that means no law […], because Merkel was by then Chancellor and did not want to be bothered with her text anymore, this is how it is.

And then I was responsible for working on the BBV. And the longer, the more the government dissipated its energies, the less it wanted to have any really substantial rights. But then in 2006 […] they got through with it."143 (interview 46).

The central controversy between the government and the EU experts regards the information rights of the parliament and the representation of the Bundestag in Brussels. The government is reluctant to grant the Bundestag better access to internal documents and has plans to install a parlia-

143 ‘[…] auch wir haben gleichzeitig ein Gesetz eingebracht, das haben wir aber anders genannt damals, so eine Art Informationspflichtengesetz der Bundesregierung. […] Und das hat natürlich die Koalition abgelehnt. Und […] da haben wir geschimpft auf die Regierung, also böse und schlecht und schlimm, das geht gar nicht. […]
Und dann marschiert die Sache in die Koalitionsverhandlung, wir hatten ja die vorgezogenen Wahlen. Und da, die Vereinbarung war, wir machen eine BBV, also kein Gesetz […], weil Merkel war mittlerweile Kanzlerin und wollte von ihrem alten Text so viel dann gar nicht mehr wissen, so ist das halt. Und dann hatte ich diese Aufgabe, diese BBV zu verarbeiten. Und je länger, je mehr sich die Regierung gezettelt hat, umso weniger wollten sie was von wirklich substanziellen Rechten noch wissen. Und sind dann aber 2006 […] durchgekommen damit.’
mentary representative in the Permanent Representation of Germany, instead of installing a fully fledged office of the Bundestag in Brussels. The then speaker for European affairs of the Green party recalls:

‘And that the, well it was always about the documents, if they had to be transmitted or not. Well, this was defensive by the government […]. Then basically, in the beginning they did not want a separate office at all, but wanted to put somebody from the administration of the Bundestag into the Permanent Representation. […] So to speak to maintain a structure dominated by the executive […]’ (interview 42)

Finally, on 17 November 2005, the Bundestag adopts a ‘Law on the extension and strengthening of the rights of the Bundestag and the Bundesrat in matters of the EU’; and then in 2006 the already quoted interinstitutional agreement between the Bundestag and the Bundesregierung (Beichelt 2015, 305). While the laws adopted in 1992 already foresaw that all Council documents that were sent to the government had to be transferred to the director of the Bundestag, the obligations of the government to inform the Bundestag are now further detailed. The government is from 2005 onwards also obliged to transmit Commission initiatives and proposals in the preparation phase of the decision-making cycle in Brussels. Furthermore, the government is obliged to inform parliament about about content, objectives, and timing of its negotiation strategy in the Council of Ministers. This new prerogative is a direct fruit of the feeling that MPs have of not to be sufficiently informed by the responsible units in the line ministries about important developments on EU legislative dossiers and thus of the conflict with their role as expert controllers.

The agreement between the Bundestag and the federal government specifies the concrete list of documents that have to be transmitted (Beichelt 2015, 307). The most important innovation of the legislative package is fixed in the interinstitutional agreement: the Federal government is obliged to state until when the Bundestag’s opinion can still be taken into account for each EU procedure (Beichelt 2015, 307).

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144 ‘Und dass die, also es ging immer um die ganzen Dokumente, die zugeleitet werden müssen oder nicht und welche Dokumente. Also das war sehr defensiv von der Regierung […]. Dann wollten sie im Grunde am Anfang überhaupt gar kein eigenes Büro haben, sondern wollten aus der Bundestagsverwaltung jemand in die ständige Vertretung reinpacken. […] Sozusagen also so eine exekutiv dominierte Struktur […] weiter behalten.’
The agreement furthermore specifies that, through its Permanent Representation and through the bilateral Embassy, the government must assist the liaison office of the Bundestag in Brussels, which was established in 2007 (Bundesgesetzblatt 2006).

An interparty working group of EU experts: ‘EUZBBG’ (first novel); Responsibility of Integration Act, 2009
A group of EU experts of whom most already followed the 2004/2005 negotiations are also important agents of change for the following important adaptation of the legislative framework of the Bundestag’s participation in EU affairs.

For a long time, EU experts in the Bundestag had called for a transformation of the interinstitutional agreement between the Bundestag and the Federal government into a law, but they did not succeed in convincing their government of this necessity when the ratification of the Treaty of Lisbon is on the agenda. For the then opposition, the subject is not as important as threatening not to ratify the treaty (interview 46).

When the Federal Constitutional Court rules in June 2009 that the Bundestag accompanying law to the ratification instrument for the Treaty of Lisbon is against the German Basic Law, because it does not sufficiently preserve the Bundestag’s participation rights, the EU experts seize the opportunity to extend the Bundestag’s prerogatives as far as concerning the day-to-day decision-making.

The Federal Constitutional Courts ‘Lisbon ruling’ only marginally regards the Bundestag’s participation in day-to-day decision-making (interview 46). The ruling is mostly concerned with the Bundestag’s participation in changes to the EU treaties that are not subject to national ratification, such as changes decided upon by the simplified treaty revision procedure and the so-called ‘passerelle clauses’, which allow the introduction of qualified majority voting in certain policy fields.

As a consequence of the Lisbon ruling, the Bundestag’s parliamentary party groups again establish an intergroup working body to push through a new accompanying legislation throughout the summer. The time frame for this new legislation is restricted because general elections are planned for autumn 2009. Parliamentary proceedings must be quick if Germany does not want to be responsible for a delay of the coming into force of the Treaty of Lisbon, which is foreseen for December 2009.

Therefore, similarly to during the Maastricht negotiations, the parliamentary working group is staffed with the First Secretaries of the different parliamentary party groups (interview 46). As a consequence of extreme
time pressure and high-level participation, there is not much real parliamentary debate about the improvement of the Bundestag’s parliamentary participation in EU affairs (interview 40). The political aim is, as in the Maastricht debates, to respond to constitutional considerations (this time already expressed in a ruling by the Federal Constitutional Court) and to proceed swiftly to the end of the ratification procedure. As a consequence, at first only a draft act exists for the ‘Responsibility of Integration Act’, which responds in principle to the concerns of the Constitutional ruling.

In contrast to the Maastricht proceedings, however, the group of EU experts who have already participated in the debates about the legislative packages in 2004 and 2005 also participate in the working group on the new accompanying legislation and have already accumulated their expertise on the matter. The EU experts of all parliamentary party groups except Die Linke (which has a negative standpoint on the Treaty of Lisbon more generally) agree that the real fundamental issue is the Bundestag’s participation rights in the day-to-day decision-making in the Council (interview 46). This group of EU experts therefore pushes for the transformation of the interinstitutional agreement between the Bundestag and the government into a law. Further changes are added which for the most part result from the 2004/2005 parliamentary debates and not from the Lisbon ruling. These changes particularly concern a still more detailed list of the documents that must be submitted to the Bundestag, and in particular specifications concerning the wire reports (‘Drahtberichte’) on the negotiations in the Council, which government civil servants send to Berlin.

The judgement enhances the group of EU experts’ chances of pushing through important claims that they already formulated five years earlier.

In particular the new version of the EUZBBG, which results from the described negotiations, is written under extreme time pressure in the course of several hours. This is why the EU experts decide to include a follow-up monitoring of the functioning of the new legislation that was due in 2001.

A network of EU experts across all groups in the Bundestag: ‘EUZBBG’ (second novel), 2013
The EUZBBG’s fresh novel in 2013 is again the consequence of the process that was launched by the group of EU experts in 2004/2005. The Eurozone crisis and the new rulings by the Constitutional Court (in particular fol-
The monitoring report in 2011, which is compiled by the then unit PA1 of the Bundestag’s administration and responsible for EU affairs, shows flaws in the way the government has used its information policy towards the government in several sensible dossiers (interview 46). As early as 2011, the EU experts of the parliamentary party groups therefore reflect upon the possibility of a novel of the 2009 EUZBBG. The EU experts of the CDU/CSU and FDP governing coalition undertake a series of efforts to convince their government and parliamentary party group establishment that a novel of the EUZBBG is necessary. However, they do not have much success, despite the Green action before the Constitutional Court looming on the horizon (Interview 46).

Realising, however, that there is no chance of convincing the government of a renewed legislative framework, the EU experts decide instead to publicly ask the government to respect the 2009 version of the law – a measure that would already be quite far-reaching for a governing majority (Interview 46). The Lisbon ruling following an action by the Green party on belated information of the Bundestag changes the situation. The bureau of the CDU/CSU parliamentary party group is now convinced that a novel of the law will be necessary, and therefore helps to convince the government.

The ensuing negotiations predominantly take place behind closed doors because all five parliamentary party groups in the Bundestag (including Die Linke) agree on the necessity of the new legislation. While the Green parliamentary party group’s ideas are traditionally the most far-reaching as far as concerning the necessity of the submission of working documents from the Council’s working groups, the CDU and SPD fear being snowed under by documents and claim only documents from the COREPER level and above (interview 46).

145 Opposition MPs and backbenchers of the government parliamentary party groups (and in minority members of the civil society) file actions related to the rights of the Bundestag before the German Federal Court on the following four occasions: 1) the 2011 Constitutional Complaint about measures to help Greece and the euro rescue package (rejected); 2) the 2012 organ controversy about the Bundestag’s rights of participation/EFSF; 3) the 2012 organ controversy on ESM, Euro Plus Pact; and 4) the 2012 application for interim measure to prevent ratification of ESM and Fiscal Pact (rejected) (Callies and Beichelt 2013, 33).
An important point of conflict is the submission of so-called ‘non-papers’, which are not official but constitute important documents in the preparation phase of the Brussels policy cycle.

2) Action and participation patterns

This second sub-section demonstrates how the Bundestag’s activity becomes increasingly distinct in this second period, producing aggregated patterns that are functional equivalents to the roles that the Bundestag plays on the domestic level. According to their role of ‘co-governance’ and ‘accompanying control’, MPs increasingly try to follow the ministerial bureaucracy’s negotiations in the Council. Interaction with EU transnational actors is oriented towards this production of functional equivalents for domestic roles as well. The Bundestag decreases its interaction with the EP and increases instead its interaction with the European Commission early on in the European decision-making process.

a) Use and meaning of formal and informal instruments

The Bundestag’s participation activity in EU affairs develops distinctive features during the Lisbon period. In contrast to the Maastricht period, the Bundestag is now more active. As in the Assemblée nationale, activity follows patterns that serve as functional equivalents to the main roles that the Bundestag plays on the domestic level. As a consequence of this similar evolution, in contrast to the Maastricht period, the type of action taken by MPs in the Bundestag is different from the one in the Assemblée nationale. During the Maastricht period, activity is low in both chambers, and activity is more similar. As in the Assemblée nationale, the meaning of parliamentary action in EU affairs has been clarified and is shared among the actors.

In contrast to in the Assemblée nationale, a central problem and concern for the MPs in the Bundestag throughout the Lisbon period are the detailed information about draft acts in the ‘pipeline’ in the Commission and about the texts negotiated in the Council, as well as the proceeding of this information within the chamber. Information is a major concern in all attempts to revise the formal prerogatives of the Bundestag in EU affairs (see page 195). This corresponds to the practice of legislation and control on the domestic level: MPs of the governing majority impact and control deci-
sion-making in a somewhat opaque ‘network’ of interactions between the working groups of the parliamentary party groups, the minister, and the government administration (see page 70).

With the experience of dealing with EU affairs too late to be able to effectively control the formulation of legislative draft acts during the Maastricht period, much of the reform effort of the community of practice of EU experts across parliamentary party groups described earlier (see page 195) goes into pushing for the organisation of autonomous administrative capacities to allow the individual expert MPs to participate in EU decision-making and the legislative cycle early on, and to use the information rights conferred to them even before the Commission issues its first draft act.

Since 2007, the ‘Liaison Office of the German Bundestag to the EU’ collects an important amount of information about the preparatory phase of decision-making in Brussels. The office is composed both of clerks of the Bundestag (belonging to PE 3 since 2013 – see Feldkamp 2010, 19) and assistants of the parliamentary party groups. This hybrid composition allows the ‘Office’ to carry out a watch on draft legislation, which represents a functional equivalent to the parliamentary party groups’ role in the legislative initiative (Oertzen 2006) and the early cooperation on the legislation prepared by the government on the domestic level. The office is a means for the parliamentary majority to limit the government’s efforts to withdraw draft legislation in the domain of EU affairs from the control of its majority (and probably in particular of its coalition partner), and thus to deviate from ‘usual ways of doing things’. For a long time, the Federal government resisted the creation of an autonomous ‘Office’ and proposed to integrate a small number of parliamentary representatives into the Permanent Representation of Germany to the EU (interview 42) – a model close to the current situation for the Assemblée nationale, in which MPs leave the legislation to the executive on the domestic level, and thus not adapted to the Bundestag.146

The action carried out on the documents submitted to the Bundestag are also more patterned and ‘normalised’ regarding usual practices in the

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146 The liaison office allows the Members of the Bundestag both to have a supplementary information channel about informal interinstitutional negotiations to check the information provided by the government (interview 42, interview 46), and to provide a direct interaction with the European executive, i.e. the European Commission (interview 31). In 2012, interviewees in the then PA1 consider that in an important way this complements the detailed information that is now guaranteed to the Bundestag once the Commission officially issues a draft act (interview 31).
chamber than during the Maastricht period. In contrast to the Assemblée nationale, the logic of the sifting in the Bundestag is a detailed scrutiny of the whole breadth of EU documents mirroring all issues with which the government ministries deal in parallel. The logic of the sifting is to enable the MPs to be informed and to follow in at least ‘accompanying control’ all issues of concern in their issue area – and to be able to show this to the opposition. In contrast, in the Assemblée nationale the sifting only needs to be responsive to stakeholders’ interests.

In contrast to the Assemblée nationale, at the end of the Lisbon period neither prioritisation of documents nor the scrutiny in the *ex ante phase* is carried out in the EAC (see page 192).

One observes a clarification of the criteria for prioritisation of the documents which did not exist in the Maastricht period, when document sifting was left to the sectoral committees. These criteria are different in this second period than those that are applied in the French case, even if in both parliamentary clerks carry out the sifting. While in the Assemblée nationale criteria for the selection are the political priorities of the individual members of the EAC, selection criteria in the Bundestag are far more ‘legalistic’: the clerks evaluate the impact of the legislation on federal legislation, as well as the political and financial impact for Germany in general (Interview 31). This type of selection criteria is close to calculations that one would expect the government administration to make with reference to national legislation before the negotiations in Brussels. It is a sort of doubling of the considerations that the government has already undertaken in an effort of co-governing.

The Bundestag strongly increases staff resources for the prioritisation of the increasing number of EU documents for all committees, and in particular for the better tailor-made prioritisation of the documents to the needs of the standing committees. Each officer in the PA1 (since 2013 in the unit ‘PE 3 – analysis, prioritisation for EU draft acts’) is responsible for two to four committees, and his or her work is oriented towards the priorities of those committees (Interview 31).

In the Assemblée nationale, on the other hand, MPs consider this type of systematic coordination with national legislation to be a task of the government, whereas it is the task of the national representatives to establish more selective political criteria, which are defined by the interests of voters and stakeholders of the MPs, with whom the MPs have closer contact than the government does.

This difference is illustrated by the number of documents cleared from further examination. Whereas in 2012 a clerk in the Assemblée nationale
confirms clearing about 60-80% of the documents from further examination because ‘they are of technical nature and not politically interesting’ (interview 21), in the Bundestag only about half of the documents are cleared from further examination. After a screening by the parliamentary party groups (which usually maintains about 90% of the decisions by the administrative body that carries out the scrutiny (interview 37) the rest is classified as relevant for further examination and forwarded to the about 22 different standing committees.

A comparison of the number of documents that the Assemblée nationale and Bundestag screen during the “Lisbon period” also illustrates the distinction between the roles that both parliaments play, as a ‘working’ and a ‘talking’ parliament on the one hand, or an expert legislative controller and a body focusing on providing input legitimacy on the other.

The Assemblée nationale ensures a screening of about 3,500 documents during the XIIIth legislative period (2007-2012) submitted under article 88.4 of the French Constitution, which amount to an average of about 700 documents per year. Conversely, in 2012 an interviewee in the Bundestag’s department for European Affairs who is responsible for the sifting talks about 25,000 documents that are screened by its entity (Interview 31) in one legislature, i.e. about 6,250 documents per year. These do not only include draft legislative acts, but also all non-legislative documents stemming from the EU institutions and an important amount of government reports on the documents at hand.

Two points can explain the differences between the amounts of incoming documents. On the one hand, the Bundestag more actively seeks documents in the preparatory phase through its office in Brussels. On the other hand, different reforms of the legislative framework for the participation of the Bundestag from 2005 until the present strongly extend the government’s responsibility to provide internal documents to parliament and to produce information reports for the Bundestag on EU documents and their different stages in the negotiation procedures in Brussels (See Beichelt 2009; Höing 2015b).

In the Bundestag, the subsidiarity check that was introduced with the Treaty of Lisbon is conducted in the sectoral committees as well, while the EAC only has a coordinating role for the transmission of the documents to the European Commission (Interview 31).

It is difficult to estimate in concrete numbers the increase in the Bundestag’s activity in matters of the EU. This is because the bulk of the European activity in the Bundestag is carried out by the standing committees, and there is currently no comprehensive study on the activity in EU affairs.
of the Bundestag’s standing committees (Beichelt 2015, 553–54). Furthermore, the practice of the parliamentary majority in matters of the EU is not substantially different from its practice in domestic affairs. The majority is not interested in publicly showing differences with its government. Therefore, MPs in the Bundestag informally express their wishes towards the federal government on the level of the working groups of the parliamentary party groups and the committees.

The government is represented each week in the committee meetings in the Bundestag, which the MPs consider their favourite opportunity to communicate parliamentary points of view to the government (interview 31). The government knows that it will have difficulty if it does not take into account the MPs’ considerations in the implementation phase of EU legislation (interview 31). In contrast to the Assemblée nationale, this is all the more important as once they have been decided upon in Brussels, the scrutiny of EU draft acts and the implementation of the finalised acts are carried out by the same committee, which in both phases is in close connection with the same units of the ministry of the government that is responsible for the policy field.

The same informal logic explains why the Bundestag issues much fewer ‘article 23 resolutions’ (the instruments foreseen in art. 23 of the German Basic Law since the Treaty of Maastricht) and opinions on subsidiarity than the German Bundesrat does, for example.

### Table 12: Bundestag: Political dialogue and EWM (2006-2014)

<table>
<thead>
<tr>
<th>Type</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
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<th>2013</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political dialogue</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>6</td>
<td>6</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Reasoned opinion</td>
<td>/</td>
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<td>/</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
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Source: (Höing 2015b, 201); own completion for 2013 and 2014 on the basis of the same source (European Commission 2015).

MPs do not want to publicly show conflicts with the government. Clerks in the ‘Europe’ department of the Bundestag consider that even the European Commission knows that an opinion on subsidiarity stemming from the Bundesrat does not have the same ‘weight’ as one from the Bundestag (interview 31). MPs in the Bundestag feel that they have to be careful when using the instrument, and they consider it an imminently political one (interview 31). MPs would rather use the common ‘recommendations for de-
decisions’ by the standing committees and accordingly the ‘decisions’ taken by the plenary when they wish to formally express a point of view.

This confirms for the Bundestag what this chapter already demonstrated for the Assemblée nationale. Prerogatives that do not correspond to the chamber’s usual practice – of either internal procedures or political interaction – have a tendency to remain ‘void letters’. A number of formal prerogatives introduced during the Maastricht period met this fate.

Given this informal interaction between the government and the Bundestag, the ‘timely’ information about the negotiation processes in Brussels is far more important for MPs than the formal ‘mandating’ or ‘resolution’ rights. This is further developed in the two acts of 2005 and 2006, and is detailed in the novel of the EUZBBG of 2013 and explicitly extended to treaties under international law – not the least after the public blaming of the German government through the judgement of the Constitutional Court following the action by the Green parliamentary party group (interview 42, interview 46).

As a consequence, the novel of the EUZBBG in 2013 enumerates details in terms of time limits for the submission of documents and their nature. The government’s information obligations towards the Bundestag are at the heart of the new law. The submittal of internal government documents linked to the work of the Permanent Representation and the Council are fixed in detail. This confirms that the Bundestag has acquired in-depth knowledge of elements necessary in practice to effectively follow EU decision-making.147 This is also underlined by the fact that the 2013 version of the EUZBBG is based on the in-depth monitoring report commissioned by the working group of EU experts in 2009 to the parliamentary administration when adopting the agreement between the Bundestag and the government in matters of the EU. According to several EU experts who have followed the process for a long time, the 2013 version of the EUZBBG resolves major flaws in government information detected between 2009 and 2011 (date of the internal debates about the report in the Bundestag – it was only officially published in 2013).

Conversely, the Bundestag’s prerogatives stemming from the Responsibility for Integration Act of 2009, in which the EU expert group was not

147 More critical voices suggest that the detailed nature of the enumeration of documents and the government’s obligations to submit a number of internal documents that were originally only destined for the better coordination of the German negotiation strategy might lead the German government to switch to other types of internal documents (Beichelt 2015, 544.).
involved, but were induced by the Lisbon judgement of the German Bundestag, are widely considered to be prerogatives of a ‘Sunday law’ (Callies and Beichelt 2013), i.e. they will only rarely be applied. On the one hand, the Treaty of Lisbon prerogatives to which they correspond are only rarely used, and on the other hand it is unusual in the Bundestag’s practice to use the prerogatives, MPs from the government majority will not go against a decision taken by their government.

While during the Maastricht period neither the Assemblée nationale nor the Bundestag conducted substantive *ex post controls* of the decisions that were taken in the Council, during the Lisbon period this situation changes in the Bundestag. Through several changes of the legislative framework throughout the year 2000, the Bundestag obliges the government to report in detail about the different negotiation stages in the Council both before and after the decision is taken. This means that, as for domestic legislation, either the politicians responsible for a decision or their high civil servants have to report in the responsible sectoral committee after decisions have been taken in Brussels. The meetings of the standing committees are mostly not public, which gives the Bundestag’s majority the opportunity to be informed in detail and to control its (coalition) government without putting it into danger publicly.

Another important difference between the Assemblée nationale and the Bundestag during the Lisbon period that was not as clearly discernable in the first period is that in the Bundestag there is now an extensive written exchange between the responsible sectoral committee on an EU issue and the administrative unit that deals with the topic on the side of the government. In EU affairs this reproduces the close interaction between the committees and the ministerial bureaucracy. As already demonstrated, the government has extensive reporting duties to the Bundestag, and these duties increasingly comprise written reports. While during the Lisbon period the Assemblée nationale focuses increasingly on participation through the invitation of politicians who are members of the government to public hearings, the Bundestag concentrates increasingly on a constant exchange between the responsible standing committee and the high civil servants of the federal administration involved in the negotiations in the Council behind closed doors.
b) Interaction with transnational actors

During the Lisbon period, the MPs in the Bundestag’s interaction patterns with transnational actors change in comparison to the Maastricht period and allow the Bundestag to reproduce its domestic role of expert controller in EU affairs. The interaction patterns emerging during the Lisbon period correspond to the German MPs’ strong orientation towards the executive on the domestic level. The Bundestag’s MPs have clearly diminished their exchange with the EP and extended their individual and collective contact with the European Commission, often already in the preparation phase of EU draft acts. German MPs see institutionalised fora for interparliamentary exchange with some scepticism. As a consequence, during the Lisbon period the Assemblée nationale and the Bundestag are clearly distinct from each other in terms of interactions with transnational actors.

As was shown above, as early as in the year 2003, the contacts of German MPs with the European Commission increase, while their contacts with the EP decrease by 10% in comparison to 1997 (Weßels 2005). Interview evidence confirms the data from Bernhard Weßels’s parliamentary study. Throughout the first decade of the year 2000, direct contact with the European Commission becomes increasingly important for German MPs and continues to do so through the interview wave of 2012. This direct contact happens early in the policy cycle in Brussels, and usually allows MPs to be informed about issues before they reach the stage of formal draft initiative. There are also frequent visits by entire committees of the Bundestag to the European Commission (and to the Permanent Representation, but not to the EP) (Interview 31).

With regard to the interaction between the MPs of the Bundestag and the EP, one can observe an opposite evolution in both chambers from the Maastricht to the Lisbon period. In both chambers, there are early initiatives to institutionalise the interaction with the EP. While this is not initially successful in the Assemblée nationale, the Bundestag’s Europe Commission even serves as a platform for the political agenda on German MPs’ European integration at one moment, albeit without much real interaction with the usual parliamentary work in the Bundestag. During the Lisbon period, the reverse can be observed. While, as shown above, the Assemblée nationale manages to institutionalise different forms of regular meetings with French MPs, in the Bundestag no such institutionalised fora exist. German MEPs are seldom present in Berlin (Interview BT 2012). The institutional contacts between the Bundestag and the EP are ‘very indirect’ (Interview BT 2012). According to a clerk, the Chairman of the EAC in the
Bundestag, Gunther Krichbaum, considers that the Bundestag should make much better use of contact with the EP (interview 37).

German MPs have many personal contacts through their party families (as is the case in the Assemblée nationale). As in France, this seems to be especially the case for the Green party.

Another difference between the Assemblée nationale and the Bundestag during the Lisbon period is the use that is made of the parliamentary representatives in Brussels. In both cases, interviewees cite the communication with other national parliaments as one of the tasks of the parliamentary representative. In the case of the Assemblée nationale, this is judged to be a minor function (in terms of working hours spent on it), and in the Bundestag interviewees consider this task not to be ‘useful’. According to a clerk in the Bundestag’s administrative division, which is responsible for EU affairs, the efficiency of the ‘Monday morning meetings’ that regularly bring together the parliamentary representatives should not be overrated. The mandating and resources of the parliamentary representatives are too different. While the main task of the parliamentary representatives of the Assemblée nationale is to organise MPs’ information visits to the European institutions, the main task of the German parliamentary representatives (together with the well-staffed Bundestag office in Brussels) is to gather information from European institutions about the preparatory phase of the policy cycle in Brussels. They organise regular meetings with European Commission officials about ‘issues in the pipeline’ (interview 37).

In 2012 both in the Assemblée nationale and the Bundestag, bilateral parliamentary cooperation is still considered something that would be beneficial to do in the future but that only develops slowly. In both chambers, actors consider that the working modes and statures of the different national parliaments are too different. As in the Assemblée nationale, there is some more institutionalised cooperation, such as the one between French and German parliamentary chambers or the so-called Triangle of Weimar (France, Germany, and Poland), but overall it mostly happens through personal contact on a selective basis.

The prospects of institutionalised multilateral interparliamentary cooperation on the European level are judged differently in the Assemblée nationale and the Bundestag. Actors in the Bundestag do not consider interparliamentary cooperation to be efficient because it lacks ‘decision-making power’ (Interview 41), while actors in the Assemblée nationale are positive regarding its future prospects but point to current shortcomings. Accordingly, while major actors of the Assemblée nationale’s EAC put much diplomatic effort into pushing for the parliamentary assembly foreseen in
article 13 of the TSCG Treaty, interviewees in the Bundestag are sceptical of its usefulness.

During the Lisbon period, actors and action in EU affairs in the Bundestag increasingly come in typical forms that serve to reproduce the Bundestag’s domestic role as an expert parliament. The following conclusion resumes the main findings of the comparative analysis of the participation in EU affairs in the Assemblée nationale and the Bundestag during the Lisbon period. Furthermore, it presents the results of the comparison of the Assemblée nationale and Bundestag as most similar systems over time in both chambers. The results are mostly coherent with Hypothesis 1. Despite highly different parliamentary practices on the national level, in both parliaments a similar evolution can be observed throughout both identified periods. However, the results of this evolution are clearly different action patterns in both chambers.

C – Conclusion

This chapter presented the results of the comparison of actors and patterns of action in EU affairs in the Assemblée nationale and Bundestag during the Lisbon period. In this period, normative conflicts because of ineffective participation in EU decision-making are assumed to be relatively high because of a steep increase in binding EU decision-making.

The analysis showed that both in the Assemblée nationale and in the Bundestag, EU affairs indeed start to be increasingly institutionalised. EU experts are clearly identifiable as actors taking action related to EU decision-making and as agents for the reform of parliamentary prerogatives. Action starts to be patterned in a way that allows MPs to ‘competently’ participate in EU affairs according to the working methods of each chamber, i.e. formal and informal instruments are increasingly functional equivalents to the role fulfilled by each of the chambers on the domestic level.

In both parliamentary chambers under examination, evolutions can be observed that support Hypotheses 1. Action becomes slowly more typified in both chambers. EU affairs are better integrated into parliamentary working habits. Interaction with EU transnational actors is more common. Typical EU actors start to come to the fore. In both chambers, EU experts have a clearly defined profile and increase in importance. In contrast to the preceding period, in both chambers the change of formal prerogatives is pushed by EU experts who use political windows of opportunity to en-
hance the parliaments’ capacities to fulfil their original parliamentary roles.

In this phase, EU experts are the main agents of change in both parliaments. They search for solutions to adapt their capacities of action in EU decision-making in a way that ensures functional equivalents to ‘usual ways of doing things in parliament’ on the domestic level, thereby leaving important formal prerogatives obtained in the past unused and pushing for new – and better adapted – formal rules. In particular, the rules introduced with the Treaty of Maastricht do not prove to be adequate for usual parliamentary practice in either of the two chambers under examination.

However, these similar evolutions lead to more divergent action patterns between both chambers than was the case at the beginning of the 90s when the EU affairs were still weakly typified. The cause for this paradoxical evolution is the fact that typification happens through conflicts with established ‘ways of doing things’ or practice in the chambers, and that actors search for solutions that represent functional equivalents for established practices in the parliamentary chambers.

In the Assemblée nationale, actors develop forms of parliamentary participation in practice that help them to better fulfil functions of representation and interest intermediation on European issues. The EAC increasingly develops into a central actor and information power house for the whole chamber.

Informal dialogue between individual MPs who are experts in EU affairs and the political level of the government becomes the dominating form of interaction regarding EU issues. All tools destined to better inform the whole chamber on EU issues are more strongly developed. This concerns especially debates on EU issues, information reports, and public hearings of national and EU personalities. Even the classical control instrument of Europe Resolutions important in the first period is by now used more so as a tool to raise awareness of the sectoral committees.

MPs in the Assemblée nationale are not interested in control after the final decision has been taken in Brussels. They wish to be informed in order to relate this information to their constituencies. Overall, MPs in the Assemblée nationale start to have long-term strategies in EU affairs rather than influence strategies on concrete legal acts. These formal and informal instruments allow MPs to relate information to the stakeholders in their circumscriptions and to relate the latter’s interests to the government. Thus, the MPs play the role of a supplementary alarm and diplomatic channel for the government, enhancing the chamber’s overall responsiveness to the input from society.
In contrast, during approximately the same period, MPs in the Bundestag develop an increasing number of forms of parliamentary participation that allow them to regain governance functions or functions of legislation and control, even if the Bundestag does not obtain concrete mandating rights.

In the Bundestag, the EAC develops into a committee mirroring a government entity (Beichelt 2009), a functional logic that follows all standing committees in the Bundestag, and in this case the Chancellery. The EAC scrutinises all matters of institutional and constitutional concern of the EU, and has obtained these rights to the detriment of the Foreign Affairs Committee. It does not take part in the scrutiny of day-to-day decision-making of the EU, however.

In contrast to the Assemblée nationale, the most important location for following up the draft legislation through the different stages of negotiations in the Council are the sectoral committees, in which all parliamentary party groups take part.

A well identifiable group of EU experts also act as agents of change to push for extended control capacities and obtain more rights for continuous information about the different negotiation stages in the Council of Ministers (carried out directly by the government’s administration).

Action in EU affairs in the Bundestag is increasingly characterised by an early participation in the preparation of the decision-making processes in Brussels. MPs try to obtain information on concrete legislative dossiers early in the preparation phase to improve their ability to control the final draft act through various channels in the phase of legislative initiative. To achieve this, the Bundestag substantially and continually restructures its administrative backup and channels to Brussels throughout the first decade of the new millennium.

The preceding chapters showed that parliamentary practice in EU affairs clearly changed between the Maastricht and the Lisbon period. EU experts have become typical actors in EU affairs, and typical patterns of action related to EU decision-making have emerged. These new typical forms are functional equivalents to the role that each chamber plays in decision-making on the domestic level. The Assemblée nationale has developed its capacity to represent French voters’ interest on the EU level and to keep different national stakeholders informed about issues coming up in Brussels. In contrast, the Bundestag has developed its governance role and already follows EU decision-making before the European Commission issues a draft proposal, and closely monitors the negotiations in the Council.
The following and final chapter questions whether these evolutions of the chambers’ practice have had an impact on the ideas that MPs convey about the role of parliaments in the EU. The chapter compares ideas regarding the role of parliaments in the parliamentary debates on the Treaty of Maastricht and on the Treaty of Lisbon in both chambers.

The chapter shows that in the Lisbon debates, ideas about the role of parliaments in the EU can indeed be better traced to domestic role orientations than was the case in the Maastricht debates. In the Maastricht debates, ideas conveyed in both chambers can be traced to the speakers’ ideology about the objectives and future shape of European integration.
CHAPTER V – The ‘domestication of Europe’ and its feedback into MPs’ role perceptions

The preceding chapters showed that EU affairs are increasingly institutionalised in the Assemblée nationale and the Bundestag as an ‘ordered practice’ during the Lisbon period (Adler and Pouliot 2011). EU affairs have been ‘domesticated’ by the MPs trying to reproduce the roles that they play in such affairs on the domestic level. This evolution is the consequence of the experience of ‘incompetence’ with practices on the domestic level and increasing knowledge about how parliamentary participation works from day to day. As a result, the Assemblée’s and the Bundestag’s action patterns are more distinct from each other. This supports Hypothesis 1, which expected such an evolution after the important increase of the ‘stock’ of EU legislation from the mid-90s onwards.

In the following, this study investigates the consequences of this observation for the discursive practices of MPs regarding the role of parliaments in the EU. Hypothesis 2 expected that with an increasingly ordered practice of EU affairs, the ideas that MPs convey about this role would depend on domestic role models more instead of less and become more homogenous in one given institutional setting. This hypothesis draws on Max Weber’s idea that motives of action change in the course of an institutionalisation process. With a low level of institutionalisation, actors may act on the basis of a variety of motives (sanction, material or ideological interest, rightfulness…). With an increasing level of institutionalisation of a practice, social structures are created and ideas clarified. This background that actors share is itself the motive for action – here also referred to as motives for the evaluation of treaty provisions.

EU treaty debates in parliament serve as a basis for the comparison of motives for action when debating of parliamentary roles. They are not li-

148 Stricto sensu, what has for the time being been called ‘EU treaty debate’ in the present text is a debate on the instrument authorising the ratification of a new EU treaty (or on the form of this authorisation, in case a referendum is possible), a debate on a constitutional amendment necessary before ratification or a debate on legislation that has been politically linked to the ratification of the treaty, such as for example the accompanying legislation that is negotiated between government and parliament on the domestic level to assure sufficient parliamentary control over EU legislation (for complete list see bibliography).
mited discussions about legal texts. MPs usually use EU treaty debates to express their overall evaluation of EU polity and policies. They are political debates about the state of European integration, its impact on the domestic level, and its potential future trajectories. But they are also discussions about specific individual prerogatives of the EU treaties that have attracted MPs’ attention or that have been discussed in the wider public in the process of the negotiation of the treaty texts. From the array of topics in the treaty or on the EU agenda, MPs choose those topics that seem the most important to them. While the treaties discussed are the same for every member state, MPs in different parliamentary chambers in different countries may paradoxically not talk about the same topics at all when debating the same treaty text. In parliamentary debates, MPs do not only evaluate the treaty at hand, but also necessarily comment on how they have experienced ‘doing EU’ so far – or on how they interpret the prerogatives in the treaties to play out in practice.

The debates on the treaty of Maastricht and Lisbon are chosen for two reasons: First, they have approximately the same distance in time from the end of the 1990ies/the beginning of the year 2000 which has been identified as pivotal point for parliamentary EU practice before. Second, each of them brings about the most wide-reaching changes for the EU system in the periods observed and each can be seen as paradigmatic of one of the periods investigated in chapters III and IV.

For the state of development of parliamentary EU practice in first period, the debates on the Treaty of Maastricht are a clear-cut point of reference. At the time of these debates, new prerogatives for national parliaments in the treaty of Maastricht and its successors have still not been implemented. Instead, MPs can be expected to discuss how they imagine these new prerogatives to play out without much day-to-day experience of EU decision-making. The institutionalisation of the EU as a political framework for MPs is still relatively low.

Paradigmatic for the second period are the parliamentary debates on the Treaty of Lisbon. The treaty is the last comprehensive treaty change to date.149 Most importantly, MPs in both parliaments have gained consider-

149 The last partial treaty change concerning article 136 TFEU was a consequence of the Eurozone crisis and thus provoked highly focused debates in the parliamentary chambers. These debates do not ensure enough comparability with the Treaty of Maastricht debates, because they were focused on one specific policy field and thus were technical and not sufficiently broad. The author assisted selected parliamentary debates on article 136 TFEU in the Assemblée nationale.
able experience of parliamentary ways of doing EU affairs since the treaty of Maastricht. Furthermore, the failed Constitutional Treaty largely prefigured new prerogatives comprised in the Treaty of Lisbon and interviews show that the strongest adaptations in parliaments took place in the run up to its aborted ratification. The debates include thus already experience of these new adaptations.

Motives of action are traced by analysing the cleavages of the debates. Cleavages along groups holding the same ideas about the future scope of European integration indicate ideological motives for action for discursive practice. Cleavages separating the ideas of MPs from the government majorities from those of the opposition indicate motives for action based the material interest of seeking votes or offices. Finally, cleavages running between the chambers indicate motives for action stemming from the domestic practice of EU affairs.

For the analysis, four potential roles for parliaments in EU decision-making have been identified through an in-depth inductive-deductive qualitative assessment of the minutes of the treaty debates and a systematic coding of the minutes to confirm and challenge the results of the qualitative analysis (see also appendix)\textsuperscript{150}: National parliaments as Domestic Control Bodies (individual indirect participation of national parliaments carried out on the domestic level); national parliaments as Third Chambers (collective direct participation on the European level); and national parliaments as Sub-level Parliaments (national parliament as a sublevel parliament in multi-level parliamentarism with the EP). As a fourth model, the role of the European Parliament has been added as a transnational European representative institution. Each of these models corresponds to distinctive features of parliamentary participation in the EU multi-level system.

This chapter compares to which of these roles MPs give priority when discussing the prerogatives of parliaments in the debates on the Treaties of Maastricht and Lisbon. Priority is measured through the floor time spent on specific prerogatives which are each linked to a particular parliamentary role. Floor time is a precious good for MPs. Speakers in plenary debates only have a limited time to make their contributions. They therefore prioritise their statements according to what is most important to ‘put through’.

The results are presented in several steps. The first sub-chapter compares the overall attention to parliaments and the importance of each of the role

\textsuperscript{150} For further discussion of the discourse-analysis see Chapter II under \url{http://spire.sciencespo.fr/hdl/2441/5i1k2o8mn49maohtdrake9dsfv}.
models on the aggregated level of the chambers (A). Thereafter, a more fine-grained comparison on the level of the parliamentary party groups within the chambers explains the astonishing features of the aggregate comparison. Sub-chapter B then presents the results for the Maastricht debates. Finally, sub-chapter C presents the results for the Lisbon debates. The results are arranged according to the dominant cleavages.

The results of the analysis support Hypothesis 2 and illustrate what this book proposes to call the European Integration Paradox: with increasing institutionalisation of European affairs in the chambers, MPs indeed increasingly adopt a discourse on the role of parliaments in the EU that is linked to domestic practice, instead of doing so with decreasing frequency. With a low institutionalisation, MPs’ discourse depends on other factors.

In the Maastricht debates, the ideas are cleaved ideologically, i.e. the major cleavage runs along parliamentary party groups holding the same ideas about the future scope of European integration. This cleavage runs across the chambers, and opposes the French ‘Centrists’ and the MPs who are members of the established parliamentary party groups in the Bundestag of freshly reunited Germany to all other parliamentary party groups. This group is distinct in particular because of the MPs’ strong emphasis on the importance of the EP for representative democracy in the EU. Speakers in both chambers chiefly convey the idea that national parliaments should participate in EU decision-making both through the domestic control of the government and in cooperation with the EP. The more federalist ‘visions’ for the architecture of the EU seem to be an important factor for the ideas that MPs convey on the role of parliaments. MPs from other parliamentary party groups in both chambers either focus exclusively on the control of the government on the domestic level (Assemblée nationale) or on the EP’s capacity to provide legitimacy to EU decision-making (Bundestag).

In the Lisbon debates, the discourses are cleaved between the two chambers. This supports Hypothesis 2. The ideas that MPs convey about the role of parliaments in the EU correspond to domestic practices of ‘doing EU’ in the national parliament. MPs in the Bundestag focus on all of those prerogatives that provide them with a stronger role as a Domestic Control Body. To an equal extent, MPs in the Assemblée discuss all of those features of the treaties that confer national parliaments a role as a Third Chamber and those that strengthen the European Parliament. The analysis on the level of the parliamentary party groups confirms homogenous changes for all moderate groups in both chambers. A further observation supports Hypothesis 2: priorities ‘swap’ between the Assemblée nationale and the Bun-
destag from Maastricht to Lisbon. While in the Assemblée nationale the EP’s prerogatives receive considerable attention, the MPs in the Bundestag focus on their individual prerogatives instead. In the Maastricht debate, the opposite was the case. This evolution is coherent with the changed action patterns in EU affairs of both chambers observed during the Lisbon period (see Chapter IV).

A – More similar debates, diverging treatment of parliaments

The first sub-chapter compares the attention that MPs across chambers paid to parliaments in general and to different parliamentary roles in particular in both treaty debates. It presents the results of the comparison of the debates on an aggregate level to first draw conclusions about the broader similarities and differences of the debates between the chambers.

The first sub-section shows that despite speakers’ more homogeneous attention to the role of parliaments, the importance given to parliamentary prerogatives in terms of floor time in the Lisbon debates is not higher than it was in the Maastricht debates in both chambers. This is an astonishing result given the debate about the parliamentarisation of the EU that preceded the Lisbon treaty. Floor time is the same in the Bundestag and is even reduced in the Assemblée in comparison to the Maastricht debates. The comparison over time within each parliament even shows surprising differences that can be linked to the results regarding the chambers’ interaction patterns with transnational actors in Chapter IV. MPs in the Assemblée attribute more floor time to the EP’s enhanced prerogatives than they did in the Maastricht debate. In the Bundestag, the situation is the reverse.

The second sub-section shows that the discussed roles of parliaments are also more different between the chambers in the Lisbon debates. In the Maastricht debate, MPs in both parliaments discuss their prerogatives as Domestic Control Body of the government with the highest priority. In the Bundestag, the EP’s role in representative democracy in the EU and parliamentary cooperation with the EP are both highly important. In the Lisbon debates, MPs in the Assemblée focus most on those prerogatives that provide them a collective direct role in EU decision-making. The EP’s prerogatives are equally important in the debates. In contrast to this, MPs in the Bundestag focus by far the most on their strengthened individual prerogatives for government control.
1) Attention to the role of parliaments

The first sub-section compares the attention that individual MPs pay to parliaments and the floor time they attribute to them to provide an overview of the results of the comparison of the debates on an aggregate level for each chamber.

Overall, the debates on the Treaty of Maastricht in the Assemblée nationale are highly different from those in the Bundestag.\(^{151}\) This is somewhat surprising, as in both countries the debates deal not only with the revision of the domestic Constitution (or the Basic Law in the Bundestag’s case), but also more generally with the features of the treaty and the scope of European integration.\(^{152}\)

In the Assemblée nationale, the right to vote and to stand for vote for citizens of the EU in local elections foreseen in the treaties becomes one of the dominating issues in the debate. The topic induces heated discussions around the notion of citizenship and the rights granted to the latter in the domestic arena. Vivid debates also arise on the necessity of a fundamental limitation of European integration to intergovernmental cooperation. The EMU, which foresees an important transfer of competences as well as innovations in terms of a common visa policy, does not receive the same attention, however. The focus of the debates is surprising for observers at the time (see La Serre and Lequesne 1993, 315). With reference to the domestic level, the chambers debate the introduction of further rights for the parliament and the role of the Sénat in the implementation of the rights granted to EU citizens residing in France.

In the Bundestag, MPs are more concerned about details regarding provisions for EC/EU institutions. They discuss the efficiency of these institutions, the competences of the EP, the subsidiarity principle, the potential elaboration of a European Constitution, and procedural provisions con-

\(^{151}\) There is one similarity between the debates: there is little attention to actors and their points of view on the European level or to the debates in other member states of the EC/EU in both debates. In the Bundestag there is some attention to the French referendum that took place before the parliamentary proceedings in Germany started.

\(^{152}\) Even if eventually the ratification instrument was adopted through referendum, the MPs in the Assemblée nationale also discuss the ratification. During the first reading of the constitutional amendment in the Assemblée nationale, president François Mitterrand does not yet announce the modalities of ratification, and the referendum is only conducted in September 1992, while parliamentary proceedings on the constitutional revision are terminated in June 1992.
cerning the EMU. With reference to the domestic institutional balance, the most important debated issue is already the reformulation of article 23 of the German Basic Law, as well as the method of ratification.¹⁵³

In contrast, the subjects discussed in the parliamentary debates on the Treaty of Lisbon are much more similar in the Bundestag and the Assemblée nationale. MPs in both parliaments focus on the same features of the treaty. This is somewhat surprising, as the domestic context conditions on the parliamentary ratification are different. In France a referendum on the Constitutional Treaty fails in 2005 and those who favour a no-vote at the time accuse the government of trying with the Treaty of Lisbon to adopt the text that was already rejected through parliamentary vote.

In Germany, the ratification of the Treaty of Lisbon is not put into question much in public debate. The mandate for the intergovernmental conference on the Treaty of Lisbon is negotiated under German presidency in 2007. The debates on the adoption of the ratification instrument take place ahead of the actions before the German Constitutional Court, and as a consequence ahead of the Karlsruhe judgement, which obliges the Bundestag to revise the accompanying legislation.

In both chambers, MPs discuss the historical dimension of European integration and the process that led from the failed Constitutional Treaty to the Treaty of Lisbon. They focus primarily on the institutional innovations of the Treaty of Lisbon in light of their efficiency and capacity of action as well as their democratic quality. In both parliaments, MPs pay attention to actors on the European level and discuss aspects of debates in other member states.

a) More similar attention by individual speakers in the Lisbon debates

Turning to the way the role of parliaments is is discussed in the two debates, the increasing similarity of the debates is confirmed when examining only the single mention of parliaments in the EU by speaker.

During the Maastricht debates, substantially more individual speakers in the Bundestag mention the role of parliaments in the EU than is the case in the Assemblée nationale (see figure 7): 41% mention national parliaments (21 out of 51 MPs) and 47% the EP (24 out of 51 MPs) in the Bun-

¹⁵³ There are calls for a referendum, even if the German Basic Law does not allow this.
destag. This is in line with the fact that the debates in the Bundestag focus more on EC/EU institutions overall.

In the Assemblée, on the other hand, national parliaments as well as the EP are each mentioned in only 29% of contributions (15 out of 51 MPs).

Figure 7: Single mention of EP or national parliaments in contributions (Maastricht)

Note: Percentage of contributions mentioning national parliaments in the general debate. The basis for the count is the contribution to the general debate. If the same speaker appears twice in two different readings, his contribution is counted twice.

MPs in the Assemblée nationale and the Bundestag pay similar amounts of attention to national parliaments and the EP in the Lisbon debates (see figure 8): 39% of contributions mention the EP in both houses (12 out of 31 MPs in the Assemblée and 9 out of 23 MPs in the Bundestag). Moreover, 65% of contributions in the Assemblée (20 out of 31 MPs) and 57% of contributions in the Bundestag (13 out of 23 MPs) mention national parliaments.
b) Not more attention in terms of floor time in the Lisbon debates

However, there is not more floor time attributed to the role of parliaments in the Lisbon debates than was the case in the Maastricht debates.

When discussing the Treaty of Maastricht, overall more floor time deals with national parliaments in the Assemblée nationale than in the Bundestag, despite a lower share of individual MPs talking about parliaments (see figure 7). This is due to the fact that the issue of national parliaments is dealt with in length by only a few ‘Centrist’ MPs who discuss the issue intensely.
In the Lisbon debates, MPs in both chambers do not attribute more floor time to the role of parliamentary institutions in the EU than they do in the Maastricht debates. In France there is even a steep decrease in this floor time. This is interesting given the fact that the role of national parliaments becomes steadily more important in European discourse from the Laeken declaration onwards, but is probably due to the exceptional role of the Centrist MPs in the Maastricht debates discussed above.

An important difference between the chambers appears in the Lisbon debates, which will be important in further analysis (see figure 10). In the Assemblée nationale, the difference between the floor time spent on national parliaments and on the EP diminishes. MPs spend much more floor time discussing the role of the EP than in the Maastricht debates – and in turn spend much less time on national parliaments.

In the Bundestag, in contrast, MPs spend less floor time on the EP than in the Maastricht debates, while the floor time dedicated to national parliaments is stable.
The following sub-section analyses the attention that MPs pay to different potential roles for parliaments in the EU in the treaty debates.

2) More different priorities for role models in the Lisbon debates

The second sub-section compares the role models under discussion in the chambers on an aggregate level. In accordance with the expectation formulated in Hypothesis 2, ideas about the role of parliaments in the EU conveyed in the Lisbon debates are not more similar between the two chambers. On the contrary, they are more different than they were in the Maastricht debates.

The systematic text analysis assigns different prerogatives for parliaments in the EU under discussion to the roles parliaments can potentially play in the EU (see appendix). The roles have been identified in a first explorative deductive-inductive process, based on the literature on democracy in the EU and an explorative pre-analysis of the parliamentary debates.

The roles identified for parliaments in the debates in Maastricht and Lisbon can be subsumed under four categories: national parliaments as Domestic Control Bodies, focused on the control of the government’s action in...
EU affairs; national parliaments as Third Chambers that act collectively and directly in EU decision-making processes; national parliaments as Sublevel Chambers to the EP; and finally the role of the European Parliament for EU decision-making processes (see table 3).

a) Maastricht: the Domestic Control Body is strongest in both chambers

In the Maastricht debates, the most important role model to which MPs in the Assemblée nationale and the Bundestag pay attention is the same: MPs discuss their national parliament’s faculty to control their government’s action on the EU level (Domestic Control Body). In both chambers, prerogatives allowing national parliaments to control the action of their government in EU affairs on the domestic level take most of the time allocated to discuss the role of parliaments in EU affairs.

In the Assemblée, 77% of the time used by MPs to discuss parliamentary prerogatives is spent discussing, for instance, the information rights of the parliament towards the government, the internal parliamentary reforms necessary to meet the European legislative schedule, or potential rights for national parliaments to mandate their governments for the negotiations in the Council. In the Bundestag, almost half of the time (48%, see figure 11) dedicated to discussing the prerogatives of parliaments in the EU focuses on this type of prerogatives.

Figure 11: Roles models according to chambers (Maastricht)

<table>
<thead>
<tr>
<th>Domestic Control Body</th>
<th>Third Chamber</th>
<th>Sublevel Parliament</th>
<th>European Parliament</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assemblée nationale</td>
<td>77</td>
<td>6</td>
<td>7</td>
</tr>
<tr>
<td>Bundestag</td>
<td>48</td>
<td>2</td>
<td>27</td>
</tr>
</tbody>
</table>

Note: Percentage of floor time dedicated to the role of parliaments in the EU.
As the figure shows, in the Assemblée nationale propositions linked to national parliaments’ role as Domestic Control Bodies are most important during the Maastricht debates, while the Sublevel frame is the least important. In the Bundestag, propositions on the role of the national parliament as a Domestic Control Body are also the most important, but as many propositions insist either on the role and prerogatives of the European Parliament or on the role of the national parliament in a European multi-level parliamentarism (Sublevel Parliament).

Considerable attention is not given to a collective role for national parliaments on the European level (Third Chamber) in either chamber. This means that there is no discussion on the already existing interparliamentary fora such as COSAC, the idea of a a Senate of national parliaments on the European level, or more other channels for collective direct participation of national parliaments in EU decision-making. MPs in France mention the direct representation of national parliaments on the European level more often than their German counterparts do (6% of the floor time used to discuss the role of parliaments in the EU for the Assemblée, and only 2% of floor time for the Bundestag).

The substantial difference between the debates is therefore the attention that MPs pay to parliamentarism beyond the border of the nation-state (Sublevel Parliament and European Parliament). The EP and the role of the national parliament as a sublevel parliament in a multi-level parliamentary system in the EU are highly important for MPs in the Bundestag, whereas they are only marginally discussed by MPs in the Assemblée nationale.

In the Bundestag, the strengthening of national parliaments is often depicted as conditional to the strengthening of the EP: ‘It would be wrong to pretend that we can strengthen the European Parliament only in 40 years, and [decide to] rely only on the national parliaments until then’ (Süssmuth, CDU/CSU, BT 19921202).

At times the strengthening of national parliaments is even described as a transitory measure. MPs should not abandon themselves to the ‘illusion’ that the strengthening of national parliaments is a measure ‘to get back what we have already transferred. A solution to this can only be that the European Parliament becomes a fully fledged parliament in the long run’ (Irmer, FDP, BT 19921202).

In the Bundestag, the European Parliament and Sublevel Parliament represent together 50% of the time that parliamentarians use to debate the role of parliaments in the EU (27% of floor time for Sublevel Parliament...
and 23% for the debate of the functions of the European Parliament). This means that MPs in the Bundestag spend even longer discussing the prerogatives of the EP and their chamber’s role in relationship to the EP than the Bundestag’s prerogatives for government control on the domestic level. In the Assemblée nationale, these roles represent only 16% of the overall floor time dedicated to parliaments in the EU.

The prerogatives for parliaments discussed in the Assemblée nationale and the Bundestag during the debates on the Treaty of Maastricht are thus similar as far as concerning an important level of attention on the reform of parliaments’ powers on the domestic level in EU affairs. However, they are substantially different concerning the attention to the prerogatives of the EP and its relationship with the national chambers.

The following section compares the attention given to roles in the Lisbon debates.

b) Lisbon: entirely different role models

In contrast to what one could expect given the important political debate about the role that national parliaments should play in EU integration since the Laeken declaration and the increasing ‘Europeanisation’ of both chambers, the way in which MPs discuss the role of national parliaments is more different between the chambers in the Lisbon debates.

The most notable point is that the attention to the EP and the national parliament’s cooperation with the EP is inverted between chambers in comparison to the Maastricht debates. These topics are of interest for MPs in the Assemblée nationale, but much less for MPs in the Bundestag. MPs in the Bundestag pay overall much less attention to the EP and its competences than is the case in the Maastricht debates. MPs in the Assemblée nationale use much of their floor time to discuss in particular the EP’s important increase in power in the Treaty of Lisbon and potentials for cooperation with the French MPs of the EP.

MPs in the Assemblée nationale discuss their power relationship with the government in EU affairs and the prerogatives for control much less than they do in the Maastricht debates. They are not particularly interested in the new individual rights conferred to them through the Treaty of Lis-
In the Bundestag, conversely, MPs discuss their role as a Domestic Control Body with more intensity than in the Maastricht debates. MPs in the Bundestag pay much attention to the new individual rights conferred to them by the Treaty of Lisbon, and in particular the individual right of each parliament to ask a national government to retrospectively notify a judicial review of an act with reference to the subsidiarity principle.

Figure 12: Role models according to chambers (Lisbon)

<table>
<thead>
<tr>
<th>Role Model</th>
<th>Assemblée nationale</th>
<th>Bundestag</th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic Control Body</td>
<td>20</td>
<td>53</td>
</tr>
<tr>
<td>Third Chamber</td>
<td>34</td>
<td>27</td>
</tr>
<tr>
<td>Sublevel Parliament</td>
<td>12</td>
<td>10</td>
</tr>
<tr>
<td>European Parliament</td>
<td>34</td>
<td>10</td>
</tr>
</tbody>
</table>

Note: Percentage of floor time dedicated to the role of parliaments in the EU.

In summary, the importance given to the two ‘intergovernmental’ parliamentary roles (Domestic Control Body and Third Chamber) and the two ‘supranational’ roles for which the EP is important (Sublevel Parliament and European Parliament) is inverted between Maastricht and Lisbon: in the Maastricht debates 84% of propositions are for intergovernmental and 16% for supranational roles in the Assemblée, while 50% are for the intergovernmental and 50% for supranational roles in the Bundestag; on the other hand, in the Lisbon debates 54% are for the intergovernmental and 46% for the supranational roles in the Assemblée, while 80% are for the intergovernmental and 20% for the supranational roles in the Bundestag.

Both chambers discuss the prerogatives for national parliaments that could potentially lead to their taking part directly in EU decision-making processes (Third Chamber) to the same extent. They are more important for the MPs in the Assemblée nationale (34% of floor time), but they play a certain role for the MPs in the Bundestag as well (27%). This might not seem surprising. For the first time, the Treaty of Lisbon endowed national

154 If they are, they discuss the individual rights conferred to them in the case of use of the passerelle clauses and simplified treaty revision procedures.
parliaments with the right to control the conformity to the subsidiarity principle of a draft legal act by the European Commission. Given the fact that MPs tend to select features of the treaty that they consider to be important for their contribution to the debate, the fact is still notable. This result can be interpreted as a similar reaction to a common European debate. However, as will be shown later, in the Bundestag there is an ideological cleavage regarding the Third Chamber role. Only the MPs from the centre-right and the Liberals are interested in this type of parliamentary participation in EU decision-making.

The preceding section showed that on an aggregate level, the roles of parliaments in the EU are more different between the two chambers in the Lisbon debates than they are in the Maastricht debates. This is a first piece of evidence to support Hypothesis 2. The following section changes the unit of analysis from chambers to parliamentary party groups to detect potential cleavages across chambers.

B – The Maastricht debates: ‘ideological’ cleavages

The chambers served as the unit of analysis in the overview in section A. Using aggregated data does not allow the distinction between ‘institutional’ factors linked to the institutionalised practice of EU affairs of the parliament in the political system and more ideological factors linked to dominating ‘visions’ about European integration in the national public space or other factors. Thus, the hypotheses of the model cannot be checked or falsified.

The following fine-grained analysis investigates cleavages between agents of specific discourses within and across chambers, and shows that in the Maastricht debates an important cleavage runs across the chambers, while in the Lisbon debates cleavages are more diffuse and run dominantly between the chambers.

The analysis emphasises the parliamentary party groups as the unit of analysis. With much caution, parliamentary party groups can be seen as groups of MPs with similar programmatic agendas and ideological core convictions. MPs forming a parliamentary party group are often members of a political party of the same name and ideological orientation. This is usually the case in the Bundestag. In the Assemblée nationale, the situation is slightly more complicated (they may regroup MPs from several parties), but it can still be considered that the parliamentary party groups constitute groups of MPs with a similar core of programmatic views. It goes without
saying that the cohesion of parliamentary party groups on issues of European integration is even more fragile than on domestic political issues, and that those groups may change their name and composition, especially in the French case. Therefore, every single case has been scrutinised carefully.

Parliamentary party groups are highly useful as a unit of analysis because they allow a certain stability for the comparison over time. Furthermore, even if their programmatic orientation has to be scrutinised carefully, they allow assumptions not only regarding a shared political core of ideas, but also regarding shared experience of government responsibility and offices in parliament. The latter indicate experience in dealing with EU affairs inscribed in the institutional memories of the parliamentary party groups. As a consequence, to use parliamentary party groups as unit of analysis allows conclusions to be drawn on the importance of both ideological motives and institutional motives for action.

However, in light of what has been discussed above, the analysis pays attention to every single MP and his or her ‘parliamentary and political biography’ and prior statements on European integration, as well as the type of contribution he or she makes. The analysis method and tool make it possible to always access aggregated data and the quotations on which these are based in parallel.

In the Maastricht debates, one finds a cleavage cutting across the Assemblée nationale and the Bundestag between those MPs who stem from parliamentary party groups that have a majoritarily supranational vision of the scope and nature of future European integration on the one hand, and those parliamentary party groups that have a more intergovernmental or Eurosceptic vision on the other.

In the Maastricht debates, the French Centrists focus on the same functions for parliaments in the EU as the established parties in the Bundestag do. The control of the government in EU affairs (Domestic Control Body) receives between half and two-thirds of the attention by speakers from UDC and UDF groups (54% and 63%), while a third of the floor time is occupied by reflections about parliamentary roles that transcend the nation-state (33% and 37% for Sublevel Parliament and European Parliament, respectively). The similarity with the discourse in the Bundestag is thus in particular due to the attention paid to the EP in the French Centrists’ discourse.\textsuperscript{155}

\textsuperscript{155} In the Assemblée nationale, the members of UDF and UDC account for 68% of the overall floor time used to discuss the relationship of the Assemblée nationale with the EP, and for 44% of the time used to talk exclusively about the
In the Bundestag, all established parliamentary party groups follow a similar pattern. MPs from the CDU/CSU parliamentary group almost equally divide the time spent between the discussion of the control of the government in the national arena (51%) and the features of parliamentarism beyond the nation-state in close cooperation with the EP (45%). MPs from the SPD spend even more time discussing the latter (52%) than the control of the government on the national level (47%). The French Centrists’ pattern is closest to the pattern of contributions by MPs of the FDP parliamentary party group (69% for Domestic Control Body and 31% for Sublevel Parliament and the European Parliament).

EP, even if only 19 out of 51 speakers (37% of speakers on the speakers list) are affiliated to these parliamentary party groups.
The Socialist and RPR MPs in the Assemblée nationale dedicate their floor time primarily to the control of the government on the national level (Domestic Control Body). The role of their chamber in a multi-level parliamentary system and the EP’s competences play only a marginal role in their discourse (PS, Groupe Communiste (C)) or are rejected as options to democratically legitimate the EC and the EU (RPR).

Figure 14: Bundestag: Role models according to PPGs (Maastricht)

<table>
<thead>
<tr>
<th>Domestic Control Body</th>
<th>Third Chamber</th>
<th>Sublevel Parliament</th>
<th>European Parliament</th>
</tr>
</thead>
<tbody>
<tr>
<td>SPD</td>
<td>47</td>
<td>2</td>
<td>39</td>
</tr>
<tr>
<td>CDU/CSU</td>
<td>51</td>
<td>3</td>
<td>21</td>
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<td>FDP</td>
<td>69</td>
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<td>B90/DG</td>
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Note: Percentage of floor time dedicated to the role of parliaments in the EU; PPGs: parliamentary party groups.

It is interesting to note that in both chambers the political party groups that could be qualified as ‘Eurosceptic’ (in the sense that they are sceptical towards the EC/EU in the current form) concentrate almost exclusively on one form of parliamentary representation in the EU. In the Bundestag, both Bündnis 90/Die Grünen and PDS/Linke Liste concentrate almost exclusively on the EP for the provision of legitimacy to European decision-making processes. In the Assemblée nationale, in contrast, Communist MPs only focus on the national parliament but in principle reject the European
institutions as they are. As a consequence, they do not see any possibility to
provide legitimacy to EU decision-making processes through parliaments.

Neither in the Assemblée nationale nor in the Bundestag is there a dis-
cernible cleavage between the parliamentary majority and the opposition.

The following sub-sections are organised along the dominating cleavages
in the Maastricht debates and present the roles for parliaments in the EU
discussed by the different groups sharing ideological core convictions on
European integration.

1) French Centrists, German CDU/CSU, SPD and FDP

The discourse of MPs from the French Centrists and from the established
parliamentary party groups in the Bundestag is similar and can be distin-
guished from the discourse of all other parliamentary party groups (except
the German extreme left) with reference to the important role given to the
EP. The floor time that these MPs use to discuss parliaments in the EU is
equally divided between prerogatives for their chamber on the national
level (Domestic Control Body) and the role that their parliaments play in co-
ordination with the EP (Sublevel Parliament and European Parliament). A
collective role for national parliaments does not feature much in their dis-
course (except UDF).

a) Multi-level parliamentarism

With few exceptions, most MPs affiliated to the UDF, UDC, CDU/CSU,
SPD, and FDP parliamentary party groups consider the strengthening of
the EP as the prime solution for the enhancement of democracy in the EU
in their discourse. Furthermore, the strengthening of national parliaments
is often combined with reflections about the relationship between the na-
tional parliament and the EP. MPs even convey the idea that the strength-
ening of the national parliament is only an intermediary measure neces-
sary until the EP is a fully fledged parliament.

UDF and UDC

In the Assemblée nationale, MPs from the Centrist parliamentary party
groups are in favour of a strengthening of the EP (European Parliament) and
attribute a considerable amount of floor time to the EU’s only direct repre-
sentative institution. They see in the EP the solution for the EU’s democratic deficit:

‘The great weakness of the Treaty of Maastricht is not to have bridged the “democratic deficit” that EU institutions have suffered from for years.’\(^{156}\) (Gantier, UDF, AN 3 19920506: 979)

Gilbert Gantier regrets the fact that the governments have not strengthened the EP further. In his opinion, the EP should enjoy rights according to the parliamentary control rights in the nation-state. He cites in particular the control of the community budget.

‘This [the failure to strengthen the EP, author] is all the more serious given that national parliaments are neither involved in the drawing up of the EU budget nor in that of the European directives. Given the increased powers of the Community, they are transformed into simple recording rooms.’\(^{157}\) (Gantier, UDF, AN 3 19920506: 979)

Most MPs of UDC and UDF consider that the EP’s elective function must be strengthened to alleviate the EU’s democratic deficit. Jacques Blanc considers that the Treaty of Maastricht is an improvement, as the EP has a stronger say in the nomination of the European Commission:

‘We must also recognise that Europe suffers from a democratic deficit. In this respect, Maastricht does not provide a quick fix, but it constitutes a small step forward, one step à la Jean Monnet. In the field of action against the democratic deficit, for example, I take notice of amendments regarding appointments to the Commission, which will be more controlled by the European Parliament.’\(^{158}\) (Blanc, UDF, AN 1 19920506: 906)

\(^{156}\) ‘La grande faiblesse du traité de Maastricht c’est de ne pas avoir comblé le “déficit démocratique” dont souffrent depuis des années les institutions européennes.’

\(^{157}\) ‘Cela apparaît d’autant plus grave que les parlements nationaux ne sont associés ni à l’élaboration du budget européen ni à celle des directives européennes. Compte tenu de l’accroissement des compétences de la Communauté, ces derniers sont transformés en simples chambres d’enregistrement.’

\(^{158}\) ‘Nous devons par ailleurs reconnaître que l’Europe souffre d’un déficit démocratique. De ce point de vue, Maastricht n’apporte pas la solution miracle, mais il traduit un petit pas, un pas à la Jean Monnet. Dans le domaine des mesures contre le déficit démocratique, par exemple, je note des modifications en ce qui concerne les nominations à la Commission, qui seront plus contrôlées par le Parlement européen.’
Furthermore, according to Centrist MPs, the EP should have more say in the legislative decision-making:

‘The co-decision system is admittedly not perfect in its presentation, but it can be a first step towards the recognition of the European Parliament.’\(^{159}\) (Blanc, UDF, AN 1 19920506: 906).

Centrist MPs accuse their colleagues in the Assemblée nationale of having the wrong idea about the functioning of the EU and the ways to democratise EU decision-making. Alain Lamassoure considers the EU’s ‘intergovernmental vision’, which is dominant among French MPs, as out-dated. In his opinion this point of view does not correspond to the realities of the EC/EU:

‘We continue to live in the fiction that European texts are trade agreements, that the European Council of Ministers gathers nice diplomats and that national room for manoeuvre will be saved as long as the European Parliament has only a consultative power.’\(^{160}\) (Lamassoure, UDF, AN 2 19920506: 926)

However, a number of MPs from UDF and UDC consider that the electoral rules for the EP need to be improved and that the EP itself lacks democratic legitimacy.

‘It is also by way of the European Parliament that a citizen will be able to directly invoke the accountability of policy makers, provided that MEPs enjoy an unquestionable democratic legitimacy.’\(^{161}\) (Lamassoure, UDF, AN 2 19920506: 927)

Adrien Zeller pleads for a new voting mechanism for the EP in France to be closer to the citizens. He favours the establishment of regional circumscriptions instead of a national list of candidates:

\(^{159}\) ‘Le système des codécisions, certes, n’est pas parfait dans sa présentation, mais peut être un premier pas dans la reconnaissance du Parlement européen.’

\(^{160}\) ‘Nous continuons à vivre dans la fiction selon laquelle les textes européens seraient des accords de commerce, le Conseil des ministres européen rassemblerait de gentils diplomates et la marge de manœuvre nationale serait sauvegardée aussi longtemps que le Parlement européen ne disposerait que d’un pouvoir consultatif.’

\(^{161}\) ‘C’est aussi à travers le Parlement européen que le citoyen pourra directement faire jouer la responsabilité des décideurs. Encore faut-il que les députés européens jouissent d’une légitimité démocratique irréprochable.’
'A country that appoints its representatives to the European Parliament with a national list of candidates elected with a fully proportional system for 81 names, most of which are unknown to voters, obviously does not give itself a representation that is truly identified by the people it represents. The system should most likely be regionalised and brought closer to citizens.'\textsuperscript{162} (Zeller, UDC, AN 3 19920506: 958)

Like the majority of MPs in the Bundestag, MPs from both Centrist parliamentary party groups put their claims for a strengthening of the Assemblée nationale in EU affairs in relation to the (still too weak) EP (\textit{Sublevel Parliament}).

Edmond Alphandéry, the future minister of the economy of the Balladur government, asks for a strengthening of the rights of the Assemblée because of the remaining weaknesses of the EP, especially in questions concerning the EMU.

‘In the economic and monetary union system, the coordination of economic policies, the implementation of fiscal discipline mechanisms, will essentially fall within the remit of non-elected bodies: the European Council, the Council of Ministers, the Commission. The European Parliament will not even be consulted; at most it will be informed of the decisions made. National parliaments, in our case the French Parliament, will endeavour to overcome this lack of democratic debate procedures.’\textsuperscript{163} (Alphandéry, UDC, AN 1 19920505: 852)

Jean-Marie Daillet and Alain Lamassoure are of the opinion that both the EP and national parliaments must have control rights in the EU, because both are concerned by decisions in the EU’s policy cycle:

\textsuperscript{162} ‘Un pays qui désigne ses représentants au Parlement européen avec un système de listes politiques nationales désignées à la proportionnelle intégrale pour 81 noms, dont la plupart sont inconnus des électeurs, ne se dote pas, à l’évidence, d’une représentation qui soit réellement identifiée par les populations qu’elle représente. Il faut sûrement régionaliser le système et le rapprocher des citoyens.’

\textsuperscript{163} ‘Dans le dispositif de l’union économique et monétaire, la coordination des politiques économiques, la mise en œuvre des mécanismes de discipline budgétaire, vont relever essentiellement d’organes non élus: le Conseil européen, le Conseil des ministres, la Commission. Le Parlement européen ne sera même pas consulté; il sera tout au plus informé des décisions prises. Les parlements nationaux, dont, pour ce qui nous concerne, le Parlement français, devront s’efforcer de pallier cette absence de procédures de discussion démocratiques.’
‘Another example, European aid to a third country, say, so as not to hurt the feelings of anyone, to Poldévie. When one decides the measure in an EU regulation, it is the European legislator, in this case the Minister of Foreign Affairs, Mr. Dumas, who has the last word. When it comes to financing it, it is the European Parliament, it is myself as an MEP. But when the funding is to be found, it is you, my dear colleagues, as national parliamentarians.’¹⁶⁴ (Lamassoure, UDF, AN 2 19920506: 927)

Lamassoure therefore calls for a reinforced control of the negotiations of the Council of Ministers by the Assemblée through the right to vote an opinion on each draft act considered as ‘law’ by the French Constitution. Article 34 of the French Constitution enumerates the areas that are to be defined by law; all other areas are considered to be regulatory and can be enacted directly through the government via decree¹⁶⁵. In the same direction is Jean-Marie Daillet’s argument for both a stronger EP and stronger national parliaments in order to remedy the democratic deficit of the EU (Daillet, UDC, AN 1 19920506: 905).

Only for one speaker of the two centrist groups present in parliament, the strengthening of the EP is not the solution to the EC’s democratic deficit. For Maurice Ligot, more pressing than reinforcing the EP is to re-establish the influence of national parliaments:

‘The second issue concerns what is commonly called the "democratic deficit". We immediately think of the inadequacy of the European Parliament’s powers. In fact, what seems to me much more serious is the virtual absence of the role of national parliaments in the decision-making process of the Community and tomorrow of the Union. In this regard, there are only a few lines in an annex of the treaty, which is totally inadequate.’¹⁶⁶ (Ligot, UDF, AN 3 19920506: 962)

¹⁶⁴ ‘Autre exemple, l’aide européenne à un pays tiers, disons, pour ne blesser personne, à la Poldévie. Quand on en arrête le dispositif dans une réglementation européenne, c’est le législateur européen, en l’espèce M. le ministre des affaires étrangères, M. Dumas, qui a le dernier mot. Quand il s’agit de financer, c’est le Parlement européen, c’est moi-même en tant que député européen. Mais lorsqu’il faut trouver l’argent pour ce financement, c’est vous, mes chers collègues, en tant que parlementaires nationaux.’


¹⁶⁶ ‘La deuxième question concerne ce que l’on appelle communément le “déficit démocratique”. On pense tout de suite à l’insuffisance des pouvoirs du Par-
The discourse conveyed by most MPs from the established parliamentary party groups in the Bundestag in the Maastricht is similar to these patterns, thereby showing an even stronger support for the EP.

**CDU/CSU**

As for the French Centrists, for most MPs in the Bundestag the EP is a primary source of democratic legitimacy for the EU. Most MPs from established parliamentary party groups in the Bundestag consider that the national parliaments cannot substitute the EP. They think that only the EP will be able to control the Council of Ministers. For a number of them, an enhancement of national parliaments is only an intermediary measure necessary until the EP is a fully fledged parliament.

The EP (24% of floor time on parliaments in the EU) and the Bundestag’s role in multi-level parliamentary democracy in the EU (21% of floor time) takes almost half of the floor time used by CDU/CSU. When MPs speak about the EU’s democratic deficit, they usually mean the EP’s weak competences.

‘In this speech I would like to say something that should have been self-evident for years. It may be that since 1957 and in the course of lengthy treaty negotiations we have gotten used to a Europe of governments. But this time is over. It is evident that we stand up assiduously and determined on all levels for the democratic Europe.’

(Süssmuth, CDU/CSU, BT 19921008: 9332)

For most speakers of the CDU/CSU, the strengthening of the EP is the primary goal of the reform of European institutions. For Rita Süssmuth, national parliaments will not be able to substitute the EP to control the decision-making on the European level:
‘It would be wrong to now answer: we will strengthen the European Parliament in 40 years, and until then we will have only the national parliaments. The national parliaments need close cooperation with the European Parliament.’\(^{169}\) (Süssmuth, CDU/CSU, BT 19921008: 9331)

The CDU/CSU MPs (in the government majority) defend the accomplishments of the Treaty of Maastricht for the EP. Michael Stübgen welcomes the introduction of the co-decision procedure in the treaty, even if he considers that its application is still too narrow. He appeals to the government to continue to push for an equal footing of the EP and the Council against the opposition of other member states (BT 19921008: 9372).

MPs from the CDU/CSU parliamentary group defend their government’s achievements for the EP and convey the idea that German actors on all levels are the decisive driver for the strengthening of the EP against the resistance of some notable European partners:

‘The British foreign minister told me some time ago that the English Parliament had to fight for its rights for a hundred years, the European Parliament would have approximately the same time.’\(^{170}\) (Süssmuth, CDU/CSU, BT 19921008: 10874)

Like their counterparts in the French Centrist parliamentary party groups, the members of the CDU/CSU parliamentary party group are concerned about a reform of the voting rules for the EP to provide it with further legitimacy (Süssmuth, Stübgen, Hellwig). In contrast to the French Centrists, they plead for uniform European electoral rules. Other European governments would still not have ‘to a sufficient extent the awareness about the right election rules for the European Parliament – they should not be decided on the domestic level, but at European level […]’\(^{171}\) (BT 19921202: 10874).

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169 ‘Falsch wäre es, nun zu antworten: Das Europäische Parlament stärken wir in 40 Jahren, und bis dahin haben wir nur die nationalen Parlamente. Die nationalen Parlamente brauchen eine enge Zusammenarbeit mit dem Europäischen Parlament.’

170 ‘Der britische Außenminister sagte mir vor einiger Zeit, das englische Parlament habe hundert Jahre um seine Rechte kämpfen müssen, das Europäische Parlament habe annähernd so viel Zeit.’

171 ‘in ausreichendem Maße das Bewusstsein für […] die richtigen Wahlformeln – nicht national, sondern europäisch geregelt – des Europäischen Parlamentes […]’
Renate Helwig and Michael Stübgen point to the fact that the EP still has a problem of acceptance – among politicians on the European level (Hellwig, CDU/CSU, BT 19921202: 10874), but also among citizens.

Michael Stübgen considers that the low level of voter turnout in European elections is due to the still too-weak powers of the EP.

‘Our most urgent task – this crystallised as well just now – is consequently to render EU policy and politics transparent for the citizens, because it concerns the life of each of them, to give them the option of participation. One substantial possibility of actively shaping EU policy is the participation in the elections to the national legislatures and the European Parliament. I have to say that considering a voter turnout of 60 to 70%, for example, for the European Parliament, the citizens do not sufficiently use their rights. But one has to point also to something else, which cannot be blamed on the citizens – rather it is our responsibility: We have to secure sufficient influence and control prerogatives for the democratically elected parliaments.’

Even the most critical speaker from CDU/CSU agrees with his colleagues that the democracy in the EU has been strengthened by the new rights for the EP in the Treaty of Maastricht. He even asks for the right of initiative for the EP and for the Council of Ministers to launch legislative initiatives on the European level, and to be able efficiently revise the legislation in place after the completion of the internal market: ‘I do not say that this is enough. A lot has to be added: the European Parliament must get an unrestricted right of initiative.’

172 ‘Es ist also – das hat sich eben auch gezeigt – unsere vordringliche Aufgabe, Europapolitik, die schließlich die Lebensgestaltung eines jeden einzelnen Bürgers betrifft, für diesen durchschaubar zu machen, um ihm die Möglichkeit der Mitgestaltung zu eröffnen. Eine solche wesentliche Mitgestaltungsmöglichkeit ist die Beteiligung an den Wahlen zu den nationalen Parlamenten und zum Europaparlament. Hier muss ich feststellen, dass natürlich bei einer Wahlbeteiligung zwischen 60 und 70% z. B. für das Europaparlament der Bürger ihre Mitgestaltungsmöglichkeiten nicht ausreichend wahrnehmen. Es muss aber auch auf etwas anderes hingewiesen werden, woran nicht die Bürger schuld sind – vielmehr sind wir dafür zuständig – : Es muss sichergestellt werden, dass diese demokratisch gewählten Parlamente genügend Einfluss und Kontrollbefugnisse haben.’

173 ‘Ich sage nicht, dass das genug ist. Es kommt noch einiges dazu: Das Europäische Parlament muss ein uneingeschränktes Initiativrecht bekommen.’
However, he is not in favour of claiming more rights for the EP:

‘I think we have to reflect very carefully – I also precisely address the SPD – about whether we should only ask for more rights for the European parliaments. The Council and European parliament have different functions. This is why they cannot be treated completely equally.’174 (Mayer, CDU/CSU, BT 19921008: 9379)

He addresses this statement especially to the SPD opposition, which accuses the government of not having pushed sufficiently for the strengthening of the EP.

Most MPs of the CDU/CSU parliamentary party group put the enhancement of control rights of the Bundestag in perspective with the EP’s prerogatives. They see the Bundestag as a sort of sublevel parliament of the EP (Sublevel Parliament).

Rita Süssmuth asks that the national parliaments not be pitted against the EP. In her opinion, the national parliaments need the EP to be able to influence their governments. She asks for their close cooperation (Süssmuth, CDU/CSU, BT 19921008: 9332). In her view, an increased activity of German MPs on EU issues is more important than strengthened formal control rights.

For MPs from the CDU/CSU parliamentary group, the reinforcement of the EP and a better parliamentary control on the national level are important to alleviate the EC/EU’s democratic deficit. Even if their public claims are more modestly formulated and more defensive of the government’s achievements, members of the group share the same analysis as the opposition regarding the adequate way to resolve this deficit. Even though they are in the government majority, they denounce a ‘Europe of executives’.

SPD

Even more than for the CDU/CSU MPs, for the members of the SPD parliamentary group a strong and representative EP is absolutely indispensable for democracy in the EU (European Parliament).

With the exception of one speaker, all agree that a fully fledged EP is the necessary precondition to put an end to the democratic deficit of the EU, 174 ‘Ich meine, wir müssen auch sehr gründlich darüber nachdenken – ich sage das gerade auch an die Adresse der SPD –, ob wir immer nur mehr Rechte für das Europäische Parlament fördern sollten. Rat und Europäisches Parlament haben unterschiedliche Aufgaben. Deshalb können sie auch nicht völlig gleichartig behandelt werden.’
which is characterised by the executives’ excessive domination. Speakers of the SPD often refer to their party’s long-term parliamentary tradition and its commitment to European integration.

For the speakers of the SPD opposition, the EP needs to have exactly the same decision-making rights as the Council of Ministers. Heidemarie Wieczorek-Zeul, the SPD parliamentary group’s spokeswoman for European policy, identifies the lacking power of the EP for legislative decision-making as one of the main failures of the Treaty of Maastricht, and asks for an early conference for the revision of the treaty.

‘The envisaged conference, which is supposed to review the treaty in 1996, should in our view take place two years earlier in 1994. Then an equal decision-making right on European legislation for the European Parliament. Our wish is that, in these issue areas, the European Parliament can really take decisions on European legislation.’

175 (Wieczorek-Zeul, SPD, BT 19921008: 9329)

In the view of most of the speakers, with the Council of Ministers’s increase in legislative competences, the EP should have gained the powers that national parliaments lost. The MPs consider that the rights of the EP were only modestly increased in the Treaty of Maastricht.

‘But the reality is that indeed, on the one hand, the rights of the European Parliament have been strengthened slightly, but, on the other hand, an enormous increase in competences of the Council of Ministers has taken place. Instead of a further democratisation, the result is a loss in substance of democracy. This is the opposite of what is in principle demanded and necessary.’

176 (Scheer, SPD, BT 19921202: 10868)


176 ‘Aber die Realität ist, dass zwar die Rechte des Europäischen Parlaments geringfügig verstärkt werden, demgegenüber aber ein enormer Kompetenzzuwachs des Ministerrats steht. Statt weiterer Demokratisierung ist das Ergebnis deshalb ein Substanzerlust an Demokratie, also das Gegenteil des prinzipiell Geforderten und Erforderlichen.’
For most of the members of the SPD parliamentary group, the democratisation of the EU is tantamount to the full participation of the EP in the decision-making on the European level.

‘For years we have called on the democratisation of the EC. Already with the increase of legislative decision-making competences of the Council of Ministers on the basis of the Single European Act, which came into force five years ago, there was a compelling necessity to give the European Parliament, which has been directly elected since 1979, those decision-making competences that the national parliaments have had to hand in!’ (Scheer, SPD, BT 19921202: 10868)

The EP’s role and competences are often directly discussed from a multi-level perspective together with those of the Bundestag (Sublevel Parliament). Being in the opposition and given the negotiations that preceded the parliamentary debate (see page 132), the role of the national parliament is more important than it is in the contributions of the members of the CDU/CSU.

However, when MPs of the SPD welcome the strengthened parliamentary rights on the domestic level through the constitutional revision, they almost always also mention the necessity of increasing the powers of the EP – as if speakers fear that they will appear Eurosceptic by making this claim. A strong EP is unanimously praised as a prime solution for the democratic deficit.

For Heidemarie Wieczorek-Zeul, the new two-thirds majority in both the Bundestag and Bundesrat foreseen in article 23 for the transferral of competences to the European level will end the ‘undemocratic’ practice of transferring competences to the European level without an adequate strengthening of parliamentary control and decision-making power for the EP.

‘This means that the – I say – undemocratic practice is put to an end to transfer central competences to the EC on the basis of Article 24 and with a simple majority, without having secured sufficient parliamentary control and decision-making for the European Parliament. In this

177 ‘Seit Jahren wird die Demokratisierung der Europäischen Gemeinschaft gefordert. Schon mit der Zunahme der gesetzgeberischen Entscheidungskompetenz des Ministerrats auf der Basis der Einheitlichen Europäischen Akte, die vor fünf Jahren in Kraft trat, war die zwingende Notwendigkeit gegeben, dem seit 1979 direkt gewählten Europaparlament diejenige Entscheidungskompetenz zu geben, die die nationalen Parlamente abgeben müssen.’

https://doi.org/10.5771/9783845290294
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way the European Community has developed a democratic deficit.

(Wieczorek-Zeul, SPD, BT 19921202: 10815)

One should note the fact that she does not criticise the competence transfer to the European level on the basis of a simple parliamentary majority, i.e. lower than the one required for a constitutional amendment, but the fact that the EP is still too weak to fulfil powers comparable to those of the Bundestag. This means that the Bundestag is not seen as a guardian of its own or of the nation’s competences, but of the democratic quality of the building-up of the EC/EU.

This point of view is also well illustrated in the contribution by Karsten Voigt, who is in principle in favour of a common European defence policy but for whom the limit of this policy is the EP’s missing participation in this area. His contribution notes that, for Germany, having a ‘parliamentary’ army was a difficult consensus adopted in the 50s. For him, the German Bundestag cannot accept less at the European level (Voigt, SPD, BT 19921202: 10839).

Again, the strengthening of national parliaments is necessary insofar as there is still not enough control through the EP. In contrast to the contributions of many of the members of the CDU parliamentary group who see the responsibility for democratic control in the EU for both national parliaments and the EP, many of the speakers from the SPD see the strengthening of the prerogatives of the Bundestag only as a necessary intermediate step before the EP is a fully fledged parliament on the European level.

Günter Verheugen, the chair of the Europe Committee that was established to prepare the ratification of the Treaty of Maastricht, speaks about a ‘conscious and voluntary loss of competences’ for the Bundestag, but one that it would have been able to tolerate if the EP had at the same time received the necessary rights (Verheugen, SPD, BT 19921008: 9351). For Ludwig Stiegler, the national parliaments must be strengthened ‘at least until the status of the EP has been enhanced’ (Stiegler, SPD, BT 19921202: 10871), and Hartmut Soell goes even further by stating that parliamentarians should not believe in the illusion that it would ‘help the democracy in the EU to transfer competences back to the national parliaments.’ In his


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view, the only solution to the dilemma of the democratic deficit is the strengthening of the EP.

‘We should not abandon ourselves to the illusion that we could change this through the attempt to get back as national parliaments what we have already abandoned. The solution can only be that in the long run the European Parliament is transformed into a fully fledged parliament.’\textsuperscript{179} (Soell, SPD, BT 19921008: 9389)

Soell even thinks that the Bundesrat’s new participation rights are exaggerated, and in his opinion the Bundestag could abandon them in case the Bundesrat agreed to do the same.

‘I propose a compromise: I agree gladly that we renounce to a substantial participation of the German Bundestag, if you can bring yourself to do the same in the case of the Bundesrat.’\textsuperscript{180} (Soell, SPD, BT 19921008: 9389)

\textit{FDP}

The patterns of the speakers of the FDP parliamentary group’s discourse are closest to those of the French Centrists. Eleven per cent of the floor time is dedicated exclusively to the EP (\textit{European Parliament}), and 20\% of the floor time is used to discuss the relationship between the national parliaments and the EP (\textit{Sublevel Parliament}).

In the discourse of the members of the FDP parliamentary party group, only a fully fledged EP can guarantee a fully operational parliamentary control in the EU in the long run (\textit{European Parliament}).

‘The solution can only be that the European Parliament is transformed into a fully fledged parliament in the long run. However, I do not accept at all that until then, the Bundesrat gets excessive participation

\textsuperscript{179} ‘Wir sollten uns auch nicht der Illusion hingeben, daß wir das durch den Versuch ändern könnten, als nationale Parlamente das wiederzuholen, was wir schon einmal aufgegeben haben. Die Lösung kann nur dann liegen, daß das Europäische Parlament auf die Dauer zu einem Vollparlament ausgebaut wird.’

\textsuperscript{180} ‘Ich biete da einen Kompromiß an: Ich bin gerne damit einverstanden, daß wir auf eine maßgebliche Mitwirkung des Deutschen Bundestages verzichten, wenn Sie sich dazu durchringen können, im Falle des Bundesrates nicht anders zu verfahren.’
For Irmer, the EP is the central democratic parliamentary institution in the EU that is capable of democratising EU decision-making. The Treaty of Maastricht does not sufficiently empower it.

‘You all agree with me that the democratisation of the Union has to be enhanced. What Maastricht includes on the European Parliament, is still insufficient. In the mean time, we need to strengthen the participation rights of the Bundestag and the Bundesrat.’\(^{182}\) (Irmer, FDP, BT 19921202: 10818)

However, in his view this will only be an intermediary solution. The strengthening of national parliaments cannot replace a strong EP.

‘This happens despite the fact that it must be clear to every one of us that this can of course not substitute the rights of the European Parliament.’\(^{183}\) (Irmer, FDP, BT 19921202: 10818)

For Otto Graf Lambsdorff, both the EP and the national parliaments must be strengthened in order to reduce the democratic deficit of the EU (Sub-level Parliament). He considers that the rights of the EP have only marginally been strengthened with the Treaty of Maastricht.

‘To realise unity in diversity and individuality, we will also fix this principle in article 23 of our Constitution. We have to take care of more transparent decision-making processes of all organs of the Community and that the Community reduces its democratic deficit. To reach this, the European Parliament must be strengthened. Its rights were only marginally enhanced in the Treaty of Maastricht. Furthermore, the

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181 ‘Die Lösung kann nur dann liegen, daß das Europäische Parlament auf die Dauer zu einem Vollparlament ausgebaut wird. Ich sehe aber überhaupt nicht ein, daß wir bis das der Fall sein wird, dem Bundesrat exzessive Mitwirkungsmöglichkeiten im Grundgesetz einräumen, selber aber über unsere Rechte stillschweigen.’


183 ‘Dies geschieht, obwohl wir uns darüber klar sein müssen, daß all dies natürlich die Ausweitung der Rechte des Europäischen Parlaments nicht ersetzen kann.’
rights of the German Bundestag must be strengthened to participate in decisions in Europe.’184 (Lambsdorff, FDP, BT 19921008: 9338)

The EP itself and the role that national parliaments play in close cooperation with the EP are important points in the discussion about ways to alleviate the EU’s democratic deficit in the discourse of French Centrists and the majority of the members of the German Bundestag. This distinguishes them from most other parliamentary party groups. However, the role of Assemblée and Bundestag as Domestic Control Bodies is highly important in their discourse about the role of parliaments in the EU as well. The main points will be presented in the following.

b) Domestic Control Body

Even if multi-level parliamentarism plays an important role, domestic control rights (Domestic Control Body) are also important for the French Centrists and the established parties in the German Bundestag – MPs from UDF, UDC and FDP even consecrate most of their floor time to this frame. For MPs from all of these parliamentary party groups, EC affairs are no longer ‘purely’ international relations. Therefore, national parliaments need to have a strengthened control of EU decision-making.

**UDF and UDC**

As do their German counterparts, the French Centrist MPs particularly criticise the strengthening of the executives through European integration. They plead both for more control competences for the Assemblée nationale towards the government and for internal reforms of the proceedings of the Assemblée nationale in order to better cope with European affairs.

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For Gilbert Gantier, the fact that the EC/EU’s competences have been extended results in the national parliament slowly becoming only ‘recording chambers’\(^{185}\) (Gantier, UDF, AN 3 19920506: 979).

For Alain Lamassoure, it would be a first sign of progress for the democratic quality of the EC/EU if the parliament regained real control of the action of its government in the Council of Ministers. For him, there should be a preliminary vote in the Assemblée nationale or in the Sénat before the negotiations in the Council. Furthermore, he asks for a ratification of the Community budget through the national parliaments (Lamassoure, UDF, AN 2 19920506: 927).

For Adrien Zeller, conversely, national parliaments themselves have to reform. For him, a part of the problem of the deficiency of democratic processes in the EU originates in France. He accuses the Assemblée nationale of working five months and a half per year and of never using its permanent committees to deal with European affairs to analyse directives and regulations (Zeller, UDC, AN 3 19920506: 958). Moreover, he asks the Assemblée to quickly change its working methods in order to be able to question and orient French ministers in Brussels.

Only former prime minister Raymond Barre has reservations concerning a strengthening of the national parliament’s control competences. In his view, parliament should not go so far as to tie the hands of the government in Council negotiations. In principle he supports a full association of the parliament to the execution of the treaties, its information, and the possibility for the parliament to give its opinion to the government’s EU policy. However, for him farther-reaching competences to control the government would not be in the spirit of the Vth Republic and would mean a return to a parliamentarian system in which parliament dominates the government (Barre, UDC affiliated, AN 2 19920506: 937).

**CDU/CSU**

As their Centrist colleagues, MPs from CDU/CSU, SPD and FDP also use an important share of their floor time to discuss the control competences towards the government that detains the domestic chamber. CDU/CSU and SPD MPs focus equally on the EP and multi-level parliamentarism and on the strengthening of their capacity to be a *Domestic Control Body*.

MPs from the CDU/CSU, SPD, and FDP parliamentary party groups consider that an enhancement of the Bundestag’s competences is necessary

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\(^{185}\) ‘chambres d’enregistrement’
even if in the long run the enhancement of the competences of the EP will be at least as important.

MPs from the CDU/CSU parliamentary party group argue in favour of an enhancement of the control competences of the Bundestag towards the German government, but without concretely mentioning prerogatives.

The chairwoman of the EC committee, Renate Hellwig, considers that it is necessary for the German government not only to give the Bundesrat the right to participate in EU decision-making, but also for it to consult the opinion of the members of the Bundestag as well before making decisions.

‘I am also very much in favour of the federal government realising that it is not only interesting and important to give the Bundesrat more participation rights to determine its attitude at the table of the Council of Ministers, but that it is as important to take feedback here in the national parliament as well.’\(^{186}\) (Hellwig, CDU/CSU, BT 19921008: 9346)

Usually, the argument is that the Bundestag cannot have fewer rights than the Bundesrat. This is coherent with the views expressed in interviews with parliamentary actors during the Maastricht ratification. Speakers state that the Bundestag would probably not have battled for substantially more participation rights if there had not been the claims by the German Länder at the same time (interview 39; interview 38).

‘We expect that when rights and competences of the Länder are settled, the same is true for the rights of the Bundestag. Because only a parliament that is dedicated to European issues is able to participate committedly and actively.’\(^{187}\) (Süssmuth, CDU/CSU, 19921008: 9332)

An idea that is often mentioned is that the newly gained rights will incite MPs to become interested in EU affairs. The rationale here is less one of control and more one of activation of the Bundestag’s interest in EU matters.

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\(^{186}\) ‘Auch ich bin sehr dafür, und ich hoffe, dass die Bundesregierung ein Einsehen hat, daß es nicht nur interessant und wichtig ist, dem Bundesrat bei ihrem Verhalten am Ministerratstisch mehr Mitwirkungsmöglichkeiten zu geben, sondern dass es genauso wichtig ist, die Rückkoppelung auch hier im nationalen Parlament zu nehmen.’

\(^{187}\) ‘Wir erwarten, wenn es um die Rechte und Zuständigkeiten der Länder geht, daß auch die Rechte des Deutschen Bundestages klar geregelt werden. Denn nur ein in Europafragen engagiertes Parlament kann auch engagiert und aktiv mitwirken.’
Michael Stübgen elaborates on the reform of the Bundestag’s internal working procedures. At the time of the discussion about the ratification, Stübgen was already member of the newly created EU Special Committee that was supposed to more closely examine the Treaty of Maastricht and the EMU. His point of view focuses predominantly on the internal organisation and power relations in EU affairs in the Bundestag.

In his view, the Bundestag is late in its internal organisation in EU matters. He cites Great Britain and Denmark as countries where there were Committees for European Affairs much earlier. In his view, the Bundestag needs a ‘Union Committee’ to head and coordinate the treatment and control of European affairs in the Bundestag. This committee should then receive the support of the standing committees for its work. It should be established through the amendment of articles 23 and 45 of the Constitution, because he thinks that it is necessary to give the committee a constitutional status.

‘The competences and possibilities for deliberation of the sectoral committees for EC acts would not be diminished in their issue area. On the contrary, they would be supported politically and coordinated by the Union Committee. The Union Committee would consequently be a sort of clearing post of the Parliament in European affairs.’

(Stübgen, CDU/CSU, 19921008: 9373)

In his view, there should be a permanent dialogue and cooperation between standing committees and the Union Committee. The committee should be responsible before the parliament as a whole and would have to report to it. Furthermore, the committee should have the possibility to issue ‘mandates’ that the government would need to follow in the negotiations in the Council. It should only be possible for the government to divert from these positions for a highly important reason in the domain of foreign policy or of integration policy.

SPD

For the members of the SPD parliamentary party group, such as the MPs from CDU/CSU and FDP, a strengthened participation of national parlia-

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ments in EU decision-making is important to counter the privileged position of the governments in these processes. Heidemarie Wieczorek-Zeul, the SPD parliamentary party group’s speaker on European affairs, states that the Bundestag’s control rights must be strengthened to avoid the government playing multi-level games.

‘Togeter, we adopt a law today for the Bundestag with which the German Bundestag attempts to bind the federal government in the future to a specific line before relevant negotiations in the Council of Ministers. Then it will for example no longer happen that the government agrees in the EC Council of Ministers to an increase of the Value Added Tax to 15% and later on pretends at home that overriding EC legislation is at the origin. In reality it was the government itself that took this line.’189 (Wieczorek-Zeul, SPD, BT 19921202: 10814)

For the chairman of the EU Committee that was put into place to prepare the ratification of the Treaty of Maastricht, the strengthening of the rights of the German Bundesrat aims to maintain the federal balance of the state of Germany. The motive of evaluation for the Bundestag is thus the German Basic Law.

‘To date the design of the integration process has substantially and enduringly disturbed the constitutional balance between the Bundestag, the Bundesrat, and the federal government. The Bundestag and Länder are concerned. They transfer competences. Even the legislative competence is carried out by the executive on the European level. In parallel, the federal structure of the state is eroded because competences of the Länder are transferred to Europe without being compensated.’190 (Verheugen, SPD, BT 19921202: 10834)

189 ‘Wir verabschieden heute gemeinsam ein Rechtsstellungsgesetz für den Bundestag, mit dem der Deutsche Bundestag die Bundesregierung künftig vor entsprechenden Festlegungen im Ministerrat auf eine bestimmte Linie verpflichten will. Dann kann es z.B. nicht mehr passieren, dass die Bundesregierung im EG-Ministerrat der Mehrwertsteuererhöhung auf 15 % zustimmt und anschliessen nach Hause kommt und behauptet, ursächlich dafür sei das vorrangige EG-Recht, während sie in Wirklichkeit selber diese Linie vertreten hat.’

190 ‘Die bisherige innerstaatliche Gestaltung des Integrationsprozesses hat die nach dem Grundgesetz ausgewogene Balance zwischen den Verfassungsorganen Bundestag, Bundesrat und Bundesregierung empfindlich und nachhaltig gestört. Betroffen sind der Bundestag und die Länder. Sie geben Kompetenzen ab. Selbst die Gesetzgebungskompetenz wird dann auf europäischer Ebene von der Ex-
For the members of the SPD parliamentary party group, the entry into the third phase of the EMU must be subject to a parliamentary vote.

‘Our demand to introduce a parliamentary reserve for the passage to the third step of the Economic and Monetary Union was successful. We have said since the beginning that there cannot be an automatic passage from the second to the third step of the European Monetary Union. With this parliamentary reserve – I said it in the first reading on 8 October – we wanted to put up a barrier with the help of which there would be a weakening of the strong D-Mark.’ 191 (Verheugen, SPD, BT 19921202: 10834)

SPD MPs draw a parallel between the problems for democracy on the European level and democracy in the EU in a federal system: the slow strengthening of the executives and the weakening of sublevel parliaments. They draw a parallel with the German Landtage.

‘We must acknowledge that European integration puts a heavy strain on the internal statics of the Basic Law. One could even say that it has brought it into tilt. The Länder have transferred competences, likewise the Bundestag and the federal government have as well. The issue here is not only the meetings of the Council of Ministers who take care of current affairs. It is important that article 23 again emphasises the parliamentary responsibility and the responsibility of the Länder.’ 192 (Stiegler, SPD, BT 19921202: 10871)


192 ‘Wir müssen zur Kenntnis nehmen. daß die europäische Integration die interne Statik des des Grundgesetzes schwer belastet, um nicht zu sagen: in eine Schieflage gebracht hat. Die Länder haben Kompetenzen abgegeben. ebenso der Bundestag an die Bundesregierung. Wir hatten im Grunde nur noch einen Gesetzgeber, nämlich die Bundesregierung. Hier geht es nicht immer nur um die Ministerräte. sondern oft sind es die Ministerialräte, die die täglichen Geschäfte betreiben. Es ist wichtig. daß der neue Art. 23 die parlamentarische Verantwortung und die Verantwortung der Länder wieder betont.’
The norms that MPs from the SPD mainly evoke to justify the strengthened control rights thus stem from the German Basic Law and the federal state structure.

**FDP**

The MPs from the FDP parliamentary party group ask for more control of the government’s actions in EU affairs despite being in the government coalition. Otto Graf Lambsdorff asks for an early and more complete participation of the Bundestag in EU affairs. He asks the German government to base its negotiations on the opinion of the Bundestag.

‘We want the government to consult the Bundestag earlier and with more complete information regarding decision-making. We want the federal government to base its negotiation positions on the opinion of the Bundestag. The participation rights of the Bundestag in European affairs shall be fixed in the Basic Law, as will be those of the Bundesrat.’

(Lambsdorff, FDP, BT 19921008: 9338)

As for the members of the UDF/UDC parliamentary party group, European affairs are now more than external or foreign affairs, and therefore a stronger participation of the Bundestag does not interfere with the exclusive competences of the executive.

‘This has nothing to do with the executive competences of the government, because we are in the area of European legislation. This is why nobody should say that it is a constraint for the executive competences if we say as a parliament that we wish to have a substantial say.’

(Irmer, FDP, 19921008: 9389)

For the members of the FDP parliamentary party group, as for the MPs from the SPD, the entry into the EMU should depend on a parliamentary vote.

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193 ‘Wir möchten, daß die Bundesregierung den Deutschen Bundestag früher und umfassender als bisher an Entscheidungen beteiligt […] Wir möchten, daß die Bundesregierung die Auffassung des Bundestages ihren Verhandlungen zugrunde legt. Die Mitwirkungsrechte des Bundestages in europäischen Angelegenheiten sollen, wie gleichzeitig auch die Rechte des Bundesrates, im Grundgesetz festgeschrieben und institutionell verankert werden.’

194 ‘Das hat nichts mit der Exekutivbefugnis der Bundesregierung zu tun, weil wir uns hier im Bereich der europäischen Gesetzgebung bewegen. Deshalb soll niemand sagen, das sei eine Einschränkung der Exekutivbefugnis, wenn wir als Parlament sagen: Wir wollen da entscheidend mitreden.’
‘As far as concerning the participation of us parliamentarians in the entry into the third step, it is completely clear: without our favourable vote, nothing will be possible. A government that said that it would agree, despite a negative parliamentary vote, would be crazy.’195 (Haussmann, FDP, BT 19921202: 10847)

However, the evaluation of the importance of a strengthening of national parliaments is not uncontested. Ulrich Irmer is of the opinion that the Bundestag could abandon new participation rights if the Bundesrat does not receive any either.

‘This is why this draft has to be amended in the committee. The Bundestag must have the same participation rights. This may be uncomfortable for the government. I propose a compromise. It is my pleasure to agree to renounce to a substantial participation of the German Bundestag, if you can agree to do the same for the Bundesrat.’196 (Irmer, FDP, 19921008: 9389)

In the Maastricht debates, arguments for a strengthening of the Bundestag’s prerogatives for government control are grounded both in the (still) weak powers of the EP and an important executive dominance in the EU, and in the case of the German MPs in the necessity to preserve the balance of the German Basic Law. A collective role for national parliaments does not play much of a role in the discourse of the French Centrists and the established parties in the Bundestag at that time.

c) Third Chamber

A collective role for national parliaments is not important in the discourse of members of the French Centrist parliamentary party groups, and the idea is not taken seriously in the discourse of the German MPs.

195 ‘Was die Mitwirkung von uns Parlamentariern beim Eintritt in die dritte Stufe angeht, so ist völlig klar: Ohne unser Ja läuft dies nicht. Jede Regierung wäre verrückt, wenn sie sagte, trotz des negativen Votums stimmen wir dem zu.’
196 ‘Deshalb muß dieser Entwurf in den Ausschußberatungen dahingehend geändert werden, daß der Deutsche Bundestag in gleicher Weise mitwirken kann. Dieses mag der Bundesregierung unbequem sein. Ich biete da einen Kompromiß an: Ich bin gerne damit einverstanden, daß wir auf eine maßgebliche Mitwirkung des Deutschen Bundestages verzichten, wenn Sie sich dazu durchringen können, im Falle des Bundesrates nicht anders zu verfahren.’
UDF and UDC

Of the UDF and UDC MPs, only Maurice Ligot mentions the idea of a European Senate that could control the good application of the principle of subsidiarity. As was shown above, Ligot has a more traditional Gaullist point of view and also represents an exception regarding his point of view on the potential role of the EP.

As one of the main roles for national parliaments, Maurice Ligot sees the control of the good application of the principle of subsidiarity, either individually or collectively in a sort of European Senate of national parliaments, especially paying attention to ‘the proper interpretation of the terms’ (Ligot, UDF, AN 3 19920506: 962).

His point of view is a softer version of the Gaullist point of view held by Jean de Lipkowski on the role of parliaments in the EU, which will be presented later. He thinks that the enhancement of the role of national parliaments is more important than the strengthening of the EP. National parliaments in his view can be strengthened through a direct and collective role in European decision-making processes.

SPD

In the Bundestag, only one MP from the SPD mentions the importance of interparliamentary cooperation between national parliaments and a direct link to the European level.

‘We have to reorient our political decision-making procedures in the parties and in parliament. We need to shift from an exclusively national perspective to a European perspective. The cooperation with colleagues from other national parliaments and from our Länder parliaments is also important. It is more than ever important not only to complain but to work on the draft acts.’ (Stiegler, SPD, BT 19921202: 10871)

Ludwig Stiegler (SPD) underlines the necessity of changing from a national to a European perspective and calls upon his fellow MPs to foster parlia-

\[\text{B – The Maastricht debates: ‘ideological’ cleavages}\]

\[\text{263}\]

197 ‘la bonne interprétation des termes’

198 ‘Wir müssen unsere politische Willensbildung, ob in den Parteien oder im Parlament, insgesamt umorientieren. und zwar weg vom reinen nationalen Blickwinkel hin zum europäischen Blickwinkel. Dazu gehören auch die Kooperation und die Zusammenarbeit mit den Kolleginnen und Kollegen anderer nationaler Parlamente, aber auch mit unseren Landesparlamenten. Wir sind mehr als bisher gefordert. nicht nur zu klagen, sondern an den Vorlagen auch zu arbeiten.’
mentary cooperation with other parliaments. However, he does this without even mentioning the interparliamentary conference foreseen in the Treaty of Maastricht or another institutionalised solution for the cooperation of national parliaments.

In summary, MPs from the Centrist parliamentary party groups in the Assemblée nationale and MPs of CDU/CSU, SPD, and FDP in the Bundestag consider that the EP can alleviate the democratic deficit of the EU on the EU level and a strengthened control of the government in EU affairs on the domestic level, at least as long as the EP is not a fully fledged parliament on the European level.

This distinguishes these groups’ discourse from that of the other parliamentary party groups in both chambers. In the Maastricht debates, the majority of MPs in the Assemblée nationale focus on the domestic control of the government’s negotiations in the Council of Ministers to enhance the democratic legitimacy of the EU. The EP does not play much of a role (PS) or is even rejected (RPR) as a means to democratise the EU.

2) French Socialists and RPR

For Socialists and Gaullists, the role of national parliaments as control bodies of the government in the national arena is by far the dominating feature of parliamentarism in the EU that is discussed.

a) Domestic Control Body

Both the MPs from the Socialist parliamentary party group and the MPs from the RPR parliamentary party group speak almost exclusively about the Assemblée nationale’s control rights (Domestic Control Body).

The Socialist parliamentary party group dedicates 85% of the floor time on parliaments to the competences of the national parliamentary chambers to control the government in EU affairs. Only a minor fraction of the floor time is used to discuss a collective role of national parliaments in the EU (Third Chamber, 3%), the role of the national parliament in a multi-level parliamentary set-up with the EP (Sublevel Parliament, 5%), or the EP’s role (European Parliament, 7%). In contrast to the Gaullist MPs, the Socialist speakers mostly welcome the enhancement of the prerogatives of the EP – when they mention it.
The same pattern is true for the MPs from the RPR parliamentary group. Speakers from this group use 79% of the floor time dedicated to parliaments in the EU to discuss the control rights in the domestic arena. Gaullist speakers pay slightly more attention than the Socialists do to a potential collective role for national parliaments in the EU (Third Chamber, 13%). They do not mention the idea of their parliament being a sublevel parliament in a multi-level parliamentary system (Sublevel Parliament), however, and when they talk about the EP they are not enthusiastic about the idea of the EP as a legitimate parliamentary body to alleviate the democratic deficit of the EU.

**SOC**

Members of the Socialist parliamentary party group are mostly interested in the extension of the Assemblée nationale’s control rights on the national level.

All speakers from the Socialist parliamentary party group elaborate on the relationship between the government and the parliament. Even if they are part of the parliamentary majority, three speakers point to the executive dominance in the decision-making processes, reducing the national chambers to the role of ‘copyist monks of eleventh hour compromises reached in the secrecy of Brussels offices’¹⁹⁹ (Pezet, SOC, AN 2 19920505: 861).

The main point of concern is parliamentary information about EU draft legislative acts. All proposals are centred around instruments that would guarantee better information about EU legislative acts, such as more exhaustive information through the government on submitted acts, the type of documents submitted, the rights of parliament, and the body for European Affairs issuing opinions.

As the Centrists MPs (and despite being in the government), the Socialist speakers consider that EU affairs are no longer purely intergovernmental affairs, and therefore a new way must be found of guaranteeing parliamentary participation in legislative matters.

The debate focuses mainly on EU draft acts that fall under the ‘law domain’ of the French Constitution. The MPs do not ask for the submission of other types of draft acts, even if they may be draft legislative acts on the EU level.

Gérard Gouzes, chairman of the Law Committee and rapporteur on the constitutional amendment, rejects the possibility of having a mandating

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¹⁹⁹ ‘moine copiste des compromis de la vingt-cinquième heure élaborés dans le secret des bureaux bruxellois.’
system such as some of the other parliaments. He considers that this would go against general principles ‘that define the powers of the parliament and government in the 1958 Constitution’\textsuperscript{200} (Gouzes, SOC, AN 1 19920505: 848). He defines systems of parliamentary control such as the ones in Denmark or Great Britain as not being adapted to the French Constitutional balance.

There is a debate on the timing of the submission. Gérard Gouzes, who is the president of the Law Committee and the rapporteur on the constitutional amendment, puts into question that a draft act can be submitted to the parliament before it has been formalised in the EC decision-making process, i.e. before the formal submittal of the draft act to the Council (Gouzes, SOC, AN 1 19920505: 848).

Speakers stemming from the Economic and Finances Committee are particularly concerned with the parliamentary participation linked to the EMU and the parallel intensified coordination of economic policies in the national arena.

Defending the independence of the European Central Bank by stating that there is a certain political control through the European Council, Gaston Rimareix, member of the ‘Committee for the Production and the Exchanges’, the name of the Committee for Economic Affairs at that time, is in particular concerned with the question of democratic control of the politics of the central bank. What is necessary in his view is a bigger ‘association of the national parliament and its committees, including concerning the broad economic guidelines and the conditions of the transition to the various stages towards the single currency’\textsuperscript{201} (Rimareix, SOC, AN 3 19920506: 976) in the national arena.

Along the same vein, the president of the Finances Committee, Jean Le Garrec, indicates that with the EMU, the national parliament has the responsibility of controlling the government in budgetary and fiscal matters and of reducing the executive and technocratic dominance in this central field of parliamentary competence. He proposes that parliament has to take care of debating the broad economic guidelines and to hear the ministers regularly and before Council meetings in joint meetings of the two Finance Committees.

\textsuperscript{200} ‘qui définissent les pouvoirs du Parlement et du Gouvernement dans la Constitution de 1958’.

\textsuperscript{201} ‘association du Parlement national et de ses commissions, notamment sur les grandes orientations économiques et sur les conditions de passage aux différentes étapes vers la monnaie unique’.
He even proposes a special consultation procedure with the Finances Committees before the Council of ministers. He thus proposes a central role of the Finances Committee for the EMU.

However, all of his proposals remain in the framework of the parliament-government relationship. For him, in matters of monetary and fiscal affairs, it is the ‘Minister of Finance of each country who will be the privileged interlocutor of the national parliaments’ (Le Garrec, SOC, AN 2 19920505: 860). There is no mention of the weak powers of the EP in this area.

RPR

Interestingly, only two speakers of the RPR parliamentary group mention the rights of the national parliaments during the general debate on the constitutional amendment. This means that there is a certain proximity between their discourse and that of the French Communists. Within the RPR parliamentary party group, there is an important faction of MPs who favour an evolution of the governance in the EU towards more intergovernmentalism. One of the most ardent campaigners for the no-vote to the Treaty of Maastricht was the RPR Senator Philippe Séguin.

Even if overall the pattern of the RPR’s discourse is close to that of the Socialists, the important difference is that Gaullist speakers are not necessarily interested in detailed parliamentary prerogatives. The speaker with the most of the floor time defends a position of principle in which the national chamber is the only legitimate warrant of democracy. As a consequence, the EU must remain an intergovernmental union. Supranational integration would be anti-democratic.

Jean de Lipkowski, a French MP since 1968, ex-state secretary to the minister of Foreign Affairs and minister for the development, and former MEP, explicitly denounces the dominance of the executive. He decries the ‘regulation frenzy’ not only of the European Commission (thus evaluating negatively the technocratic legitimacy of the EU), but also of the national governments, as well as the fact that ‘the assemblies receive texts so "tied" in their very details that it becomes difficult to modify a line’ (Lipkowski, RPR, AN 3 19920506: 980). In this missing parliamentary con-

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202 ‘ministre des finances de chacun des pays concernés qui sera, en la domaine, l’interlocuteur privilégié des Parlements nationaux’.
203 ‘frénésie de réglementation’.
204 ‘les assemblées reçoivent des textes si “ficelés” jusque dans leurs derniers détails qu’il devient difficile d’en modifier une ligne’.

https://doi.org/10.5771/9783845290294
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trol, he sees the cause of the public dissatisfaction with the EU and of the creation of Eurosceptic parties.

However, his contribution quickly shows that the real focus of his speech is not the concrete promotion of parliamentary rights in the current system, but rather a general critique of the EU as it stands.

He does not propose changes to the prerogatives of the national parliaments or further control and information rights. Instead, he calls for a reshuffling of the EU in a truly intergovernmental sense. He criticises the ambiguities of the current system, and accuses the European institutions of imposing more laws on their constituting entities than federal states (he cites the United States) would usually do (Lipkowski, RPR, AN 3 19920506: 981):

‘We are in the presence of a confederation that dares not speak its name and is sometimes more restrictive than a federation, with a bureaucracy out of political control and an institutional framework distant from Montesquieu’s principles.’ (Lipkowski, RPR, AN 3 19920506: 981)

He denounces not only the mixed supranational and intergovernmental features of the union, but also its deviation from the traditional separation of executive, legislature, and judiciary.

In a more similar vein as the Socialists and UDF and UDC speakers, Alain Juppé concentrates on the prerogatives that national parliaments should have to be able again to control the executive’s action in EU decision-making. For Juppé as well, the necessary way to more democracy in the EU is the strengthening of national parliaments and not the much-discussed empowerment of the EP.

He puts the strengthening of the EP and the national parliaments on an equal footing, but for him the most important feature of parliamentary control is the scrutiny of the negotiations in the Council through national parliaments:

‘More than the triviality of the notion of a dialogue between national parliaments and the European Parliament – a sort of alliance of the blind and the lame in the current context – it is the parliamentary control that counts.’

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205 ‘Nous sommes donc en présence d’une confédération qui n’ose pas dire son nom et qui est parfois plus contraignante qu’une fédération, avec une bureaucratie sans contrôle politique et un échafaudage institutionnel éloigné des principes de Montesquieu.’
monitoring of positions developed by national governments in the Council that matters.\(^\text{206}\) (Juppé, RPR, AN 2 19920506: 934)

Therefore, he thoroughly elaborates on the amendment presented by the parliamentary groups UDC, UDF, and RPR, aiming for the submittal of all draft regulations and directives subject to the law definition of the French Constitution to the two assemblies before they are submitted to the Council of the EU (Juppé, RPR, AN 2 19920506: 934).

He also claims that an ‘integration’ (Juppé, RPR, AN 2 19920506: 934) of the national parliament into the decision-making structures in the field of budgetary, economic, and monetary policy on the EU level is highly important.

‘It would be inconceivable to us that the transition to the final phase could take place without the Assemblée nationale and the Sénat having discussed it beforehand. Do not answer us that such a debate would contradict the provisions of the Treaty of Maastricht. Why could the German chancellor promise what would be forbidden to the French prime minister?\(^\text{207}\) (Juppé, RPR, AN 2 19920506: 934)

The silence of many RPR MPs on the role of national parliaments despite their submittal of an amendment strengthening the Assemblée’s role in EU affairs can be interpreted as a position in principle on the trajectory of European integration. This becomes even clearer when one examines the Gaullist positions on the EP in comparison to the Socialists’ point of view.

b) Multi-level parliamentarism

Proportionally to their floor time on national parliaments, neither the Socialist nor the RPR MPs pay much attention to the Assemblée nationale’s relationship with the EP or the features of the EP in the Treaty of Lisbon.

\(^{206}\) ‘Bien plus que la tarte à la crème de la concertation entre parlements nationaux et Parlement européen – sorte d’alliance de l’aveugle et du paralytique en l’état actuel – c’est le suivi parlementaire des positions développées par les gouvernements nationaux au sein du Conseil qui importe.’

\(^{207}\) ‘Il serait inconcevable à nos yeux que le passage à la phase finale puisse intervenir sans que l’Assemblée nationale et le Sénat en aient au préalable débattu. Ne nous répondez pas qu’un tel débat serait en contradiction avec les dispositions du traité de Maastricht. Pourquoi le chancelier d’Allemagne pourrait-il promettre ce qui serait interdit au Premier ministre français?’

269
There is a difference between the parliamentary party groups concerning the potential of the EP to provide legitimacy to the EU (European Parliament). The few MPs of the Socialist parliamentary party group who discuss the EP consider this as possible in principle and mildly welcome the strengthening of the EP in the treaty. On the other hand, the majority of members of the RPR parliamentary party group instead consider that the EP is unable to replace national parliaments and to provide legitimacy to the EU.

No MP affiliated with the RPR frames the role of national parliaments as *Sublevel Parliaments* and only 18% of this group’s floor time on parliaments is dedicated to the EP. One former MEP of the RPR group denies in principle that the EP can provide democratic legitimacy to the EU.

**SOC**

MPs from the Socialist parliamentary party group do not discuss the role of the Assemblée nationale in connection with the EP in a multi-level parliamentary set-up (*Sublevel Parliament*). In their discourse, the Assemblée nationale is not conceived of as a sublevel body in a parliamentary system with different layers.

The Socialist MPs appreciate the strengthening of the EP in the Treaty of Lisbon, but not with much enthusiasm. Altogether, they consider the state of the EP to be disastrous, but they see an improvement in the new rules fixed in the Treaty of Maastricht. There is only little debate about the concrete competences of the EP.

For Gérard Gouzes, the chairman of the Law Committee, the legislative acts of the EU are decided upon by ‘Eurocrats’ whom the EP cannot control because it does not have sufficient power.

‘Regulations and directives seem taken by unknown people whom we call Eurocrats and the European Parliament itself seems very deprived of power.’

Gouzes welcomes the new co-decision procedure, the participation of the EP and the procedure for the designation of the European Commission. For him, these steps mean an increase in democracy in the EU.

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208 ‘Les règlements et les directives semblent pris par des inconnus que nous appelons eurocrates et le Parlement européen lui-même parait bien démuni de pouvoirs.’
‘Thanks to its legislative co-decision power with the Council of Ministers, the European Parliament now has real possibilities of censure, particularly with respect to the right of movement and residence of European citizens. It will even intervene in the appointment of the president and members of the Commission. The College of Commissioners will be appointed after a vote of approval. In short, my dear colleagues, it will undoubtedly mean more democracy’\textsuperscript{209} (Gouzes, SOC, AN 1 19920505: 848)

Claude Gaits appraises the right of European citizens to file a petition at the EP.

‘Is it not logical that European citizens be privileged over other citizens of the world? Beside the socio-economic rights – the right to move and reside freely – they will be able to enjoy some civil rights, like the right to petition the European Parliament, the possibility of addressing the newly established Ombudsman [...]’\textsuperscript{210} (Gaits, SOC affiliated, AN 3 19920506: 962)

Laurent Fabius appreciates the same new prerogatives for the EP in the Treaty of Maastricht. For him, they lead to more democracy and efficiency of decision-making in the EU. However, his address to the fellow Socialist MPs indicates that there is a certain scepticism in the parliamentary party group. He finishes by saying that there is nothing ‘anti-socialist’ in this progress.

‘The treaty extends the field of decisions made by the qualified majority. It gives an important role to the European Parliament in the investi-

\textsuperscript{209} ‘Grace à un pouvoir de codécision législatif avec le conseil des ministres, le Parlement européen se voit désormais doté de véritables possibilités de censure, notamment en matière de droit de circulation et de séjour des citoyens européens. Il interviendra même dans la désignation du président et des membres de la Commission. Le collège des commissaires sera désigné après un vote d’approbation. Bref, mes chers collègues, incontestablement ce sera plus de démocratique.’

\textsuperscript{210} ‘N’est-il pas logique que les citoyens européens soient privilégiés pas rapport aux autres citoyens du monde? Outre les droits socio-économiques – droit de circuler et de séjourner librement – ils pourront jouir de certains’ droits civiques, comme le droit de pétition devant le Parlement européen, la possibilité de s’adresser au médiateur nouvellement institué [...]’.
tue of the Commission. It creates a mechanism of co-decision between the two branches of the legislature. The decision process on this point is also improved by the move to the qualified majority and in cooperation with the EP for most actions. There is also nothing anti-socialist [italics included by author]. 211 (Fabius, SOC, AN 2 19920506: 931)

The Socialist MPs are thus only moderately convinced by the fact that the EP can legitimate EU decision-making, but they do not deny in principle that the enhancement of the powers of the EP may have a positive effect for democracy in the EU.

RPR

None of the members of the RPR parliamentary party group speaks about the Assemblée nationale’s role as a sublevel parliament to the EP (Sublevel Parliament). Only one speaker of the RPR frankly conveys the idea that a legitimation of EU decision-making could be enhanced through the EP (European Parliament). Gaullist speakers put national parliaments to the fore and consider the focus on the EP of the democratic deficit debate to be erroneous.

Of the RPR parliamentary party group, only Patrick Devedjian asks for enhanced prerogatives for the EP to democratise the EU.

‘We must also strengthen the role of the European Parliament, clarify the competences of the Commission, and make public the deliberations of the Council of Ministers. This will be the subject of future debates’ 212 (Devedjian, RPR, AN 3 19920506: 972)

He sees the EP as a body that can potentially legitimate EU decision-making. Devedjian himself considers that he has a marginalised position in the RPR at the time (interview 24).

211 ‘[L]e traité étend le domaine des décisions à la majorité qualifiée. Il confère un rôle important au Parlement européen dans l’investiture de la Commission. Il crée un mécanisme de codécision entre les deux branches du pouvoir législatif. Le processus de décision sur ce point aussi est amélioré par le passage à la majorité qualifiée et en coopération avec le Parlement européen pour la plupart des actions à entreprendre. Il n’y a rien non plus d’antisocialiste [italiques de l’auteur]:’

212 ‘Il faudra aussi avant longtemps renforcer le rôle du Parlement européen, clarifier les compétences de la Commission, rendre publics les débats du Conseil des ministres. Ce sera l’objet des prochains débats:’

272
‘They [Those who are against the Treaty of Maastricht] refuse for European directives to be developed and implemented without the French parliament and often even without the European Parliament being informed.’ 213 (Devedjian, RPR, AN 3 19920506: 972)

More sceptical about the role of the EP in reducing the democratic deficit of the EU is the second speaker of the RPR parliamentary group, Alain Juppé. To him, to strengthen the EP is not necessarily a bad idea, but the strengthening of the national parliaments in the EU is at least as important.

‘The "democratic deficit" of the European Community is often criticised, and one draws the conclusion that the powers of the European Parliament should be strengthened. We are not hostile, and we’ve said it for a long time, but it should not distract us from another target as important to safeguard democracy in Europe, namely the rehabilitation of the national parliaments.’ 214 (Juppé, RPR, AN 2 19920506: 934)

Finally, Jean de Lipkowski, himself former MEP, rejects the idea that the EP can legitimate decision-making in the EC.

‘When we made this observation, we were told like a leitmotif that to remedy this democratic deficit, more power should be given to the European Parliament. Since we are between us and this confidence will not leave here, I tell you, Madam Minister: don’t do it. I think we should stop buying lip service. Cease to agitate this antiphon whereby the statement "democratic deficit" is answered in a Pavlovian reflex: "European Parliament". The European Parliament – I have served in it – is certainly a place of useful reflections, where ideas are stirred and suggestions made, and that’s good. But seeing there the natural place

213 ‘Ils [Ceux qui s’opposent au traité de Maastricht] refusent que les directives européennes soient élaborées et mises en vigueur dans l’ignorance du parlement français et bien souvent même du Parlement européen.’

214 ‘On dénonce souvent le “déficit démocratique” de la Communauté européenne, et l’on en tire la conclusion qu’il faut renforcer les pouvoirs du Parlement européen. Nous n’y sommes pas hostiles, et nous l’avons dit depuis toujours, mais que cela ne nous détoure pas d’un autre objectif, tout aussi prioritaire pour sauvegarder la démocratie en Europe, à savoir la réhabilitation des parlements nationaux.’
of democratic legitimacy is a misinterpretation.\textsuperscript{215} (Lipkowski, RPR, AN 3 19920506: 981)

For Jean de Lipkowski, democratic representation is intrinsically linked to the nation. As there is no European nation, parliamentary representation is not possible. The EP cannot express the general will of the nation.

‘Parliamentary sovereignty is associated with the idea of nation. But there is no European nation. We do not see how the European Parliament could express a general will that does not exist. That’s why it seems to me impossible to give that Parliament any legislative power. For now, the legislative power belongs to the Council.’\textsuperscript{216} (Lipkowski, RPR, AN 3 19920506: 981)

Neither Socialist nor Gaullist MPs pay much attention to the EP when the role of parliaments in the EU is discussed. While the Socialist position can be qualified as sceptical, among the Gaullists there are MPs who consider that a democratisation through the strengthening of the EP is not possible.

c) Third chamber

SOC

There are only few MPs from the PS parliamentary party group who mention a collective role for national parliaments (Third Chamber).

Jean Le Garrec mentions the fact that there is too little money spent on social cohesion in the EU, and that there is no association of national par-

\begin{footnotesize}
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\item \textsuperscript{215} ‘Quand on a fait cette constatation, on nous dit comme un leitmotiv que, pour remédier à ce déficit démocratique, il faudrait donner davantage de pouvoirs au Parlement européen. Puisque nous sommes entre nous et que cette confidence ne sortira pas de ces lieux, je vous dirai, madame le ministre: gardez-vous-en bien. Je crois qu’il faut cesser de se payer de mots. Cessons d’agiter cette antienne qui veut à l’énoncé: “déficit démocratique”, on répondre par un réflexe pavlovien: “Parlement européen” Le Parlement européen – j’y ai siégé – est certes un lieu de réflexions utiles, or y agite des idées, on y émet des suggestions, et c’est bien. Mais y voir le lieu naturel de la légitimité démocratique est un contre-sens.’
\item \textsuperscript{216} ‘La souveraineté parlementaire est associée à l’idée de nation. Or il n’y a pas de nation européenne. On ne voit donc pas comment le Parlement européen pourrait exprimer une volonté générale qui n’existe pas. Aussi bien me paraît-il exclu que l’on puisse donner à ce Parlement un pouvoir législatif quelconque. Pour l’instant, ce pouvoir législatif appartient au Conseil.’
\end{itemize}
\end{footnotesize}
liaments to the budgetary procedure of the EU despite a rapidly growing EC budget. He further notes that the conference of the chairmen of the Finance Committees has debated about the subject (Le Garrec, SOC, AN 2 19920505: 860).

Only Laurent Fabius, who was an important actor for the establishment of COSAC, actively and at length promotes collective fora under the participation of national parliaments.

‘The problem – we have lived, we are living it – is the control of parliaments against the European technocracy. Those, like me, who participated in the parliamentary conference in 1990 in Rome, remember, whatever the difficulties, having lived an important moment in the history of the parliaments of our Community. The habit of meeting must be adopted, it is a provision of the treaty and it is to be upheld.’217 (Fabius, SOC, AN 2 19920506: 928)

However, he is cautious with this argument and specifies that national parliaments should not become a Senate taking up all legislative responsibility. Lipkowski from the Gaullist parliamentary party envisages this, as is shown in the next paragraph.

‘The point is obviously not that twelve parliaments negotiate the directives. That would be unrealistic and bad;’218 (Fabius, SOC, AN 2 19920506: 928)

RPR

The idea of a direct representation of national parliaments on the European level is important in the ideas of the French Gaullist RPR. As the EP is not a legitimate parliamentary representation for them, they consider it necessary for national parliaments to have a direct link to the European institutions.

Jean de Lipkowski has a clearly intergovernmental vision of the EU. For him, the EU is a confederation. Within this confederation, the national

217 ‘Le problème – nous l’avons vécu, nous le vivons – c’est celui du contrôle des parlements face à la technocratie européenne. Ceux qui ont participé, comme moi, en 1990 aux assises parlementaires de Rome gardent le souvenir, quelles qu’aient été les difficultés, d’avoir vécu un moment important dans l’histoire des parlements de notre Communauté. L’habitude de se retrouver doit être prise, elle est prévue par le traité et il faudra y veiller.’

218 ‘Il ne s’agit évidemment pas que les parlements négocient à douze les directives; ce serait irréaliste et mauvais.’
parliaments should be represented in a sort of European Senate. This Senate would be the sole legislative, while the body representing the heads of state and government would be the executive of the confederation.

“We must end the ambiguity, call a spade a spade and a confederation a confederation. In this Europe, there will be a clear separation between the executive formed by the Heads of State or Government and a federal organisation created to legislate in the sphere of the powers transferred by the confederated states. Calling this law-making confederal body upper house or Senate doesn’t matter, provided it is elected by the national parliaments to which it will be accountable.”

(Lipkowski, RPR, AN 3 19920506: 981)

He thus calls for a real confederation with a parliamentary representation of the constituting entities, e.g. a Senate composed of national parliaments controlling the European Commission.

“The upper house will monitor the work of the European Commission and the latter will be accountable to it. If one does not have the courage to go up to this necessary clarification, bureaucratic imbalances will persist and discredit the idea of Europe in the minds of many citizens. Yet a Europe built along this frame is a demanding duty. History would be harsh with us parliamentarians if, focusing on our internal quarrels, we did fail. Our duty is to proceed so that, with realism and clarity, this Europe, based on the Treaty of Maastricht, succeeds.”

(Lipkowski, RPR, AN 3 19920506: 981)

219 ‘Nous devons sortir de l’ambiguïté, appeler un chat un chat et une confédération une confédération. Dans cette Europe, il y aura une claire séparation entre l'exécutif formé par les chefs d'État ou de gouvernement et un organisme confédéral créé pour légiférer dans la sphere des compétences transférées par les Etats confédérés. Qu'on appelle cet organisme confédéral législatif chamber haute ou Sénat, peu importe, pourvu qu'il soit élu par les parlements nationaux à qui il aura des comptes à rendre.'

220 ‘La chambre haute surveillera les travaux de la Commission européenne et celle-ci sera responsable devant elle. Si on n'a pas le courage d'aller jusqu'à cette nécessaire clarification, les dérèglements bureaucratiques perureront et discréditeront l'idée de l'Europe dans l'esprit de beaucoup de nos concitoyens. Or l'Europe ainsi dessinée est un exigeant devoir. L'histoire serait sévère pour nous, parlementaires, si privilégiant nos querelles intérieures nous la faisions échouer. Notre devoir est de faire que, dans le réalisme et la clarté, cette Europe-là, à partir du traité de Maastricht, réussisse.'
One can observe features of the traditional intergovernmental discourse conveyed by prominent members of the RPR: the EU should be no more than a confederation, and the representation in this confederation should be carried out by the governments controlled by their parliaments. No supranational institution could gain the legitimacy that the national parliament has as emanation of the nation. As the European confederation would be more than a simple intergovernmental organisation, even if nevertheless an intergovernmental entity, there should be a parliamentary representation on the level of the confederation that guarantees parliamentary control. Parliamentary participation is not so much seen as cooperation or co-governance but as democratic ‘contrôle’ (Lipkowski, AN 3 19920506: 981), the control and potentially the publicisation of the action of the governments.

3) Eurosceptic parliamentary party groups

The MPs from parties with a Eurosceptic programmatic agenda (at least in the sense of their rejection of the current form of European integration) in the Assemblée nationale and the Bundestag have diametrically opposite points of view concerning the role of parliaments in the EU. (MPs from the extreme right do not participate in the debate in either chamber.)

The French Communists in the Assemblée nationale only focus on the role of national parliaments, while in the Bundestag MPs from Bündnis 90/Die Grünen and the PDS/Linke Liste almost exclusively focus on the role of the EP for the provision of legitimacy to EU decision-making.

a) None of the legitimacy channels

Communist parliamentary party group

For the members of the Communist (C) parliamentary party group, the Treaty of Maastricht reinforces the democratic deficit, because the transfer of new competences to the EU weakens national parliaments. In the view of the MPs, national parliaments are the ‘voice of the people.’ To them, it is not possible in principle to take legislative competences from national parliaments without severely damaging democracy. According to the Communist MPs, attempts to reinforce national parliaments through strengthened parliamentary rights are only the proof that an illegitimate competence transfer happened from the national level to the European level. To resti-
tute national parliaments the right to participate in decision-making does not logically make sense for the Communist MPs – or is even dangerous.

‘The French Parliament, whose role is already so limited by our monarchical constitution and the guardianship of unelected bodies such as the Constitutional Council, whose jurisprudence is rightly widely mentioned by Mr Gouzes to justify the indefensible, would be confined to the role of translator of legislation written by others. It is true that to give a good impression of this text, of which they fully share the objective, many in the right loudly demand the right for the Parliament to be informed and to give its opinion, and they probably will probably be listened to. Good heavens, it commits to nothing! A beautiful democracy that transforms the Parliament elected by the people into a consultative body, knowing by definition that it will be able to change nothing!’

(Millet, C, AN 1 19920506: 903)

For Brunhes it is not possible to give the Assemblée nationale more participation rights because the qualified majority voting in the Council does not allow this to be effective. The consequence would be that the EC could impose legislation on the Assemblée nationale. This would lead to an ultimate discreditation of the French parliament.

‘It is so obvious that some of our colleagues have considered writing in the Constitution, through amendments to the new sections, a strengthening of the role of the Parliament. But is it enough to overcome the democratic deficit that the fundamental law expects the Parliament to be informed and consulted and to participate in the development of Community directives. I do not think so, for two simple reasons. First, it is not possible to reconcile this requirement with the rule of the qualified majority. The latter, by allowing the European Community to have the last word and to impose its decisions against

221 ‘Le Parlement français, au rôle déjà tellement limité par notre constitution monarchique et la tutelle d’organismes non élus comme le Conseil constitutionnel, dont la jurisprudence est à juste titre largement évoquée par M. Gouzes pour justifier l’indéfendable, se verrait cantonner au rôle de traducteur de textes de loi écrits par d’autres. Il est vrai que, pour faire bonne figure sur ce texte, dont elle partage entièrement la finalité, une grande partie de la droite réclame haut et fort le droit du Parlement d’être informé et de donner son avis, et sans doute l’écouteriez-vous. Que diantre, cela n’engage à rien! Belle démocratie qui transforme le Parlement élu par le peuple en un organisme consultatif en sachant par définition qu’il n’y pourra rien changer!’

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the opinion of the national Parliament, would discredit it totally and permanently.\(^{222}\) (Brunhes, C, AN 2 19920506: 938)

Furthermore, Brunhes considers that the principle of subsidiarity will be used to define areas in which the EC has the exclusive right of action. In these areas all decisions of national parliaments would become ineffective. By giving some power to the national parliament, the latter would thereby on the contrary become useless.

‘Then, once the exclusive areas of action of the European Community with the principle of subsidiarity are defined, any decision of a national Parliament in these areas becomes void and of no effect. Again, while believing to leave a few parcels of power to the Parliament, one conversely makes it useless. Maastricht accentuates the democratic deficit, which is permanent since the beginning of European integration, to the benefit of Brussels officials and Eurocrats.\(^{223}\) (Brunhes, C, AN 2 19920506: 938)

In the opinion of the Communist MPs, the Treaty of Maastricht leads to the weakening of the national executives through extended qualified majority voting and the erosion of national parliamentary powers profiting the European Commission, which is depicted as a powerful administrative body without proper parliamentary control. The EP does not play a role for the democratic legitimacy of the EU.
b) Only the EP

In contrast, in the Bundestag the parliamentary party groups that are in principle strongly in favour of European integration but sceptic as far as concerning the current shape of the EU see the potential of democratisation of the EU almost exclusively in increasing the power of the EP.

*Bündnis 90/Die Grünen*

The Green Party was represented in the German Bundestag for the first time in 1983, and from 1987 onwards it had its own parliamentary party group. In the general elections in 1990, the Greens have a poor outcome at the ballot. Only a few MPs, most from the civic movement *Bündnis 90*, make it into the Bundestag. Their stance on European integration is at best sceptical. The EC is seen as a ‘Hypernation’ (Weiss) recreating features of the decrepit nation-state because of the domination of the national executives.

The point of view of MPs from the *Bündnis 90* in the Bundestag is diametrically opposite to the position of the Communists in the Assemblée nationale. For the MPs, competence transfer is in principle necessary, and the weakening of the nation-state is an objective. However, as long as the EP and the regions in Europe are not strengthened, the European treaties are not democratic.

The main criticism concerning national parliaments is the fact that competences are transferred to the European level without an adequate strengthening of the EP.

‘It is especially painful that, with the necessary transfer of competences on the European level, the democratic deficit will be furthered. Despite some improvements on the prerogatives of the European Parliament, overall Maastricht is a further erosion of parliamentarism in the Community. It strengthens the national governments vis-à-vis the parliaments. […] We need a comprehensive competence for the European Parliament in all policy areas of the [European] Community. The Parliament must […] have an important say also in matters of the further development of the treaties.’

224 (Schulz, *Bündnis 90/Die Grünen*, BT 19921008: 9342)
The main problem is that this leads to a strengthening of the national executives because most of the areas of community decision-making are still under intergovernmental governance. This leads to a weakening of national parliaments because they cannot control the action of their governments in Brussels and the EP still does not have sufficient power to correct this situation. Important areas of decision-making are thus deprived of parliamentary control.

‘Too many competences are reserved for the executive, too few are given to the European Parliament. The immigration and asylum policy for example are policy areas that remain in intergovernmental cooperation and are thus withdrawn from legislative deliberation. This is dangerous because European governments can take decisions without the possibility of revision by the European Parliament.’225 (Poppe, Bündnis 90/Die Grünen, BT 19921202: 10822)

**PDS/Linke Liste**

The main line of argument is the same when MPs of the newly elected extreme left-wing parliamentary party group PDS/Linke Liste take the floor on the role of parliaments in the EC/EU.

As for Bündnis 90/Die Grünen, the Treaty of Maastricht transfers competences to the European Commission without providing the EPs with adequate competences.

‘Fifth. With the Treaty of Maastricht the nation-states transferred competences to the European Council and the EC Commission in Brussels. This concerns competences that at the time were held by national parliaments. I am not against a transfer of parliamentary competences on the European level, if the European Parliament gets the compe-

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225 ‘Zu viele Kompetenzen sind der Exekutive vorbehalten, zu wenige erhält das Europäische Parlament. Die Einwanderungs- und Asylpolitik gehört z. B. zu den Bereichen, die innerhalb der Regierungszusammenarbeit verbleiben und damit legislativen Beratungen entzogen sind, wodurch die Gefahr besteht, daß die europäischen Regierungen ohne Korrekturmöglichkeiten seitens des Europäischen Parlaments Vereinbarungen treffen, […]’.
tence. But I am against the transfer of competences from parliaments to the executive of Brussels. This is a clearly undemocratic act.\textsuperscript{226} (Gysi, \textit{PDS/Linke Liste}, BT 19921008: 9341)

He takes much of his floor time to elaborate in detail on the prerogatives for the EP in the Treaty of Maastricht. For him the treaty provides the EP with some ‘therapeutic’ tasks and powers. For Gysi, the EP is still a consultative body for the executives, and this is a complete reversal of the relationship between executive and legislature.

‘I think this means in plain language that the European Parliament should not decide. It can ask, recommend, and issue an opinion. The latter is surely important from a therapeutic perspective and is surely therefore restricted to once a year. But this is no real parliamentary activity. In reality the European Parliament becomes a consultative organ of the executive. However, this is a complete reversal of the democratic relationship between legislature and executive, fixed in the treaty.’\textsuperscript{227} (Gysi, \textit{PDS/Linke Liste}, BT 19921008: 9341)

In that same vein, MPs Bläss and Höll only mention the EP when discussing the role of parliaments in the EU.

‘Again a sad example for this was the outspoken aim of the Treaty of Maastricht parties not to touch the Irish prohibition of abortion – without taking into account the two decisions of the European Parlia-

\begin{footnote}

\textsuperscript{227} ‘Das heißt ja wohl im Klartext: Das Europäische Parlament hat nicht zu entscheiden. Es darf fragen, empfehlen und sich aussprechen. Letzteres ist psychotherapeutisch sicherlich wichtig und wird wohl deshalb auch auf einmal im Jahr beschränkt. aber von einer wirklichen Parlamentstätigkeit weit entfernt. Faktisch wird das Europäische Parlament zu einem Beratungsorgan der Exekutive. Das ist aber eine völlige Verkehrung des demokratischen Verhältnisses zwischen Legislative und Exekutive, die hier im Vertrag festgelegt wird.’
\end{footnote}
ment on the legalisation of abortion.'\textsuperscript{228} (Bläss, \textit{PDS/Linke Liste}, BT 19921008: 9369)

Both of them regret that the Council ignores the EP’s decisions. Petra Bläss argues that the Council delays voting draft directives adopted by the EP.

‘Despite the urgent call by the European Parliament on the intergovernmental conference to change the article 119 of the EEC Treaty\textsuperscript{229} to include also the promotion of the equality of chances of women and men in all areas, women’s policy falls by the wayside.’\textsuperscript{230} (Höll, \textit{PDS/Linke Liste}, BT 19921202: 10864)

Barbara Höll points to the missing constitutional function of the EP. She regrets that the negotiating government delegations did not retain the call by the EP to introduce the equal opportunities for men and women into the common actions of the Community.

The preceding section showed that the roles discussed in the Maastricht debates can be explained by different ideological cores of parliamentary party groups on the scope and nature of European integration. Priorities in the debate are not or only to a much lesser extent defined by the norms enshrined in the parliamentary chambers on the domestic level. The following sub-chapter takes the same detailed view of the debates on the Treaty of Lisbon in the Assemblée and the Bundestag. It shows that ideological cleavages as described in the preceding chapter do not play much of a role in contrast to during the Maastricht debates. Instead the main cleavage runs between the chambers, and priorities for roles in the debates can be linked to appropriate parliamentary participation with reference to institutionalised parliamentary practice on the domestic level.

\textsuperscript{228} ‘Ein neuerliches trauriges Beispiel dafür ist die betonte Absicht der Maastrichter Vertragsparteien nicht die Anwendung des irischen Abtreibungsverbots berühren zu wollen ungeachtet der beiden Entschlussungen des Europäischen Parlaments zur Legalisierung des Schwangerschaftsabbruchs.’

\textsuperscript{229} EEC Treaty: Treaty Establishing the European Economic Community (1957.).

\textsuperscript{230} ‘Obwohl das Europäische Parlament die Maastrichter Regierungskonferenz dringend aufgefordert hatte, den Art. 119 des EWG-Vertrages dahin gehend zu ändern, daß in die Gemeinschaftsaktion auch die Förderung der Chancengleichheit von Frauen und Männern in allen Bereichen eingezogen werden soll, blieb Frauenpolitik im Prozeß der europäischen Einigung bisher auf der Strecke.’
C - The Lisbon debates: An emerging ‘institutional’ cleavage

In the Lisbon debates, the roles for parliaments in the EU dominating the debates have changed in both chambers, but not in the same way. MPs’ discursive practices can be linked to the results of Chapter IV. The similar attention to the Domestic Control Body has disappeared. According to their function as interest intermediators and representatives of voter concerns on the domestic level, MPs in the Assemblée nationale are not interested in prerogatives for direct government control in EU affairs. Instead, they spend most of their time discussing prerogatives of the Treaty of Lisbon leading to a direct collective role for national parliaments in EU decision-making (34% for a Third Chamber against 20% for a Domestic Control Body), and they welcome the strengthening of the EP (34% European Parliament).

The pattern of the debate in the Bundestag can instead be traced to the latter’s governance or legislation and control function on the domestic level. MPs in the Bundestag use most of their floor time to discuss their individual role as Domestic Control Body (53%) and discuss the European Parliament (10%) much less than in the Maastricht debates.

Figure 15: Assemblée nationale: Role models according to PPGs (Lisbon)

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Note: Percentage of floor time dedicated to the role of parliaments in the.

This means that in the Lisbon debates, cleavages are ‘institutional’ and run mostly along the two parliamentary institutions at hand. The attention to roles for parliaments beyond the nation-state is almost inverted between the Assemblée nationale and the Bundestag in comparison to during the Maastricht debates. MPs in the Assemblée dedicate half of their floor time...
to discussing the strengthened role of the EP and their relationship with the EP. Only a fifth of their floor time goes to the domestic control of the government and individual control rights for the chamber, which was by far the most important role model in the Maastricht debates in France.

*Figure 16: Bundestag: Role models according to PPGs (Lisbon)*

Note: Percentage of floor time dedicated to the role of parliaments in the EU.

In both chambers, for those MPs from the parliamentary party groups of the extreme poles of the political spectrum that only rarely hold government responsibility, the discourse on the role of parliaments does not change from the Maastricht to the Lisbon debates.

1) Assemblée nationale: Multi-level parliamentarism and Third Chamber

With a more detailed examination, the changes of role orientations on the aggregate level correspond to homogeneous changes of the hierarchy of role models for all parliamentary party groups (see figure 15). Only the patterns of the Communist MPs’ discourse do not change.
a) Parliamentary party groups with regular governmental responsibilities

The discourse of the parliamentary party groups Socialiste, Républicain et Citoyen (SRC) and Nouveau Centre (NC) about the role of national parliaments and the EP is homogeneous across parties.

The interest in the domestic control role of the Assemblée nationale is now much lower compared to during the Maastricht debates for MPs from all parliamentary party groups except the NC, which is the successor of the Centrist UDF party (absorbing parts of its historic membership after an important loss of members in 2002 to the UMP and a 2007 split of the movement).

**Third chamber and collective role**

According to their role of **interest intermediation and representation** and their low control capacities on the domestic level, MPs in the Assemblée are much more interested in a direct relationship with EU institutions and an increased collective role of parliaments on the European level.

In the Lisbon debates, the discourse on parliaments in the EU in the Assemblée nationale is dominated by reflections about the new collective role for parliaments in the Early Warning Mechanism. Some commentators have argued that this mechanism gives them a role as a ‘virtual third chamber’ (Cooper 2013) in European decision-making.

What is important for speakers from all three parliamentary party groups (UMP, SRC, and NC) is the new subsidiarity control and the collective rights for national parliaments in direct interaction with European institutions.

The speakers from the UMP parliamentary party group often mention the strengthening of national parliaments in only a highly abstract sense. They fill this with concrete terms only when they address the subsidiarity checks and the passerelle clause.

In the Assemblée nationale, speakers engage in lengthy discussions of the Early Warning Mechanism (EWM), which allows them to ‘actively participate’ in the EU policy-making process ex ante ‘together with the other national parliaments’ (e.g. Warsmann, UMP, AN 2 20080115: 194, Lequiller, UMP, AN 2 20080115: 199).

For Jean-Luc Warsmann, the rapporteur and chairman of the Law Committee, national parliaments have the possibility for the first time to take part in the progress of European integration through opposing draft legal acts that do not respect the principle of subsidiarity.
For Pierre Lequiller, the subsidiarity control is a difficult burden for national parliaments. It gives them the responsibility to decide which draft legislative acts have real added value if they are dealt with at the level of the EU. For him this is not an abstract right and will have an impact on the way forward for European integration.

‘I emphasise the heavy responsibility that is entrusted to us: we are promoted watchdogs of subsidiarity, meaning that we will have to control that European laws provide real added value compared to the national actions. This is not an abstract power, since we can, thanks to the new treaty, require the Council and Parliament to make a decision in case half of the national parliaments denounce a text. This was not expected in the draft Constitution either.’ 231 (Lequiller, UMP, AN 2 20080115)

However, he insists on the fact that national parliaments will ‘denounce’ every draft legislative act that breaches the subsidiarity principle.

In comparison with the German MPs’ discourse in the Bundestag, the role of the national parliaments as subsidiarity guards is much less emphasised. This can especially be seen in what the French MPs do not say. They do not point to abuses in the past the way that German MPs do.

The subsidiarity check is also presented as an instrument allowing for more participation of national parliaments in the European decision-making processes. Regarding the new legislative procedures, the extension of the co-decision procedure (ordinary legislative procedure), and the extension of QMV, Nicole Ameline suggests that the subsidiarity check will be an excellent tool for parliaments to have a stronger political and juridical weight in decision-making processes in Brussels.

‘Concerning subsidiarity, many of us on these benches – and I have a personal memory – pleaded, many years ago, for the strengthening of national parliaments. Indeed, the strengthening of our legal and political weight, as well as the new links that we will be able to build with other parliaments – and that will allow the deepening of the European

231 ‘J’insiste sur la lourde responsabilité qui nous est confiée : nous voilà promus en vigies de la subsidiarité, c’est-à-dire qu’il nous appartiendra de veiller à ce que les textes européens apportent une réelle valeur ajoutée par rapport aux actions nationales. Ce n’est pas un pouvoir abstrait, puisque nous pourrons, grâce au nouveau traité, obliger le Conseil et le Parlement à se prononcer si la moitié des parlements nationaux dénoncent un texte. Cela non plus, le projet de Constitution ne le prévoyait pas.’
democracy – offer a historic opportunity to strengthen our role.\textsuperscript{232} (Ameline, UMP, AN 2 20080115: 216)

Pierre Lequiller speaks of the same when he says that the subsidiarity check will give the ‘nation’ (i.e. the democratic emanation of the voters’ collective will) a voice in Brussels.

What is interesting in the members of the UMP group’s discourse is the strong emphasis on arguments regarding the collective role of national parliaments in the institutional set-up of the EU, and thus the emergence of democratic legitimacy for the EU that is based on the legitimacy of a ‘third chamber of national parliaments’ with direct links to the EU institutions. This idea of legitimacy for the EU is not strong in the German parliamentary debates, even if some speakers from CDU/CSU and FDP relate to the collective subsidiarity check.

Jean-Luc Warsmann thinks that national parliaments have a collective role for the progress of European integration. In his opinion they take part in this side-by-side – especially in the subsidiarity control (Warsmann, UMP, AN 2 20080115: 193).

‘It will allow the French Parliament to fully participate in the progress of the European process, alongside national parliaments in other member states, including through the monitoring of the implementation of the subsidiarity principle.’\textsuperscript{233} (Warsmann, UMP, AN 2 20080115: 193)

For Daniel Garrigue, the reinforcement of the national parliaments is one of the most important achievements of the Treaty of Lisbon. Without specifying this, he asks for a further institutionalisation beyond what is foreseen in the treaty.

‘Third essential step forward: the text finally enables the rise of national parliaments, ignored by European institutions for too long. One can

\textsuperscript{232} ‘S’agissant de la subsidiarité, nous avons été nombreux, sur ces bancs – et j’en garde un souvenir personnel, à plaider, il y a de nombreuses années, pour le renforcement des parlements nationaux. Or le renforcement de notre poids juridique et politique ainsi que les nouveaux liens que nous parviendrons à tisser avec d’autres parlements – et qui permettront l’approfondissement de la démocratie européenne – nous offrent une occasion historique de renforcer notre rôle.’

\textsuperscript{233} ‘Elle permettra au Parlement français de participer lui aussi pleinement, aux côtés des parlements nationaux des autres États membres, aux avancées du processus européen, notamment grâce au contrôle de l’application du principe de subsidiarité.’
wish that it will eventually take an institutional form.\textsuperscript{234} (Garrigue, Not Affiliated, AN 3 20080115 233)

For the speakers of the SRC parliamentary party group, the Third Chamber role is also more important than the domestic control and individual role of national parliaments. Overall, speakers of the SRC do not elaborate on the role of national parliaments in much detail. When discussing a reinforced role for national parliaments, however, the example they usually use is the reinforced subsidiarity control. MPs from the SRC parliamentary group do not mention the individual rights for national parliaments in the Treaty of Lisbon (passerelle clauses, simplified treaty revision) at all. When they speak about the control of subsidiarity, they talk about the collective control of the conformity of a draft act with the principle of subsidiarity before the legislative decision-making.

Pierre Moscovici sees the ‘role of national parliaments asserted’\textsuperscript{235} (Moscovici, SRC, AN 2 20080206: 818) and the ‘aspirations of national people’\textsuperscript{236} (Moscovici, SRC, AN 2 20080206: 818) fulfilled through the reinforcement of the subsidiarity principle through the national parliaments.

Sylvia Pinel, a social liberal centre-left MP affiliated to the SRC group, considers that ‘the role of national parliaments will be increased, with greater control of the subsidiarity principle’\textsuperscript{237} (Pinel, SRC affiliated, AN 1 20080207: 828).

Finally, for Elisabeth Guigou, the former deputy minister for European affairs of the Bérégovoy government during the ratification of the Treaty of Maastricht, the Treaty of Lisbon will enhance democracy in the EU because the treaty gives ‘new powers to national parliaments, which will be able to oppose draft directives that are out of the EU remit’\textsuperscript{238} (Guigou, SRC, AN 1 20080207: 831).

Hervé de Charrette, rapporteur from the NC welcomes the fact that the rights of national parliaments are strengthened through the possibility to

\textsuperscript{234} ‘Troisième avancée essentielle, ce texte permet enfin la montée en puissance des parlements nationaux, trop longtemps ignorés par les institutions européennes. On peut souhaiter qu’elle prendra à terme une forme institutionnelle.’

\textsuperscript{235} ‘rôle des parlements nationaux affirmé’.

\textsuperscript{236} ‘aspirations des peuples nationaux’.

\textsuperscript{237} ‘le rôle des Parlements nationaux sera accru, avec un plus grand contrôle du principe de subsidiarité’.

\textsuperscript{238} ‘de nouvelles prérogatives aux Parlements nationaux, qui pourront s’opposer à des projets de directives sortant du champ de compétences de l’Union.’
CHAPTER V – The ‘domestication of Europe’ and its feedback into MPs’ role perceptions

‘control compliance to the subsidiarity principle’239 (Charette, NC, AN 2 20080206: 793).

**Multi-level parliamentarism**

Again according to their role on the domestic level, in the Lisbon debates French MPs’ interest in the EP (European Parliament) and in the national chamber’s relationship to the EP (Sublevel Parliament) is notable. They amount for most of the floor time used to talk about parliaments in the EU in both the UMP and the SRC parliamentary party groups.

The EP’s new prerogatives are often discussed in more detail than the prerogatives for the national parliaments. This is especially true for the members of the UMP parliamentary party group.240 There is no longer any speaker who delegitimises the faculty of the EP to strengthen democracy in the EU.

For Axel Poniatowski, chairman of the Committee on Foreign Affairs and a member of the UMP parliamentary party group241, the EP is the ‘symbol of the European democracy’242 (Poniatowski, UMP, AN 2 20080115: 197). For him the EP is in particular strengthened through the new ordinary legislative procedure that is based on the co-decision of the members of the EP and the qualified majority voting in the Council and improves the EU’s decision-making capacity.

‘The prerogatives of the European Parliament, a symbol of the European democracy, are significantly reinforced by a legislative procedure based firstly on the co-decision between the European Parliament and the Council of Ministers, and secondly on the rule of qualified majority, which improves the decision-making capacity of the European Union.243 (Poniatowski, UMP, AN 2 20080115: 197)

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239 ‘contrôle du respect du principe de subsidiarité’
240 This evolution can partially be explained by the fusion of parts of UDF into the new UMP movement. The former members of the UDF now dominate the discourse of the right wing party through their strong presence in the parliamentary debate. An important number of speakers who mention the increased power of the EP through the Treaty of Lisbon are former members of the Centrist parliamentary party groups.
241 and former member of the liberal-centrist UDF.
242 ‘symbole de la démocratie européenne’.
243 ‘Les prérogatives du Parlement européen, symbole de la démocratie européenne, sont sensiblement renforcées par une procédure législative fondée, d’une part sur le pouvoir de codéCISION entre les députés européens et le Conseil
For Pierre Lequiller, former member of the UDF party having joined the UMP and president of the European Affairs Committee (EAC), the fact that the EP becomes a co-legislator in the EU on equal footing with the Council of Ministers is important progress for democracy in the EU. His vision of the enhancement of the EP’s powers is intergovernmental, however. The fact that there are more French MPs according to the Treaty of Lisbon than there were with the Treaty of Nice is presented as a gain of influence for France.

In Lequiller’s opinion, it is important for democracy in the EU that the EP plays a more important role in the election process for the European Commission. For him, citizens can now choose the candidates for the post of president for the Commission.

‘Democratic advances do not stop there. The European Parliament is co-legislator of the Union in its own right. France will be more influential, since it will have seventy-four MEPs with the new treaty, against seventy-two with the Treaty of Nice. The treaty clearly states that the Parliament will elect the president of the Commission. If, as is now likely, the major European parties nominate, from the campaign for the 2009 elections, their candidates for president of the Commission, we will make a leap forward in democratisation: citizens will be able to choose their candidate.’

In the same vein, Nicole Ameline, also a former member of the UDF parliamentary party group, welcomes the fact that the co-decision procedure has become the default procedure for legislative decision-making in the EU. She is likewise pleased that there is a stronger representation of France in the EP and in the Council of Ministers.

‘These provisions are crucial because the EU needs to be better organised to act better. The formalisation of the European legislative proce-
dure becomes the common law procedure with co-decision. With the extension of the vote to the qualified majority, the system is reversed. A new decision dynamic is established with an enhanced weight for France, both in the European Parliament and in the European Council.²⁴⁵ (Ameline, UMP, AN 2 20080115: 216)

Yves Bur, also former member of UDF, welcomes the fact that the EP has become co-legislator on equal footing with the Council of Ministers.

‘The European Parliament is clearly promoted in the field of European competences and becomes a co-legislator on equal footing with the Council in the adoption of laws in almost all areas where the rule of the qualified majority in the Council applies. Forty new subjects are thus now subject to the ordinary legislative procedure of the Union.’²⁴⁶ (Bur, UMP, AN 3 20080115: 234)

Axel Ponitowski asks that not only the president of the European Commission but also the president of the European Council be in line with the majority of the EP.

‘Among these decisions, the choice of the person that will serve as president of the European Council has caused much ink to flow these days. This is one of the emblematic reforms of the Treaty of Lisbon, which aims to give leadership to the Union and to embody Europe in the world. The challenge is thus considerable. The treaty does not set criteria of choice and procedure for selecting candidates, except that the new president will be able to hold a national mandate. Some suggested criteria. Personally, I think […] the chosen person will be in line with the future majority of the European Parliament, which will give him

²⁴⁵ ‘Ces dispositions sont essentielles, car l’Union doit être mieux organisée pour mieux agir. La formalisation de la procédure législative européenne devient ainsi la procédure de droit commun, avec la codécision. Avec l’extension du vote à la majorité qualifiée, le système s’inverse. Une nouvelle dynamique de décision s’instaure, avec un poids renforcé de la France, tant au Parlement européen qu’au Conseil européen.’

²⁴⁶ ‘Le Parlement européen est clairement promu dans le champ des compétences européennes et devient un co-législateur à égalité de compétences avec le Conseil dans l’adoption des actes législatifs, dans presque tous les domaines où s’applique la règle de la majorité qualifiée au Conseil. Une quarantaine de nouveaux sujets sont ainsi soumis désormais à la procédure législative ordinaire de l’Union.’

https://doi.org/10.5771/9783845290294
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additional indirect legitimacy [...]247 (Poniatowski, UMP, AN 2 20080206: 796)

For the members of the SRC parliamentary party group in the Assemblée nationale, the reform of the co-decision procedure is central for democracy in and a further politicisation of the EU.

‘As you rightly said, the European Parliament sees its co-legislator role as largely consolidated. It is undoubtedly the big winner in this case. The European Parliament will elect the president of the Commission, on a proposal from the Council that will have to "account for the European Parliament elections." So we are moving, slowly, to a politicisation of Europe in the best sense.’248 (Moscovici, SRC, AN 2 20080206: 819)

Elisabeth Guigou uses the same argument when she states that one of the important improvements of the Treaty of Lisbon is the extension of the co-decision procedure (Guigou, SRC, AN 1 20080207: 831).

For Hervé de Charrette from the NC, the extension of the EP’s competences to more policy fields and its new budgetary competences as well as its elective function are important features for the enhancement of democracy in the EU.

‘Regarding the European Parliament, the big winner of the negotiations, it is the expansion of legislative powers to thirty-nine new areas, the consecration of its budgetary powers, and, very importantly, the
Speakers both from the UMP and the SRC parliamentary party groups often mention the strengthened rights of national parliaments and those of the EP in the Treaty of Lisbon together in the same argument (Sublevel Parliament).

Axel Poniatowski, chairman of the Committee on Foreign Affairs, welcomes the new rights for both national parliaments and the enhancement of the power of the EP through the introduction of the ordinary legislative procedure:

‘Dear Colleagues, we must now take the next step, by including in the Constitution the advances contained in the Treaty of Lisbon, which gives new rights to the European Parliament, by way of the European legislative procedure, as well as to national parliaments.’

For Nicole Ameline, European democracy is strengthened because the ordinary legislative procedure is introduced and extended and because national parliaments are strengthened.

‘How not to also greet the strengthening of the European democracy by way of the extension of co-decision and the increased role of national parliaments, given that, without democratic legitimacy, Europe can not make substantial progress?’

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249 ‘Du côté du Parlement européen, grand gagnant de la négociation, c’est l’élargissement des compétences législatives à trente-neuf domaines nouveaux, la consécration de sa compétence budgétaire, et, très important, l’élection du président de la Commission.’

250 ‘Mes chers collègues, il faut aujourd’hui franchir une nouvelle étape, en inscrivant dans la Constitution les avancées contenues dans le traité de Lisbonne, qui donnent des droits nouveaux au Parlement européen, à travers la procédure législative européenne, comme aux parlements nationaux.’

251 ‘Comment ne pas saluer aussi le renforcement de la démocratie européenne grâce à l’extension de la codécision et l’accroissement du rôle des Parlements nationaux, quand on sait que, sans légitimité démocratique, l’Europe ne peut pas réaliser de progrès substantiels?’
Elisabeth Guigou, member of the SRC parliamentary party group, welcomes the ‘new powers attributed to the EP and to national parliaments’²⁵² (Guigou, SRC, AN 3 20080115: 227).

For her, the Treaty of Lisbon has strengthened democracy in the EU because both the national parliaments and the EP have gained new rights (Guigou, SRC, AN 1 20080207: 831).

Considering the minor role that the EP played in the Maastricht debates in France, the importance that MPs give to the new rights of the EP is notable and can be traced to the role of the Assemblée national on the domestic level. MPs try to restitute their role of interest intermediation and representation of French voters through close direct contact with the EP.

**Domestic control and individual role**

It is remarkable that across all parliamentary party groups there are very few mentions of the control of the national government or of individual rights for national parliaments inscribed in the Treaty of Lisbon.²⁵³ This corresponds to the role of the Assemblée nationale on the domestic level, which focuses less on concrete governance functions.

There are only four speakers of the UMP who take up an internal perspective in terms of the relations between the parliament and the government in France, and only one of those asks for a further strengthening of the Assemblée nationale towards the government. Two stem from the UMP parliamentary party group and two from the NC, both of which support the government.

Axel Poniatowski simply points to the fact that the different constitutional amendments that were necessary before the ratifications of the treaties of the EU helped the Assemblée nationale to gain new rights.

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²⁵² ‘pouvoirs nouveaux sont attribués au Parlement européen ainsi qu’aux parlements nationaux.’

²⁵³ This might be due to the constitutional reform that the then president of the French Republic announced for the year 2008, and that was already in preparation since 2007 through a reflection committee chaired by former prime minister Edouard Baladur. However, it is not probable that this would have silenced all discussion about a ‘burning’ subject. One can assume that if the control of the government’s activities in the Council was seen as an important element of the role of national parliaments in EU affairs in general and the national Assembly in particular, speakers would at least have mentioned it more. This is all the more true as the Communist MPs from the opposition use the argument and claim that there are not enough control rights for the national governments.
‘I draw your attention, ladies and gentlemen, to the fact that these successive constitutional changes, directly linked to the European construction, have had the effect of systematically recognising new rights for citizens and national parliaments. Thus the constitutional revision prior to the ratification of the Treaty of Maastricht has given the right to vote and be eligible in municipal elections to European citizens.’

(Poniatowski, UMP, AN 2 20080115: 197)

However, he does not develop this argument further, nor does he ask for a further extension of the rights. If this was a burning issue with reference to the government, one could expect to hear at least a reference to the constitutional amendment that Nicolas Sarkozy announced in his electoral campaign.

This leaves the Gaullist MP Daniel Garrigue as the only MP of the UMP group asking for an internal reform of the standing orders of the Assemblée nationale, in order to be able to fulfil the new roles foreseen for the national parliament by the Treaty of Lisbon.

‘This Assembly must equip itself with the tools and procedures that ensure Europe its place in our debates. Subject to these observations and these aspirations, which many of us here wish would materialise, I will obviously vote for this constitutional bill.’

(Garrigue, Not affiliated, AN 3 20080115 233)

He even conditions his support for the constitutional amendment to the firm promise that the Assemblée nationale will act and change instruments and internal procedures to be able to take part more effectively in EU decision-making.

Individual rights on subsidiarity conferred to national parliaments by the EU Treaty, such as the right of action before the ECJ, are rarely mentioned in the debates either. Only a few MPs even mention the new prerogatives, such as Jean-Luc Warsman who mentions the possibility of oppos-

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254 ‘J’attire votre attention, mes chers collègues, sur le fait que ces modifications constitutionnelles successives, directement liées à la construction européenne, ont eu pour effet de reconnaître, à chaque fois, de nouveaux droits aux citoyens et aux parlements nationaux. C’est ainsi que la révision constitutionnelle préalable à la ratification du traité de Maastricht a donné le droit de vote et d’éligibilité aux citoyens européens aux élections municipales.’

255 ‘Cette assemblée doit se doter des outils et des procédures qui assurent à l’Europe toute sa place dans nos débats. Sous réserve de ces observations et de ces aspirations, dont nous sommes nombreux ici à souhaiter qu’elles se concrétisent, je voterai bien évidemment ce projet de loi constitutionnelle.’
Only rarely do MPs of the UMP discuss the new individual rights inscribed in the Treaty of Lisbon, such as the rights to oppose the passerelle clauses (Warsmann, UMP, AN 2 20080115: 193), the simplified treaty revision, or the right of action before the ECJ, a subject that is widely discussed in the Bundestag.

Paradoxically, members of all three parliamentary party groups at hand depict the compensation of the loss of parliamentary control rights in the Treaty of Lisbon through veto rights as a gain of competences. The same is true for the Socialist MPs.

The members of the SRC parliamentary party group do not mention the control of the government on the national level and only rarely mention the individual rights of parliaments, such as the right of action before the ECJ, or the veto rights against the use of the passerelle clauses or the simplified treaty revision.

Only Pierre Moscovici considers that the range of the opinions of the parliamentary chambers has been strengthened through the simplified treaty revision procedure and in case of the use of a passerelle clause in matters of family law (Art. 81.3 TFEU):

‘[...] the reach of the national chambers’ opinions is significantly increased, especially concerning the area of freedom, security and justice, and the treaty revision procedure. This is essential and answers, I think, to an aspiration of national peoples.’

(Moscovici, SRC, AN 2 20080206: 818)

The same is true for the members of the NC parliamentary party group. They do not mention the control rights of the Assemblée nationale on the national level, but elaborate on the individual rights for national parliaments.

François Rochebloine considers that the role of national parliaments is reinforced because the Treaty of Lisbon gives them the right to preserve the

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256 The MPs in the Bundestag, in contrast, revendicate a protective role of the ECJ against the integrationist aspirations of the European Commission through the instrument of a subsidiarity action.

257 ‘[…] la portée des avis des chambres nationales est significativement accrue, tout particulièrement concernant l’espace de liberté, de sécurité et de justice et la procédure de révision des traités. Cela est essentiel et répond, je crois, à une aspiration des peuples nationaux.’
competences of the legislature through the right to ask the government to file an action on subsidiarity before the ECJ:

‘The strengthening of the role of national parliaments, including with the safeguarding of the jurisdiction of the national legislature by the introduction of a specific plea to the Court of Justice of the European Communities, appropriately balances the innovation.’\(^{258}\) (Rochebloine, NC, AN 2 20080115: 214)

Hervé de Charrette, rapporteur, considers that the rights of national parliaments were reinforced in the Treaty of Lisbon because there was a ‘new’ right for national parliaments to oppose the use of the clauses for simplified treaty revision: ‘[…] the new right given to them to oppose, if necessary, to the procedure known as simplified revision’\(^{259}\) (Charette, NC, AN 2 20080206: 793).

b) MPs from parliamentary party groups with few government responsibilities

Only the MPs from the Communist parliamentary party group do not change their discourse on the role of parliaments in the EU in the Lisbon debates. This could be because they have only few government responsibilities (i.e. few posts of committee chairmen in the chamber) in the period and are thus less constrained to adapt their position to the concrete action patterns in EU affairs.

None of the legitimacy channels

Communist MPs in the Assemblée nationale have approximately the same discourse on parliaments in the EU as they had in the Maastricht debates. They deny in principle that there can be democratic decision-making in the EU.

\(^{258}\) ‘Le renforcement du rôle des parlements nationaux, notamment la sauvegarde des compétences du législateur national permise par l’institution d’un recours spécifique devant la Cour de justice des communautés européennes, équilibre opportunément cette innovation.’

\(^{259}\) ‘[…] le droit nouveau qui leur est donné de s’opposer, le cas échéant, à la procédure dite de révision simplifiée.’
However, while the EP did not figure at all in the Communist MPs’ discourse in the Maastricht debates, it is now discussed. The reinforcement of the EP is seen as insignificant because the European Commission detains the monopoly of initiative and is independent of the government.

Close to the main arguments in the Maastricht debates, the EP is seen as a sort of ‘phantom parliament’ without democratic legitimacy because there is not a European ‘people’ – a European parliamentary representation is therefore not possible.

‘In forty new areas, I do not quote them, [...], the vote of the Council will take place with a qualified majority and will be covered by the illusory co-decision of a phantom parliament lacking legitimacy in the absence of a European people’.

Communist MPs in the Assemblée nationale have thus not changed their views in principle on the role of parliaments in the EU. In the German Bundestag, the same pattern is true for the left-wing Die Linke, which is the successor of the PDS/Linke Liste in 1992. In contrast to this, the ideas that Green MPs convey on the role of parliaments are close to those of the parliamentary party groups with regular government responsibility.

2) MPs in the Bundestag: Domestic Control Body and individual role

As in the Assemblée nationale, in the Bundestag one can observe a shift of discourse concerning all parliamentary party groups except for MPs of the left-wing Die Linke. Furthermore, one can observe the emergence of a slight left-right cleavage.

In contrast to the situation in the Assemblée nationale, in the Bundestag the amount of attention given to multi-level parliamentarism and the EP (Sublevel Parliament and European Parliament frames) has fallen sharply to only about one-fifth of floor time, while the importance of the domestic control of the government has risen slightly (Domestic Control Body frame). This is coherent with the Bundestag’s domestic governance role. Only the members of the SPD continue to pay much attention to the EP.

260 ‘Dans quarante nouveaux domaines, je ne les cite pas, [...], le vote du Conseil interviendra à la majorité qualifiée et sera couvert par l’illusoire co-décision d’un Parlement fantôme, dépourvu de légitimité, en l’absence d’un peuple européen.’
The Bundestag goes from a mostly homogenous framing across all parliamentary groups in the Maastricht debates to a slight left-right cleavage. In the Lisbon debates the parliamentary groups of the centre-left allocate more floor time to multi-level parliamentarism and to the role of the EP than the MPs from the CDU/CSU and FDP groups.

Instead, MPs from the centre-right put slightly more importance on new prerogatives for subsidiarity checks introduced with the Treaty of Lisbon, i.e. a collective *Third Chamber* role for national parliaments. In turn, the latter do not play much of a role in the contributions by the SPD or Green MPs.

There is no change in the patterns of the discourse by MPs from parliamentary party groups without experience in national government or parliamentary offices.

**a) MPs from parliamentary party groups with regular government responsibilities**

MPs’ discourse on the role of parliaments in the EU is dominated by a debate about the Bundestag’ individual role in EU affairs. This is coherent with the Bundestag’s *governance* role on the domestic level.

In the Bundestag, in contrast to the Assemblée nationale, MPs allocate much floor time to rights for government scrutiny (see e.g. Löning, FDP, BT 20080313: 15839) and to the individual rights conferred to the Bundestag through the Treaty of Lisbon. Prerogatives often mentioned are also the objection rights to the passerelle clauses, the simplified treaty revision, and in particular the possibility of an action before the ECJ – which is widely debated and welcomed (e.g. Toncar, FDP, BT 20080313: 15847).

MPs do not pay much attention to a potential *Third Chamber* role for national parliaments. When discussing the EWM, the MPs in the Bundestag do not even explicitly address the collective nature of the prerogative. This is often the case in the Assemblée nationale. In the Bundestag, the EWM is often met with scepticism regarding its effectiveness (Silberhorn, CDU/CSU, BT 20080313).

In contrast to the MPs in the Assemblée nationale and unlike in the Maastricht debates, the role of the Bundestag in multi-level parliamentarism and the role of the EP are much less present in the discourse of German MPs.

Only the discourse of the MPs of the SPD follows similar patterns as in the Maastricht debates, i.e. an important share is given to the EP and to the
role of the Bundestag as a sublevel parliament in European multi-level parliamentarism. For the CDU/CSU, the FDP, and B90/The Greens, the share of corresponding arguments has fallen sharply.

**Domestic and individual role**

MPs from CDU/CSU, SPD, FDP, and the Greens refer extensively to the necessity of a strengthened domestic parliamentary control of the government in EU affairs. They appeal to the House that the rights for government control that have been fixed in the law accompanying the ratification of the Treaty of Lisbon must be used extensively by the MPs, include those from the government majority.

Andreas Schockenhoff, member of the CDU/CSU parliamentary party group that is in the grand coalition from 2005 to 2009, appeals to his colleagues to use the newly introduced rights in the accompanying legislation to the ratification instrument. For him, the Bundestag should use not only the new rights that have their origin in the EU Treaty, but also the prerogatives fixed in national law that allow the Bundestag to control the government: ‘This means that we have to use the rights and to use the possibilities for control that have been created through the accompanying law: internally towards the government and externally, […]’

Thomas Silberhorn is member of the CSU party, which has a common parliamentary party group with the CDU party in the Bundestag. He asks his fellow parliamentarians to effectively use the instruments of the Treaty of Lisbon and to oblige the government to a strong involvement of the Bundestag in EU affairs. He welcomes the fact that participation rights have been increased in the accompanying legislation to the ratification of the Treaty of Lisbon. For him, the ratification would not have been possible if new rights for the Bundestag had not been negotiated.

‘The fact that this succeeded was the condition for many colleagues to agree to the Treaty of Lisbon in the end. The transfer of competences at the European level, to which we will proceed, will be compensated through a better cooperation with the Bundestag on the national level. This means as a consequence not only a strengthened participation on

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261 ‘Dann müssen wir unsere Rechte aber auch nutzen und die im Begleitgesetz geschaffenen Kontrollmöglichkeiten anwenden: im Inneren gegenüber unserer eigenen Bundesregierung und nach außen, […]’
the European level, but also a better cooperation with the government.\textsuperscript{262} (Silberhorn, CDU/CSU, BT 20080313: 15854)

For Silberhorn the transfer of competences that is laid down in the Treaty of Lisbon must be compensated through a stronger participation of the Bundestag on the national level.

Hermann Gröhe welcomes the strengthening of the Committee for the Affairs of the EU and the introduction of a minority right for the filing of an action of annulment on subsidiarity in cases in which the Bundestag and Bundesrat have gained special rights through the EU treaties. For him, however, this should not become a general rule for EU affairs.

‘Today the Bundestag obligates itself once more to provide more democratic legitimation to European policies because it ties European political decisions to the national parliaments. This step is good and necessary. We are able to table this here in great unity of the two democratic opposition parties and the grand coalition. This gives me hope that we will be able to head to a common decision on this cautious constitutional amendment after a speedy discussion.’\textsuperscript{263} (Gröhe, CDU/CSU, BT 20080313: 15857)

Michael Stübgen (CDU) welcomes the information rights on the negotiations in the Council of Ministers, which have been extended in the accompanying legislation:

\textsuperscript{262} ‘Dass dies gelungen ist, ist für viele Kolleginnen und Kollegen die Voraussetzung dafür gewesen, dem Vertrag von Lissabon am Ende zustimmen zu können. Die Kompetenzübertragung, die wir auf die europäische Ebene vornehmen, wird durch eine stärkere Mitwirkung des Bundestages auf nationaler Ebene gewissermaßen kompensiert. Das bedeutet eben eine stärkere Mitwirkung nicht nur auf europäischer Ebene, sondern auch gegen über der eigenen Regierung.’

\textsuperscript{263} ‘Heute nimmt sich der Deutsche Bundestag einmal mehr selbst in die Pflicht, der europäischen Politik durch die Verankerung europapolitischer Entscheidungen in den nationalen Parlamenten mehr demokratische Legitimation zu verleihen. Dies ist ein guter und wichtiger Schritt. Dass wir dies durch die beiden demokratischen Oppositionsfraktionen und durch die Große Koalition hier in so großer Gemeinsamkeit einbringen können, lässt mich hoffen, dass wir diese behutsame Verfassungsaenderung nach einer zügigen Diskussion in einer gemeinsamen Beschlussfassung auf den Weg bringen können.’
‘We as national parliaments have full rights to information, that is to say the right to be informed as early as possible.’\footnote{Wir als nationale Parlamente haben volle Informationsrechte, also das Recht, zum frühestmöglichen Zeitpunkt informiert zu werden.} (Stübgen, CDU/CSU, BT 20080424: 16474)

For Michael Roth from the SPD parliamentary party group, the rights transferred by the Treaty of Lisbon open new channels of parliamentary participation and responsibility in the EU. The most important part of the Bundestag’s control activity, however, has to take place in the domestic arena, where it is the primary task of the Bundestag to control the German government. According to Michael Roth, the Bundestag gains control mainly through the control of the German government, which negotiates in the Council of Ministers.

‘Primarily we need to rebalance our own role as a parliament. The Treaty of Lisbon opens new options for joint responsibility and cooperation. One thing will remain clear: the central function of the German Bundestag is the control of the government in the domestic arena. The Federal Republic of Germany is represented in the Council by the government. This is where we need to control and try to influence’\footnote{Wir müssen vor allem unsere eigene Rolle als Parlament neu justieren. Der Vertrag von Lissabon eröffnet den nationalen Parlamenten neue Chancen der Mitverantwortung und der Mitwirkung. Es bleibt aber dabei: Die zentrale Aufgabe des Deutschen Bundestages ist es, Regierungshandeln innerstaatlich zu kontrollieren. Die Bundesrepublik Deutschland wird im Rat von der Bundesregierung vertreten. Hier müssen wir kontrollieren und versuchen, Einfluss zu nehmen.} (Roth, SPD, BT 20080313: 15845).

The contribution by Markus Löning, member of the FDP parliamentary party group, is in the same direction. He pleads for an active use of the new prerogatives. In his discourse, this active use is clearly directed towards the German government. He does not mention a direct relationship or even communication with European institutions. Instead he asks for more parliamentary self-confidence face-to-face with the government.

‘I think it will rather be the role of the German Bundestag – like that of the other national parliaments – to actively use the rights to which we are entitled. This is a call especially upon the opposition parliamentary party groups to act with more parliamentary self-confidence face-to-face with the government. If we do not do this, all rights that we...
may have will be useless. They will not even be worth the paper on which they are written.266 (Löning, FDP, BT 20080313: 15839)

In the same vein is the contribution by Rainder Steenblock from the Bündnis 90/Die Grünen parliamentary party group. He says that the Bundestag has to make ample use of its new rights. He further states that still much of important EU legislation passes the Bundestag without proper parliamentary control. The rights to which he refers are the possibilities to ask for a subsidiarity action.

‘But I also say one thing very clearly: we need to acquire these rights. In the structures in which we have worked so far, the German Bundestag will not yet be able to use its rights on subsidiarity – I recall at this occasion how we have to some extent waved European legislative procedures through in parliament. Today’s vote is an obligation for us to use these rights in the German Bundestag and to fight for appropriate measures to be put into place;267 (Steenblock, Bündnis 90/ Die Grünen, BT 20080424: 16470)

The right stemming from the Treaty of Lisbon that is most often cited and widely discussed in the Bundestag is the right to ask the government to plead for the annulment of an act on the grounds of the breach of the subsidiarity principle. In 2008, the Bundestag decides to provide one-quarter of the MPs in the Bundestag with the possibility to ask for such an action. This is modelled as a minority right according to the procedure for the control of the constitutionality of a domestic law, already existing in the Bundestag. The quorum is low and allows even the opposition parties to potentially reach it.

266 ‘Ich glaube, die Rolle des Deutschen Bundestages wird – genauso wie die der anderen nationalen Parlamente – vielmehr darin bestehen, dass wir unsere Rechte, die uns zustehen, aktiv wahrnehmen. Das ist eine Aufforderung insbesondere an die Koalitionsfraktionen, in Zukunft mit mehr parlementarischem Selbstvertrauen und Selbstbewusstsein gegenüber der Regierung aufzutreten. Wenn wir das nicht tun, nutzen uns alle Rechte nichts. Dann sind sie noch nicht einmal das Papier wert, auf dem sie stehen.’

The right to file an action of annulment is an individual right for which national parliaments do not need to collaborate with other national parliaments. Each parliament can ask for such an action individually according to the national constitutional provisions. It therefore falls into the category of Domestic Control Body.

MPs from all parliamentary party groups (except Die Linke) widely discuss and welcome the new right. While the EWM for subsidiarity earns considerable scepticism, the subsidiarity action is widely welcomed. This is in stark contrast to the discourse in the Assemblée nationale.

Thomas Silbermann (CSU), for example, rejects the subsidiarity check as useless, but puts ‘a lot of hope’ in the subsidiarity action. He hopes that, because of this new prerogative, the European Commission will feel much more obliged to make a well-founded justification for the accordance of an act with the principle of subsidiarity. This would lead to fewer acts that transgress the competences of the European Commission.

‘Against this background the role of the Commission and of the European Court of Justice will have to change as well. The European Commission will have to justify much more precisely why it is active on the European level. [...] because it cannot be the interpretation of the subsidiarity principle that it is always better when the European Union acts.’

The ECJ is central in his argumentation. For Silberhorn, the Court will have to develop a subsidiarity doctrine and will have to be the new ‘partner’ of the parliaments:

‘In this respect I pin my hope on the European Court of Justice. I hope that the European Court of Justice will develop into the partner of the parliaments; because the instruments that the Treaty of Lisbon allocates to us imply a certain extent of cooperation for the national parliaments in European decision-making. The joint responsibility of national parliaments must parliamentarise the legislation in the European Union to a certain extent. The latter has been quite influenced by the executives. This must happen through a better cooperation with

268 ‘Vor diesem Hintergrund werden sich auch die Rolle der Kommission und die Rolle des Europäischen Gerichtshofs verändern müssen. Die Europäische Kommission wird sehr viel genauer als bisher begründen müssen, warum sie auf europäischer Ebene aktiv wird. [...] denn die Interpretation des Subsidiaritätsprinzips kann nicht sein, dass es immer dann besser ist, wenn die Europäische Union tätig wird.’
both the European Parliament and the national parliaments.\(^{269}\) (Silberhorn, CDU/CSU, BT 20080313: 15854)

In the debate on the Treaty of Maastricht in the Bundestag, the remedy against a ‘Europe of the executives’ was mainly the strengthening of the EP. In the Lisbon debates, on the other hand, national parliaments (in cooperation with the ECJ) are now at least as important for the strengthening of parliamentary democracy in the EU.

Two MPs from the SPD parliamentary party group take up the issue with similar arguments. Carl-Christian Dressel praises the fact that the subsidiarity action gives more rights to the opposition in the Bundestag in EU affairs (Dressel, SPD, BT 20080313: 15853).

For Michael Roth, the right to veto the use of the passerelle clauses and the simplified treaty revision gives the Bundestag a new and important responsibility that forces it to act. Self-confidence is the dominating key word in the contributions by the members of the German Bundestag.

Especially in the cooperation in criminal matters, Roth asks the Bundestag to act with self-confidence:

‘In this context I would like to remind you of the most sensitive area of judicial cooperation in criminal matters. In this area we need a self-confident Bundestag that plays a part early on. We have expressed this unanimously in a decision of the European Affairs Committee.’\(^{270}\) (Roth, SPD, BT 20080424: 16471)

Florian Toncar from the FDP parliamentary party group considers that it is the ECJ’s duty to judge questions concerning competences. Toncar asks the ECJ to rule on questions of subsidiarity if necessary against the will of the

\(^{269}\) ‘Insoweit setze ich manche Hoffnung auf den Europäischen Gerichtshof. Ich wünsche mir, dass sich der Europäische Gerichtshof zum Partner der Parlamente entwickelt; denn die Instrumente, die uns der Vertrag von Lissabon zuweist, bedeuten ein Stück Mitverantwortung der nationalen Parlamente für die europäische Politik. Die Mitverantwortung der nationalen Parlamente muss dazu führen, dass die bislang recht exekutivlastige Rechtsetzung in der Europäischen Union ein Stück weit parlamentarisiert wird, und zwar durch die bessere Beteiligung des Europäischen Parlaments wie der nationalen Parlamente.’

\(^{270}\) ‘Ich erinnere in diesem Zusammenhang nur an den höchst sensiblen Bereich der justiziellen Zusammenarbeit bei Strafverfahren. Hier brauchen wir einen selbstbewussten Bundestag, der sich frühzeitig einbringt. Das haben wir in einem Beschluss des Europaausschusses einmütig zum Ausdruck gebracht.’
governments present in the Council of Ministers. He expects that the ECJ will protect the rights of the members of national parliaments:

‘One further point is that the European Court of Justice has for the time being been very reserved concerning questions of competences: we do not decide this; if the governments decide in the Council that something needs to be regulated on the European level, this must be the case. I do not want to grant this margin of evaluation to the Council anymore. I think that the European Court of Justice will not be able to avoid developing a clear doctrine about how to apply the subsidiarity principle. I link my positive vote on the treaty to the clear expectation that the Court of Justice will do this and that it will also protect my rights as member of a national parliament through a consistent application of the treaty.’

Michael Link from the FDP is of the same opinion. He asks the ECJ to develop a jurisdiction on subsidiarity.

“We as FDP combine with today’s consent to the treaty the unambiguous expectation that the European Court of Justice will develop a jurisdiction that will better delimit competences than is the case through the current treaty. However, today we experience a cesura. It is not the end of a process, but rather the beginning of a new process. With the ratification of this new treaty we start with a new practice. We want this Union to regulate less rather than more.’

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271 ‘Ein weiterer Punkt ist: Der Europäische Gerichtshof hat bisher bei allen Kompetenzfragen eine große Zurückhaltung an den Tag gelegt und gesagt: Wir entscheiden das nicht; wenn die Regierungen im Rat sagen, dass etwas auf europäischer Ebene geregelt werden muss, dann wird es schon so sein. – Diesen Beurteilungsspielraum möchte ich dem Rat nicht mehr zugestehen. Ich glaube, dass der Europäische Gerichtshof nicht darum herumkommen wird, eine klare Doktrin zu entwickeln, wie er das Subsidiaritätsprinzip anwendet. Ich verbinde mein positives Votum zum Vertrag mit der klaren Erwartung, dass der Gerichtshof das tun wird und auch meine Rechte als Mitglied eines nationalen Parlaments durch konsequente Anwendung des Vertrages schützt.’

For Rainder Steenblock from the Bündnis 90/Die Grünen, the right to file a subsidiarity action is a new possibility for the Bundestag to have a say in European politics. Again, the balance between the EP and national parliaments as warrants of representative democracy is different than it was in the discourses on the Treaty of Maastricht. While in the MPs’ contributions in the Maastricht debates the rights of the Bundestag have to be enhanced because the EP is not sufficiently strong yet, in the Lisbon debates in the Bundestag MPs consider that the EP is already strong and national parliaments finally have to be strengthened.

‘I would like to still mention the following points. First point. For the German Bundestag – many colleagues have said this before – the right of action on subsidiarity has opened a new possibility to co-determine European policies. We think it is right and good that in parallel to the extension of the control through the European Parliament the national parliaments get the opportunity to co-determine European policies to a greater extent. This leads to an extension of the legitimation and is an opportunity to take the citizens on the national level with us in this process.’

(Steenblock, Bündnis 90/Die Grünen, BT 20080424: 16470)

In summary, the Bundestag’s individual control function receives most of the attention of the majority of MPs in the Bundestag during the Lisbon debates. This is coherent with the chamber’s domestic governance role. MPs in the Bundestag are sceptical about the potential of a collective role for national parliaments, however, even if the MPs from CDU/CSU and FDP in particular pay more attention to this role than they did in the Maastricht debates.

Third Chamber and collective role
The MPs in the Bundestag are much more sceptical than those in the Assemblée nationale in their discussion of a collective role for national parlia-
ments as a sort of virtual *Third Chamber* that executes a subsidiarity check ex ante before the legislative process. MPs from most parliamentary party groups welcome the new prerogatives and are not against the provision, but they doubt its efficiency.

There is a slight left-right cleavage on the issue of the subsidiarity check. While MPs from CDU/CSU and FDP often use it as an argument, MPs from SPD and Greens do not.

There are two contributions, one from the SPD and one less clear from the FDP, that warn against using the subsidiarity check for political reasons to block EU decision-making.

MPs from the CDU/CSU all welcome the subsidiarity check, but doubt its usefulness and administrative burden in practice. For Andreas Schockenhoff, the national parliaments have been strengthened through the subsidiarity check and action. For him the EU should concentrate more on its core agenda, which he sees in ‘global transnational challenges’ \(^{274}\). In his view, the European Commission often proposes legislation in domains in which there is no competence for the EU, for example in the politics of discrimination. The role of national parliaments is to control through the subsidiarity check that the politics of the EU draw closer to the citizens again. He calls on his fellow parliamentarians to swiftly use the rights in the subsidiarity check and to coordinate rapidly with other parliaments.

‘We as national parliaments now have the possibility to make sure that EU politics will be closer to the citizens again. However, this means that we will have to use our rights and the possibilities of control that have been created though the accompanying law: internally, facing our own government, and externally, through a swift coordination with the other national parliaments.'\(^{275}\) (Schockenhoff, CDU/CSU, BT 20080313: 15840)

His colleagues Thomas Silberhorn (CSU) and Michael Stübgen (CDU) are in favour of the subsidiarity check as well, but have doubts concerning the efficiency of the measure. For Silberhorn, the subsidiarity check demands an important effort in a small amount of time. He is not sure that it will be

\(^{274}\) ‘globalen, länderübergreifenden Herausforderungen.’

\(^{275}\) ‘Als nationale Parlamente haben wir jetzt die Chance, dafür zu sorgen, dass die EU-Politik wieder bürgernäher wird. Dann müssen wir unsere Rechte aber auch nutzen und die im Begleitgesetz geschaffenen Kontrollmöglichkeiten anwenden: im Inneren gegenüber unserer eigenen Bundesregierung und nach außen, indem wir uns mit den anderen nationalen Parlamenten zügig koordinieren.’

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useful to deploy such an effort because he doubts that the necessary quota will be reached. For him, the subsidiarity check will above all be an instrument to sensitise national parliaments to EU issues – and to sensitise the European institutions to the concerns of national parliaments.

‘I continue to be sceptical about whether the extremely high effort of the subsidiarity check is justified – a reasoned opinion must be adopted within an eight-week period and a certain quorum of national parliaments must be attained. We will have to look closely at the effects of the reasoned opinions on subsidiarity. In my opinion the effect will not stem from the individual control procedures, but the fact that the instrument will help to create a higher sensitivity in national parliaments for EU affairs. But inversely, we will also attain a higher sensibility of the European institutions for the matters of national parliaments.‘

(Silberhorn, CDU/CSU, BT 20080313: 15854)

For Michael Stübgen, the Bundestag receives such an extent of documents that a proper subsidiarity check will be highly difficult. Furthermore, he thinks that the parliaments of the German Länder will not be able to carry out the check in such a small amount of time.

‘This means that the Bundestag will be able to check whether the flow of drafts of EU legislation violates these principles. If so, they can issue a reasoned opinion within eight weeks, but not later. It seems to be illusionary that in this period also the parliaments of the Länder will have checked the drafts and the Bundestag will have had the time to decide.’

(Stübgen, CDU/CSU, BT 20080424 16474)


Nevertheless, for Stübgen the subsidiarity check is an important tool that the Bundestag must actively use to create a sort of ‘subsidiarity culture’ in the European Commission, the Council, and the ECJ. For Stübgen, the Bundestag has a central role in the promotion of the subsidiarity principle, as the idea is familiar to German actors through German federalism.

‘If we do not promote the process of the implementation of the subsidiarity principle, nobody will do it. This will be an important task for us as German Parliament.’

(Stübgen, CDU/CSU, BT 20080424 16474)

For Michael Roth from the SPD both subsidiarity check ex ante and action ex post are important instruments. However, he considers that the control of subsidiarity can be used to block draft legislative acts for purely political reasons. Instead, he pleads for a political implication of the Bundestag early on in EU decision-making as far as concerning the content of the issues. This early political debate is in his view more constructive than the subsidiarity check: ‘The subsidiarity check and action are important instruments. However, we also have to take care that there are no new blockades, but a constructive cooperation. We must be true to our word here’

(Roth, SPD, BT 20080313: 15845).

Markus Löning from the FDP parliamentary party group is not against the subsidiarity check, but he thinks that it will not be useful to strengthen national parliaments because parliamentary procedures are too long to match the eight-week deadline foreseen in the treaty.

‘Let me add a few words on the things that did not work out that well. It is often postulated that the national parliaments shall get a stronger role. We have now obtained the right to carry out a subsidiarity check. We shall organise a majority in parliament within a period of eight weeks. Even if the time limit is now one-third longer than originally foreseen, you know as much as I do that it will be extraordinarily difficult to find a majority.’

(Löning, FDP, BT 20080313:15839)
In contrast to his party fellows, Michael Toncar (FDP) issues an even stronger warning regarding the EWM than Michael Roth from the SPD does. For him the subsidiarity check could be used to destroy political initiatives under its neutral label. Instead, a constructive early participation of the Bundestag in the political debate on EU issues is necessary: ‘Subsidiarity is an instrument, but we must not destroy with it everything that we may dislike politically. We need the political controversy. We must participate early in the EU legislative process’\(^\text{281}\) (Toncar, FDP, BT 20080313: 15847).

The MPs of the Bundestag see a collective role and thus a direct role for national parliaments in EU decision-making processes with a sceptical eye, in contrast to the MPs in the Assemblée. The Bundestag’s strong governance role leads to less attention given to collective roles for parliaments in EU decision-making processes.

**Multi-level parliamentarism**

In the Bundestag, multi-level parliamentarism does not play an important role in the debates on the Treaty of Lisbon. In contrast to the Maastricht debates, the role of the national parliaments is much more important in the discourse on the role of parliaments in the EU. While in the Maastricht debates the dominating discourse is that the national parliaments must be strengthened because the EP is still too weak, in the Lisbon debates MPs consider that it is high time to strengthen national parliaments.

MPs do not extensively mention the new rights that the EP has gained in the Treaty of Lisbon. The EP is only mentioned when the new rights for national parliaments are discussed. This is an important difference compared to the debates in the Assemblée nationale.

MPs usually only mention the strengthening of the EP to then elaborate on the strengthening of the national parliament at length. Given the fact

\(^{281}\) ‘Subsidiarität ist ein Instrument; aber wir dürfen mit der Keule der Subsidiaritätskontrolle oder -rüge nicht all das, was uns möglicherweise politisch missfällt, zerschlagen. Wir brauchen die politische Auseinandersetzung. Wir müssen uns frühzeitig in den Gesetzgebungsprozess der Europäischen Union einbringen.’
that Germany was a major advocate for strengthened rights of the EP from the outset, one could imagine that there is much more detailed praise of the new prerogatives of the EP (or even criticism that these new prerogatives do not go far enough). However, it is only in the discourse of speakers of the SPD parliamentary group that such patterns are found.

There are only few contributions that focus exclusively on the EP. Furthermore, with the exception of the SPD parliamentary party group, the unconditional support of the EP changes in comparison to the Maastricht debates in the contributions.

The strengthening of the EP is welcomed, but Michael Stübgen from the CDU/CSU, for example, considers that this strengthened role is primarily a ‘challenge’ and a ‘demand’ for the EP to act responsibly. His discourse is more sceptical regarding the EP than it was before the Treaty of Lisbon. He accuses the EP of having sometimes taken curious decisions – which he explains by the fact that the EP does not have all of the parliamentary rights that it should have.

‘However, the opportunity that arises from this treaty is in the first place a challenge and a demand for the future European Parliament. Everyone in this audience knows of at least one decision of the European Parliament that could be qualified as rather curious – not because of the political objectives, but because of its sometimes unworldly and detached manner.’

Again, only the contribution by the SPD parliamentary party groups is unambiguously positive on the enhanced role of the EP in the Treaty of Lisbon.

For Michael Roth (SPD), the EP’s trajectory indicates the dynamic evolution of the EU. He remembers the beginnings of the EP as a consultative body and welcomes the fact that with the Treaty of Lisbon the EP is a parliamentary body on equal footing with the Council of the EU. For him, the enhancement of the EP’s role means that the EU is a union not only of governments but also of citizens and parliamentarians. Roth considers that the German MPs have for a long time advocated this re-equilibration and

282 ‘Aber die Chance, die sich mit diesem Vertrag ergibt, bedeutet in erster Linie eine Herausforderung und einen Anspruch für das künftige Europäische Parlament. Jeder von Ihnen kennt sicherlich mindestens eine Entschließung des Europäischen Parlamentes, die man doch als recht merkwürdig bezeichnen kann, nicht hinsichtlich der politischen Zielsetzung, sondern hinsichtlich der Tatsache, wie weltfremd und abgehoben dort manchmal etwas beschlossen wird.’
that the strengthening of the EP is a success worth being proud of for the MPs of the Bundestag.

‘Yesterday the European Parliament solemnly celebrated its 50th anniversary. The European Parliament illustrates the dynamic constitutional process in the European Union. How small and modest European parliamentarism started as – with a consultative organ. By now we have a real parliamentary institution that is responsible for almost all policy areas of the European Union, and that is on equal footing with the Council, not the least thanks to the Treaty of Lisbon. This makes clear that the European Union is a union not only of states, not only of governments, but it is in fact a union of citizens, of members of parliament. To reach this we have worked for a long time. It is a success, of which we can all be proud together.’

283 (Roth, SPD, BT 20080313: 15845)

There is no real debate about the Bundestag’s role as a sublevel parliament to the EP either (Sublevel Parliament). However, the strengthening of the EP and of the national parliaments often appear in the same unit. Both are then considered to enhance the democratic quality of the EU.

Thomas Silberhorn (CSU) welcomes the strengthening of both national parliaments and the EP as an important step for democracy in the EU and for its capacity to act.

‘We will manage to have more democracy through the strengthening of parliaments. Both the European Parliament, which will take part in the co-decision procedure in many cases, and the national parliaments will have more opportunities for participation. […] I think this is an
For Michael Stübgen, both a ‘horizontal’ and a ‘vertical’ democratisation of the EU is reached with the Treaty of Lisbon. Even if Stübgen welcomes the strengthening of the EP (i.e. the ‘horizontal democratisation’), he especially emphasises the fact that democratisation and the better transparency of EU decision-making happened ‘vertically’ through the strengthening of national parliaments in the Treaty of Lisbon.

‘European politics will be more transparent with this treaty. We do not only need a horizontal but also a vertical democratisation of the European Union, because after the tentative beginnings in the Treaty of Maastricht 17 years ago, for the first time this treaty codifies the role of national parliaments in the European Union.’

Rainder Steenblock’s (Bündnis 90/Die Grünen) argument is in the same vein. He considers it as appropriate that beyond the strengthening of the EP, national parliaments have also gained weight in EU decision-making. He considers this a widening of the legitimacy basis of the EU, which can help to involve European citizens more.

‘First point: for the German Bundestag – many colleagues have already said this – the possibility for an action on subsidiarity is a new opportunity to cooperate on EU policy. We think that it is right and good that beyond the extension of the control through the European Parliament, the national parliaments are strengthened as well in their faculty to co-determine European policies. This will create an extension of the legitimisation and is an opportunity to keep European citizens in the picture.’

284 ‘Mehr Demokratie schaffen wir durch eine Stärkung der Parlamente, sowohl durch eine Aufwertung des Europäischen Parlaments, das in vielen Fällen am Mitentscheidungsverfahren beteiligt wird, als auch durch eine stärkere Beteiligung der nationalen Parlamente. [...] Ich glaube, das ist ein wichtiges Signal des Vertrages von Lissabon.’

285 ‘Die europäische Politik wird mit diesem Vertrag transparenter. Wir haben nicht nur horizontal, sondern auch vertikal eine Demokratisierung der Europäischen Union erreicht; denn nach zaghaften Anfängen beim Maastrichter Vertrag vor 17 Jahren wird erstmalig die besondere Rolle der nationalen Parlamente in der Europäischen Union in diesem Vertrag festgeschrieben.’

As previously mentioned, only the speakers from the SPD parliamentary party group welcome the strengthening of the EP in detail when discussing both the national parliament and the EP. Carl-Christian Dressel’s contribution clearly focuses on the EP, whereas he only mentions the strengthening of national parliaments. He elaborates in length on the fact that the German parliamentarians have advocated such a reinforcement of the EP for a long time, and he stresses the fact that decisions on the important progress for the EP’s competences was reached under German EU presidency. The discourse is closest to the discourse by both CDU/CSU and SPD MPs in the Maastricht debates.

‘However, in parallel to the strengthening of the national parliaments, the European Parliament is strengthened as well. We parliamentarians have wanted this for years. This is true both for us and for the colleagues from the European Parliament. We can rejoice in the fact that in particular this progress was decided upon under the German EU presidency in 2007.'

The weight of different parliamentary roles in MPs’ discourse in the Bundestag during the Lisbon debates thus widely differs from during the Maastricht debates and can be linked to the chamber’s domestic governance role. The discourse about the role of parliaments in the EU is only unchanged for the left-wing parliamentary party group Die Linke.

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worden, europäische Politik mitzubestimmen. Wir halten es für richtig und gut, dass neben der Ausweitung der Kontrolle durch das Europäische Parlament auch die nationalen Parlamente Möglichkeiten haben, in stärkerem Maße europäische Politik mitzugestalten. Das schafft eine Verbreiterung der Legitimation und ist eine Möglichkeit, die Bürgerinnen und Bürger auf nationaler Ebene in diesem Prozess mitzunehmen.’

b) MPs from parliamentary party groups without government responsibilities

Only the MPs from Die Linke have not changed the focus of their contributions. The EP is still the exclusive source of democratic legitimacy for the EU that is mentioned. This stable pattern can be explained by the fact that the group does not exercise important government or parliamentary functions and does thus not ‘practice’ EU.

Exclusively the EP

Between Maastricht and Lisbon, the Green party experienced important changes and participated in the German federal government from 1998 to 2005. MPs thereby had the opportunity to become habitualised to the practice of EU parliamentary participation (see above). This was not the case for the PDS/Linke liste, which fused in 2007 into Die Linke.

The pattern of the arguments on the role of parliaments in the EU has not changed much. As in 1992, MPs from the parliamentary group Die Linke are mainly interested in the EP as a warrant of democracy in the EU (47%). In addition to the 1992 pattern, they discuss the role of the Bundestag in relation to the EP (40%). They do not or only marginally discuss other roles for parliaments in the EU.

Lothar Bisky, at the time co-president of the party Die Linke together with Oscar Lafontaine, states that there are some ‘improvements’ in the Treaty of Lisbon compared to the preceding Treaty of Nice, even if he is in principle sceptical of the treaty. As an example of an improvement, he cites the increased role of the EP in EU decision-making procedures through the introduction of the ordinary legislative procedure and the better participation rights of the national parliaments.

‘We do not deny that this treaty yields quite a few improvements in comparison with the Treaty of Nice. This concerns in particular the co-decision rights of the European Parliament, which are strongly enhanced, and the participation of the national parliaments, [which are] first steps towards more democracy.’288 (Bisky, PDS/Linke Liste, BT 20080424: 16461)

288 ‘Wir übersehen nicht, dass dieser Vertrag gegenüber dem Vertrag von Nizza durchaus Verbesserungen bringt; das betrifft beispielsweise die Mitentscheidungsrechte des Europäischen Parlaments, die stark erweitert werden, und die Beteiligung der nationalen Parlamente, erste Schritte zu mehr direkter Demokratie.’
Furthermore, Bisky welcomes the fact that Europol will be under better parliamentary control by both the national parliaments and the EP, and that the budgetary rights of the latter will be strengthened: ‘Europol will be under parliamentary control. The budgetary rights of the European Parliament will be enhanced’ (Bisky, *PDS/ Linke Liste*, BT 20080313:15842).

Bisky then elaborates on the EP in further detail. He praises the EP’s new right to veto international commercial agreements and the extension of the co-decision procedure to many new policy areas.

The preceding sub-chapter showed that prerogatives for parliaments in the EU discussed in the Lisbon debates in the Assemblée nationale differ widely from those discussed in the Bundestag. The attention to specific roles for parliaments in the EU that shine through the debates are even more different between the chambers than they were in the Maastricht debates, and they can be traced to domestic parliamentary practice and roles. The following conclusion discusses the results with regard to *Hypothesis 2*.

**D – Conclusion: From an ‘ideological’ to a ‘domesticised’ evaluation of the role of parliaments in the EU**

The preceding chapter showed that the ideas about the role of parliaments in the EU conveyed in the parliamentary discourse indeed follow the evolution of parliamentary practice shown in Chapters III and IV. Ideas about the role of parliaments in the EU in the Lisbon debates relate strongly to the reformed practice of EU affairs during the Lisbon period in the chambers, which in turn represent *functional equivalents* to the role that each of the chambers traditionally plays on the domestic level. The results at least partially confirm *Hypothesis 2* (with the exception of the German SPD), which expected that depending on domestic role models, institutional cleavages would appear with growing institutionalisation of EU affairs in the chambers.

The chapter compared how MPs in the Assemblée nationale and the Bundestag discuss the role of parliaments in the EU in parliamentary debates on the Treaties of Maastricht and Lisbon. According to the theoretical model developed at the beginning of this book, the concrete rules for parliamentary participation in EU decision-making can be seen as ‘specific-
cations of the value’ (Stachura 2009) of parliamentary democracy in the EU.

The chapter showed that the way in which MPs set priorities in their contributions for the role of parliaments in the EU changes between the Treaties of Maastricht and Lisbon. However, these changes do not lead to a greater convergence of discourse, but instead to greater divergence.

In the Maastricht debates, MPs of both chambers are strongly interested in the domestic control of the government in EU affairs (Domestic Control Body). In the Bundestag, the European Parliament and the role of the national parliament as a Sublevel Chamber also play an important role.

In the Lisbon debates, MPs in the Assemblée nationale are mostly interested in the cooperation with other national parliaments (Third Chamber) and the EP (European Parliament). MPs in the Bundestag, conversely, are mostly interested in their individual control powers (Domestic Control Body), which are exercised on the national level. Upon closer examination, the changes on the aggregate level correspond to homogeneous changes of the hierarchy of role models for all parliamentary party groups with usual participation in the government and long-time experience of parliamentary offices within each of the chambers – the only exception being the SPD in the Bundestag.

The presence of a cleavage between the Assemblée nationale and the Bundestag holds true even upon closer examination of the discourse conveyed by each individual parliamentary party group. One can no longer find ideological cross-cutting patterns, unlike in the Maastricht debates. Again, the majority/opposition cleavage does not play much of a role.

Interpreting these results in the light of the theoretical model, a paradoxical evolution is observed in the Lisbon debates: even if overall the Lisbon debates are much more similar in the Assemblée nationale and the Bundestag than the Maastricht debates are, the same is not true for the roles of parliaments in the EU discussed in the two chambers. In the Lisbon debates, cleavages become diffuse but there is a stronger cleavage between the chambers than there was in the Maastricht debates.

In the Maastricht debates, the most important cleavages run along groups with the same ideas about the objectives of European integration. On the other hand, in the Lisbon debates, the cleavages run along the two parliamentary institutions, i.e. there is an evolution from an ‘ideological’ cleavage to an ‘institutional’ cleavage depending on different role models on the domestic level. This renders ‘plausible’ (Goetze and Rittberger 2010) the theoretical model presented in Chapter 1.
Overall, during the Lisbon period different preferences for concrete prerogatives may be traced back to the different institutional roles of these two chambers on the domestic level. In the Bundestag as a governance-oriented parliament, MPs focus on their individual control rights of negotiations in the Council. They are no longer interested in the prerogatives of the EP and they focus less on direct links with the European level. Conversely, MPs in the Assemblée, as a representation-oriented parliament, instead favour more direct links with the EU level and even show an important interest in the EP.
CONCLUSION – A micro-sociological view on the European integration paradox

The study began with a puzzle: Why do so many differences persist in the views of MPs concerning the role(s) of national parliaments in EU decision making despite the fact that national parliaments have decades of experience in EU decision making? Intuitively, one would anticipate some shared understanding about how to ‘do’ parliamentary participation in EU decision-making processes. Beyond intuition, Europeanisation-inspired analysis of the Assemblée nationale and the Bundestag in EU affairs already assessed in 2007 (Sprungk 2007) that the chambers were heading towards ‘convergence’ because there were ‘striking similarities in how they […] discharge their EU related functions’ (O’Brien and Raunio 2007, 15).

As a response to this puzzle, this book identified the European Integration Paradox. The growing experience of ‘doing EU’ in parliamentary chambers does not lead to an increasingly common understanding of how parliamentary democracy in the EU should operate. Instead, it is the cause of increasingly diverging ‘word and deed’ on parliamentary participation in the EU. However, this does not imply universal ‘variance’. In fact, there are strikingly similar evolutions. The processes of institutionalisation of EU affairs in the Assemblée nationale and the Bundestag occurred in parallel periods in response to the increasing decision-making output of the then-EU and EC from the mid-1990s onwards. There are organisational solutions and instruments that seem to be similar between the chambers. Changes in both chambers followed the same logics. However, these same logics of change lead to fundamentally different types of ‘doing EU democracy’.

Above all, institutionalisation proceeds through the increasing search of competent solutions for EU affairs. The major goal for adaptation is fit with domestic parliamentary practice and roles. Compatibility with EU institutions and procedures is necessary, but largely secondary. MPs who have acquired experience and knowledge about ‘doing EU’ increasingly search for functional equivalents for EU affairs to the ‘usual ways of doing things’ domestically. The result is an increasingly patterned action, which reproduces the roles the parliaments play in the domestic political system for EU affairs.

On the aggregated level, MPs in the Assemblée nationale have attempted to increase their capacity of responsiveness to French voters’ concerns in EU
affairs, while MPs in the Bundestag have tried to increase their capacities for accompanying control of the Council of Ministers and the process of EU decision-making more generally. Similar organisational features or instruments with the same ‘labels’ do not have the same meaning and function in both parliaments, as is visible in the fundamentally different functions of the European affairs bodies in both chambers.

The institutionalisation of ‘doing EU’ in the chambers has in turn affected the way MPs discuss the role of parliaments for the Union in EU treaty debates. When the Treaty of Maastricht was discussed in parliament, ideas about national parliaments’ role in EU decision-making conveyed in parliamentary discourse depended mainly on convictions about the future of European integration. When MPs ratified the Treaty of Lisbon, domestic practices and roles became much more important for the way MPs in the Assemblée nationale and the Bundestag debate about the role of parliaments in the EU.

This study showed that neither the search for formal convergences, nor the comparison of parliamentary ‘strength’ in EU affairs in the literature on the Europeanisation of national parliaments have helped to understand developments in national parliaments in practice – and their paradoxical effects on the polity of the EU. Thus far, the former have focused too much on the formal and organisational aspects of parliamentary adaptation, while the latter have reduced the function of parliaments too much to their legislative and control functions. Furthermore, the foundation of both approaches in neo-institutionalist theories does not allow them to grasp the change of logics over time. Sociological approaches that focus on the micro-level of the actors do help better here, but they only weakly engage in reflections on what individual findings mean for macro-processes. The theoretical framework based on assumptions from Max Weber’s institutionalism, social constructivism and practice theory is hopefully a first step to fill this gap.

**Main findings**

This study leads to two important empirical results, which indicate the encounter of what is called in this study a *European Integration Paradox*.

1) Firstly, this study shows that in the Assemblée nationale and the Bundestag, a parallel institutionalisation of EU affairs (in terms of stabilisation of agency and action patterns) has emerged since the introduction of direct
elections to the EP. However, this institutionalisation has led to fundamentally different types of parliamentary participation in EU affairs in practice.

Chapters III and IV concluded that there is indeed an institutionalisation of ‘doing EU’ in both chambers. Increasingly, the same pattern of action is applied. In both chambers a community of practice sharing knowledge about the day-to-day dealings with EU affairs uses shared knowledge to adapt parliamentary capacities and to reform rules.

Developments are divided into two phases. In the first period, from 1979 up to the end of the 1990s, actors in EU affairs were often either experts of European institutions and processes or of domestic parliamentary procedures, but rarely both. The isolation of the European affairs body in the Bundestag attended almost exclusively by MEPs was a case in point. Action in EU affairs was ad hoc and depended largely on individual convictions and specific interests. This first period can be characterised as ‘a period of normative void’ (because there were still no institutionalised roles) and of a lack of experience, which was filled by actors operating on ad hoc basis. Instruments preferred by MPs changed regularly. Agents striving for a change of prerogatives of the chambers were not MPs knowing about the day-to-day intricacies of dealing with EU affairs, but often either Eurosceptic MPs (Assemblée nationale) or MPs from the opposition and higher chamber (Bundestag). Formal prerogatives achieved in this period remained often-void letters and organisational solutions changed quickly.

In the second period, from the end of the 1990s onwards, the European affairs bodies in both chambers acquired functions and forms, which were typical of committees in both parliaments. Action in EU affairs became stabilised. Agents of change pushing for the reform of formal prerogatives and organisational solutions in this second period were, in both chambers, a group of experienced MPs with strong EU and parliamentary expertise. As a consequence, formal prerogatives and organisational solutions have had a better fit with parliamentary practice.

The growing typifications, and in particular the growing importance of EU experts with long-term parliamentary experience, led to major reforms, both in the Assemblée nationale and the Bundestag. These reforms followed a logic of search for functional equivalents for EU affairs to the role parliaments fulfil on the domestic level.

In the first period, new institutional solutions and prerogatives in both chambers were even more similar on paper. Both chambers introduced European affairs bodies and the possibility to issue opinions on EC draft acts. With the Treaty of Maastricht, both parliaments acquired fundamentally new rights regarding domestic parliamentary participation. However,
in both chambers, the new provisions were not adapted to domestic ‘ways of doing things’ (hierarchies of standing committees, relationship between the executive and legislature, etc.) and therefore were not very effective.

Only in the second phase did the Assemblée nationale and the Bundestag undertake reforms which adapted procedures for the participation in EU affairs in such a way that traditional parliamentary roles could be fulfilled. Instruments and organisational solutions sometimes still maintained the same names, but they no longer served the same functions in both chambers.

In the Assemblée nationale, adaptations helped MPs to fulfil their domestic role of representation and interest intermediation on the European level, enhancing responsiveness to voter concerns (and to a lesser extent deliberation and information for society). The European affairs body in the Assemblée nationale developed into the central information hub for the chamber as a whole. It started to have an analogous function to that of the standing committees for the interest intermediation function of the chamber. While the standing committees selected legislative initiatives interesting for the house as a whole (or rather its parliamentary majority), the European affairs body called attention to EU issues that were so far withdrawn from the political debate in France due to preparation on the EU level. This is a functional equivalent to the central information and expertise function for committees in the Assemblée nationale, in which the latter only have a limited function for the revision of legal draft acts.

A new status as a fully-fledged committee for the EAC and reformed instruments (such as the right to issue resolutions on its own) primarily served information functions, as they incited the standing committees to deal with specific issues. MPs in the Assemblée nationale evaluated information the government provided as sufficient. For example, MPs had access to the wire reports of the permanent representation in Brussels without having to struggle to obtain this right, and they did not seem to be very interested in the issue. Exchange with the EP increased substantially and served to represent French voters’ interests and to inform MPs about policy issues with a long-term perspective on important issues at the domestic level and in their circumscriptions.

In contrast, adaptations in the Bundestag in the second phase increasingly helped MPs to fulfil a traditional governance, or at least an accompanying expert control function of the process of the writing of the law in EU affairs similar to the role of the Bundestag at the domestic level. Information about the different concrete negotiation stages in the Council were a major issue of all reforms in this period. Against the will of subsequent governments
information rights about the all negotiation stages in the Council were gradually enhanced when windows of opportunity opened for a community of practice of EU experts to push for change. Despite an important reorganisation, EU affairs continued to be organised decentrally, without any centralisation in the European affairs committee. Instead, the EAC adopted a function equivalent to the function of other standing committees in the Bundestag, i.e. mirroring a government entity. Its activity was directed clearly towards controlling the German Chancellery (and to a lower degree the Federal Foreign Ministry) focusing on institutional and constitutional issues of European integration. A centralisation of legislative co-ordination would have contradicted the principle of a close direct exchange between the government ministries and the standing committees, which is usual practice in the German lower house. Exchanges with EU transnational actors in this phase concentrated on influencing the Commission and controlling the negotiations of the government in early stages of the EU decision-making process.

2) Secondly, chapter V shows that the increasing institutionalisation of European affairs also led to more diverging discursive practices of MPs regarding the role of parliaments in the EU between both chambers. The increasing experience of ‘doing EU’ has curtailed an ‘ideological’ interpretation of EU parliamentary institutions in both chambers and has led to an interpretation on the basis of domestic roles.

In the Maastricht debates, the ideological stance of the MPs on European integration was predictive of the attention he or she would attribute to different prerogatives for parliaments in the EU. Cleavages ran across chambers. MPs from parliamentary party groups with more federalist and supranational visions for the future of the EU paid much attention to multi-level parliamentarism and, in particular, the role of the EP. This led to similar discourse by MPs from the French Centrist parliamentary party groups (UDF/UDC) and the traditional parliamentary party groups in the Bundestag (CDU/CSU, SPD and FDP).

In the Lisbon debates, the patterns were different. The major cleavage in discourse on the role of parliaments in the EU ran between the two chambers. MPs in the Assemblée nationale focused on the collective role for national parliaments as it was introduced in the treaties (such as the Early Warning Mechanism on Subsidiarity), which gave them a role directly in EU decision-making processes. They also concentrated on the enhanced powers of the EP. In contrast, MPs in the Bundestag across parliamentary party groups were mostly concerned with their individual and indirect role of control of the government, for example the veto on the use of passerelle
clauses. The EP’s enhanced role did not get much attention, a dramatic difference to the Maastricht debates. It is noteworthy though, that there was one exception to the general rule: Social-democrat MPs did not substantially change discursive patterns between the Maastricht and the Lisbon debates and continued to pay much attention to the EP.

While an ideological cleavage (visions for the future institutional design of the EC/EU) on the role of parliaments is visible in the Maastricht debates, the Lisbon debates’ evidence shows a cleavage between ways in which European affairs have been institutionalised as ‘ordered practices’ in the chambers.

This study was designed as combination of a diachronic comparison of most similar systems (within each parliamentary chamber) to identify differences and a synchronic comparison of most different systems to identify similarities.

One might argue that a more general change of the attitudes towards European integration took place in both parliaments. Given the growing Euroscepticism in the French electorate throughout the last decade, an increasingly pro-European stance of French MPs does not seem probable and is contradicted by the literature. In the Bundestag, rates of support for European integration among MPs remain relatively stable.

Research perspectives and extension

This book demonstrates that practices are currently under-researched in the field. The domination of principal-agent approaches leads to several lacuna concerning the empirical reality of parliamentary participation in the EU. Primarily, the ‘strength’ of parliamentary participation and its capacity to democratically legitimate EU decision making cannot be measured through the comparison of specific parliamentary instruments and their use. Instruments do not have the same functions in different parliamentary contexts and MPs’ role orientations are not the same. The often-quoted trade-off between effective parliamentary scrutiny and national influence only partially corresponds to parliamentary realities. This study indicates that, for parliaments in which MPs conceive of their role mainly as representatives of the interest of their voters towards the executive (but not in the concrete writing exercise of legislative texts), the question of how MPs exercise ‘influence’ on negotiations in the Council is not an appropriate approach for understanding objectives of MPs in EU affairs not their eventual potential for the legitimation of EU decision making. Furthermore, a
comparison across countries should focus on the parliamentary functions rather than on formal structures in order to obtain satisfying results.

This leads to the second implication. Studies should more systematically include the analysis of evolutions over time. As was shown in this study, the drivers of parliamentary action may change over time. The results of this book have revealed the question of why authors found in 2001 (i.e. almost ten years after the treaty of Maastricht) ‘considerable legal constitutionalisation and institutional adaptation, and a modest impact with regard to the real patterns of participation’ (Maurer and Wessels 2001, 19). Furthermore, the results provide insight into why the considerable ‘institutional adaptation’ of the two cases at hand has remained largely unused and how it has been completely re-shuffled since then.

The results of this study also demonstrate why the Bundestag has evolved from a ‘latent ‘national player’ (Maurer and Wessels 2001, 20) into a real ‘player’ (Callies and Beichelt 2013) despite a still existing pro-European consensus among German elites represented in the Bundestag up to 2013 when this study ends. However, they also show why the Assemblée nationale was not a willing but yet incapable ‘national player’ (Höhlscheidt 2001, 20; Szukala and Rozenberg 2001) throughout the 1990s. Additionally, they address how the willingness of government scrutiny disappeared with a specific political constellation in the 1990s and that other participation logics were more important in practice.

The results of this book illustrate that synchronic comparisons are not sufficient to learn something about the role of parliaments in the EU polity. The time dimension is central to understand the ‘ways of doing’ representative democracy in practice in the EU.

This study has also implications for the study of Europeanisation. Students of such processes should look more attentively on the quotidian and the micro-level of the actors to be able to distinguish processes of change of agency and action from their results in terms of formal prerogatives and organisational solutions. This book drew the attention to the fact that when putting the spotlight on practices, the influence of ideas, interests and institutional motives differed as a consequence of the institutionalisation process itself. Timing has an important influence upon which one is determining in different phases and in particular why…. The timing of the stabilisation of practices and of (de)institutionalisation processes more generally (as well as their direction) should thus be more systematically included in the study of Europeanisation.

This study has finally two implications for the field of discourse-analytical and social constructivist studies on European integration. Firstly, stu-
dents of discourse on the European Union inspired by the Habermasian strand of social-constructivism should take the ‘social’ more seriously. The systematic study of discourse is necessary because it allows to elucidate in a methodologically neat way normative structures (Elster) intermediating meanings between different arenas in society which cannot be analysed by unsystematic discourse-analysis or other types of data, e.g. from opinion surveys. However, they do not substitute the analysis of the social interactions in the arenas in which they take place because they may produce artefacts. This study demonstrated that better inclusion of the institutional contexts and their evolution will help to better identify the grounding of specific discursive practices.

What lessons to learn for the EU polity?

This study hints to a paradox for the evolution of the EU as a polity or social form. With a growing concrete importance of EU-decision-making for parliamentary actors on domestic level, the importance of role orientations embedded in national parliamentary institutions increases. In early stages of EU integration, the evaluation of EU-decision-making is merely abstract and there is no need for actors in practice to make evaluations on the ground of appropriateness. This ‘normative void’ can be filled by different interests or ideologies for specific institutional features of the EU. In later stages, and in contrast to Habermas’ predictions, institutional or norm conflicts increase.

We might be in front of a paradox which leads to an ever increasing negative ‘gut-feeling’ about the normative basis of EU decision-making by those who practice the EU decision-making (at least from far, on domestic level) and not only from those who do not know it or object it – as long as new institutions did not have the time to become timeless ‘ways of doing things.’ This normative ‘malaise’ might explain the paradoxical part of the ever-increasing perceived democratic deficit since the 1990ies. This might interact with actor’s dissatisfaction with EU policy outcomes.

The results of this study do not provide a very positive outlook for the capacity of national parliaments to provide collectively democratic legitimacy to the EU polity. New institutional solutions for interparliamentary cooperation have not managed yet to create new timeless ‘ways of doing things.’ Actors do not seem to acknowledge them as valid. Maurer and Wolfgang Wessels assert already in 2001 that ‘[t]hough several and different procedures were tested over the last 40 years, none of them has led to a suf-
iciently intensive and efficient working network’ (Höhlscheidt 2001, 21) of national parliaments. Recent research seems to indicate that this situation has not substantially changed despite the creation of new interparliamentary institutions.

When MPs hold diverging orientations concerning the role parliaments should have in the EU, collective participation in EU decision-making is difficult to organise. Instruments and organisational solutions put into place will remain void procedures carried out by parliamentary clerks. Fora for parliamentary actors on EU level will be at best a networking hub and at worst be abandoned on the long run. The problems of different visions about the role of parliaments in the EU were also illustrated during the negotiations for the establishment of the parliamentary assembly on Economic and Financial Governance foreseen in the Treaty on Stability, Coordination and Governance, during which ideas about the appropriate composition and rules of procedure of different parliamentary delegations were very different (Kreilinger 2013).

In times in which the EU becomes more differentiated and the European Parliament cannot (or cannot alone) fulfil the function of legitimation of EU decision-making, this is highly problematic. The fact that national parliaments play increasingly divergent roles in EU affairs makes proposals to enhance their participation rights from the EU’s center often problematic. Proposals to further ‘republican intergovernmentalism’ (Kröger and Bellamy 2016) for example, may have the right intentions, but are still modelled on the idea that one size fits all parliaments. The relationship between normative standards for democracy in the EU based on theoretical reflection and the empirical reality of democratic norms and practices observed still needs to be explored further. European ‘democracy’ (Nicolaïdis 2013) as prescriptive norm may show the way to a principled solution, and the EU’s democratic legitimacy and quality should certainly be evaluated with reference to this evident nature of the polity (see also Cheneval and Schimmelfennig 2013). In light of this book, at least one thing is clear for the practical side of politics: Potential institutional reforms in the future need to take better into account the varieties of democratic practices, social norms and roles actors play to shape fully-fledged representative institutions for democratic participation in the EU.
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https://doi.org/10.5771/9783845290294
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List of interviews

AN 3 20080115


AN 2 20080206


AN 1 20080207


Lisbon, Constitutional amendment and ratification (Lisbon I), Bundestag

BT 20080313


BT 20080424

Appendix 1: Role models for parliaments in EU decision-making

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<td>Examples of subjects under discussion</td>
<td>- individual rights granted on domestic level - individual rights of national parliaments enshrined in the treaties (e.g. the action on the grounds of subsidiarity before the ECJ, simplified treaty revision, passerelle clauses)</td>
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Note: Roles for national parliaments in grey.
A brief sketch of the potential roles identified

Which roles can parliaments play for EU governance? Proposals for institutional solutions to the democratic deficit of the EU always have two dimensions: the evaluation of the nature and trajectory of the EU governance system, and the applied norms for democratic quality. The following roles have been identified deductively from the literature and inductively from the analysed treaty debates.

Regarding the numerous approaches to the EU’s democratic legitimacy (see e.g. Eriksen and Fossum 2012; Lord 2007; Lord and Magnette 2004), Lord and Magnette presented a synthesis of the main legitimating principles for the European political order: **technocratic legitimacy**, i.e. its ‘superior ability […] to meet citizens needs’ (Lord and Magnette 2004, 186); **procedural legitimacy**, i.e. guarantees for transparent procedures; **indirect legitimacy**, i.e. the representation of sovereign national demos on the EU level; and **parliamentary legitimacy**, i.e. the representation of a European demos through the EP. As in national political systems, they argued, the legitimacy of EU governance may be supported by several of these principles simultaneously (Lord and Magnette 2004, 184).

Parliaments play a substantial role for the EU’s **indirect** and **parliamentary legitimacy**. This distinction refers to the classical opposition between an ‘intergovernmental’ and a ‘supranational’ model for the EU. In an ideal-typical intergovernmental model, the EP is little more than a symbolic ‘talking shop’. The Council and European Council are the centres of decision-making (with unanimous decision-making in principle) and they are controlled by national parliaments. In an ideal-typical supranational model of the EU, on the other hand, the EP is a fully fledged parliament with the right to select the government and full legislative powers (Weßels 2005, 455–56).

According to the first model, the role of national parliaments to provide democratic input can be threefold. First, they can be **Domestic Control Bodies** for the governments’ action on the EU level. Prerogatives that national parliaments exercise within the ‘black box’ of the nation-state reach from rights to be informed by their government about the negotiations in the Council to having the right to mandate the government. The role of national parliaments here is **individual**, and turned exclusively towards the government. In the Treaty of Lisbon this view is expressed in particular in article 10 of the Treaty on the European Union (TEU) (Cooper 2013, 532).

Second, the role of national parliaments can be to participate directly in EU decision-making processes, ideal-typically represented in a sort of **Third Chamber** on the EU level. Such **collective** forms of direct parliamentary par-
ticipation have been proposed regularly since the de facto end of the sec-
ondment of national representatives to the EP. A famous example is Josch-
ka Fischer’s proposal to introduce a [third] chamber on the EU level in the
debate leading to the Convention for the Future of Europe. ‘Lighter’ forms
of direct participation of national parliaments on the European level were
already introduced with COSAC and other forms of parliamentary assem-
blies, usually under the participation of the EP. The most important recent
innovation is the Early Warning System as a form of ‘virtual third cham-
ber’ (Cooper 2013, 532).

There is also the possibility that national parliaments have little or even
no role in European affairs. Particularly in political systems where the ex-
cecutive has extensive powers in matters of foreign policy-making, one
might conceive of EU policies as executive matter. With the growing
breadth of policy areas dealt with on the EU level, however, this view has
increasingly lost importance.

Under the ‘supranational’ model, the EP guarantees parliamentary legiti-
macy for EU governance on the EU level, while national parliaments pro-
vide legitimacy for domestic political processes. This approach is closest to
the traditional federal approaches to the EU, but it also encloses multi-level
parliamentarism or the ‘multi-level parliamentary field’ (Crum and Fos-
sum 2009).

The role of parliaments in this perspective can be twofold. First, national
parliaments may be a sort of Sublevel Parliament either in a partially feder-
alised European political order with a division of governance activities be-
tween the centre and regional governments, or in a system of multi-level
parliamentarism with different functions for the parliamentary chambers
depending on areas of competences.

Second, one can also consider the possibility that the EP substitutes
largely national parliaments and compensates, on the EU level, losses in le-
gislative competences on the domestic level. Through successive treaty
changes, the EP’s competences have been strongly extended in legislative
and budgetary matters and have triggered fears of a deparliamentarisation
of political processes on the domestic level (Vivien Ann Schmidt 2006).
Appendix 2: A short explanation of French political parties, parliamentary groups and political acronyms in the period observed

The *Rassemblement Pour la République* (RPR, ‘Rally for the Republic’) was a Gaullist party, founded in 1976. In 2002, it was merged with other center right parties, including some important components of the UDF to become the *Union pour un Mouvement Populaire* (UMP, ‘Union for a Popular Movement’), with the aim to unify the right. The UMP was renamed *Les Républicains* (LR, ‘The Republicans’) in 2015. The RPR and the UMP respectively had their own parliamentary group in the Assemblée nationale.

Founded in 1978, the *Union pour la Démocratie Française* (UDF, ‘Union for the French Democracy’) was a federation of center right non-Gaullist parties. The UDF had its own parliamentary group in the Assemblée nationale. But during the IXth legislative turn (1988 – 1993), MPs of the *Centre des Démocrates Sociaux*, a centrist party member of the UDF, had their own parliamentary group, the *Union Démocratique du Centre* (UDC, ‘Democratic Union of the Center’) in the Assemblée nationale.

The foundation of the UMP in 2002 weakened the UDF. A majority of UDF deputies then joined the UMP. The UDF became the *Mouvement Democrat* (Modem, ‘Democrat Movement’) in 2007, with an explicit political line of independence of the right and the left. The *Nouveau Centre* (NC, ‘New Center’) was founded in 2007 by former UDF members who refused the creation of the Modem and its position of independence, and wanted to remain a center right party allied to the UMP. When the NC was founded, some UMP ex-UDF politicians joined it. Between 2007 and 2012, the NC had its own parliamentary group in the Assemblée nationale whereas the 3 Modem deputies were not affiliated.

The parliamentary group of the *Parti Socialiste* (PS, ‘Socialist Party’) in the Assemblée Nationale was named *Groupe Socialiste* (SOC) during the IXth legislative turn (1988 – 1993). In the XIIIth Legislature (2007-2012), socialist MPs belonged to a parliamentary group called *Groupe Socialiste, Républicain et Citoyen* (SRC, ‘Socialist, Republicans and Civic’) that included MPs from other small center left parties close to the PS (*Parti Radical de Gauche, Mouvement Républicain et Citoyen*).

The *Parti Communiste Français* (PCF) had its own parliamentary group (*Groupe Communiste*, C) in the Assemblée Nationale until 2007 (although it changed its name in 2002). After the 2007 parliamentary elections, there were not enough communist MPs to form a group (then a minimum of 20 MPs). They constituted the “technical” (i.e. with no political unity) *Groupe*
de la Gauche Démocrate et Républicaine (GDR, Democratic and Republican Left) with Green MPs and MPs from the oversees territories.

Until 1997, the ecologist party Les Verts (The Greens), founded in 1984, had no MP. During the XIIIth Legislature (2007-2012), the party had 4 MPs (5 MPs between July 2010 and December 2011). Until November 2011, Green MPs belonged to the Groupe de la Gauche Démocrate et Républicaine with communist MPs. They were not affiliated anymore thereafter. In November 2010, Les Verts were renamed Europe Ecologie Les Verts (EELV, Europe Ecology The Greens).