

Obstacles to a strengthened role for national parliaments in the European Union

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Introduction: National parliaments at the forefront?

Calls for greater involvement of national parliaments in the European Union are growing in several European capitals. In The Hague, Minister of Foreign Affairs Frans Timmermans recently argued that national parliaments are the most pertinent place in which the democratic deficit of the EU could be reduced: ‘National Parliaments have a great responsibility to discuss and to make fundamental choices in EU policy.’¹ Last year, the United Kingdom’s Minister of Europe David Lidington called on national parliaments to play a more influential and effective role in increasing the democratic legitimacy of European decision-making.² And in December 2012, eleven national parliaments sent a letter to the president of the European Council, Herman Van Rompuy, outlining the need for national parliaments to be more actively involved in EU decision-making and insisting on concrete proposals to achieve this.³ In the same month, the Council itself concluded that ‘moves towards further integration of the fiscal and economic policy frameworks would require that Member States ensure the appropriate involvement of their parliaments’.⁴ European Commission President José Manuel Barroso also stated that ‘the role of national parliaments will always remain crucial’.⁵

This demonstrates that there is considerable support for strengthening the accountability of ‘Brussels’ at the national level. This support stems from the idea that there is a chasm between voters and the European Parliament and that the latter does not have enough legitimacy to take on the role of making European integration more democratically accountable.⁶ Whether this is indeed the case and how this idea came about is beyond the scope of this paper.⁷ But the assumption that democratic legitimacy is automatically furthered by increasing the role of national parliaments is too simplistic and insufficiently substantiated, a point that we explain further in this paper. While the European Council and the European Commission have expressed their support for national parliaments, this has been accompanied by arguments for a more central role for the European Parliament.⁸ The discourse on democratic legitimacy begins with the general notion that more European integration should go hand in hand with more involvement of the European Parliament. In the context of deepened integration, therefore, national parliaments will increasingly find themselves sidelined. We question whether they — and in particular the Dutch parliament — can exercise much influence from such a position.

We delve into this question in the following three sections, making use of background information from interviews with MPs, parliamentary debates, policy documents and academic sources. In Section 1, we discuss the increased sense of urgency regarding the issue of democratic legitimacy. Section 2 examines in greater

¹ Ministry of Foreign Affairs (2014), Staat van de Europese Unie 2014 (State of the European Union 2014), MinBuZa-2014.84793, 19 February 2014, p. 5.

² Lidington, D. (2013), Written evidence on the Role of National Parliaments in the European Union, House of Lords, p. 130.

³ Folketinget Parliament of Denmark, Letter of 11 Chairpersons of European Affairs committees to Herman van Rompuy, 7 December 2012.

⁴ European Council (2012), Conclusions of the European Council 13/14 December 2012, EUCO 205/1214, Brussels, 14 December 2012.

⁵ European Commission (2012), A blueprint for a deep and genuine monetary union. Launching a European debate, COM(2012) 777 final, Brussel, 28 November 2012, p. 40.

⁶ Menon, A, J Peet (2010), ‘Beyond the European Parliament: Rethinking the EU’s democratic legitimacy’, CER, December 2010.

⁷ See: Lord, C., D. Beetham (2001), ‘Legitimizing the EU: Is there a ‘Post-parliamentary Basis’ for its Legitimation?’, in *Journal of Common Market Studies*, 39: 443-62; Majone, G. (1998), ‘Europe’s ‘Democratic Deficit’: The Question of Standards’, in *European Law Journal*, 4: 5-28; Moravcsik, A. (2002), ‘In Defence of the ‘Democratic Deficit’: Reassessing Legitimacy in the European Union’, in *Journal of Common Market Studies*, 40: 603-24.

⁸ European Council (2012); European Commission (2012), p. 40.

depth the discussion on the need to strengthen the role of national parliaments and the options for doing so. And in Section 3, we question the feasibility of this aim. We conclude that national parliaments are too removed from supranational European issues to be able to democratically monitor European decision-making effectively.

1. The need for more democratic accountability

The eurocrisis, which erupted in late 2009 as an offshoot of the credit crisis, has unleashed a trend towards deepened European integration, with the European Council, the European Commission and the European Parliament adopting sweeping decisions that have far-reaching political and institutional implications.

With the establishment of the European Semester, which provides an important framework for economic policy coordination, European institutions have more control over national budgets and the economic reforms being implemented in member states. It is also the EU that decides whether to grant extensions to deadlines for member states to achieve their budgetary targets. In addition, there are new policy proposals to introduce economic contracts between euro countries and the European Commission in which the recommendations of European Commissioner for Economic and Monetary Affairs Olli Rehn would become binding. There are also plans to introduce eurobonds in order to end speculation in financial markets against the debts of individual euro countries. And finally, recent plans for strengthening the EMU's social dimension are bound to have economic and financial consequences for member states. All these issues and developments within the EMU not only touch on politically sensitive issues of distribution, they also reinforce the perception among European citizens of a loss of sovereignty and call forth images of democratic alienation among voters.⁹

Technocrats

Another reason the demands by voters and national politicians for more control over the EU decision-making process are seen to be legitimate is the fact that political decisions are being realised by independent technocrats. First, the position of European Commissioner Rehn is not as independent as one might think. His organisational autonomy is insufficiently embedded in the broader College of Commissioners. He has also been given a multitude of incompatible responsibilities, including gathering information, making recommendations, monitoring member states, and deciding over deadlines. In all these dealings, political motives are evident.¹⁰

There is a similar issue with the European Central Bank (ECB), which in recent years has made several political decisions about the monetary union and thereby operating at the sensitive limits of its mandate. The promise of ECB President Mario Draghi to save the euro "whatever it takes" was of great political significance.¹¹ In addition to its monopoly on determining interest rates in order to maintain price stability and to save banks, the ECB also has an economic agenda that includes stimulating employment.¹²

Towards a political union

The European Parliament hopes to use the May 2014 elections and the subsequent selection of a new president of the European Commission to strengthen its political ties with the Commission.¹³ While the European Union appears to be heading towards a political union, the Dutch government continues to steer clear of expressing its long-term vision of Europe. The coalition parties of the second Rutte cabinet — the Liberals (VVD) and the Labour Party (PvdA) — continue to follow the official government position which boils

⁹ Scientific Council for Government Policy (2007), 'Europa in Nederland' (Europe in the Netherlands), Amsterdam University Press: Amsterdam, 2007.

¹⁰ Schout, A. A. Mijs (2013), "From governance back to government: An administrative analysis of an independent EU Commissioner".

¹¹ Speech by Mario Draghi, President of the European Central Bank at the Global Investment Conference in London, 26 July 2012.

¹² 'Euro jumps as Draghi says ECB will consider all instruments', *Financial Times*, 2 October 2013.

¹³ Hoevenaars, J. A. Schout and J. M. Wiersma (2014), 'De Europese verkiezingen 2014: This time it's different' (The 2014 European elections: This time it's different), in *Internationale Spectator*, 68:4, April 2014.

down to the argument that now is not the time for Europe's grasp to exceed its reach.¹⁴ Under pressure from the economic crisis, the Dutch House of Representatives has agreed to sweeping policy measures. But the Dutch parliament has failed to sufficiently examine the consequences of these measures for political-institutional relations and for the future state of the EU.¹⁵ Meanwhile, policymakers and academics are becoming increasingly critical of the lack of clarity in Europe's political relations and structures and more and more sceptical about their effectiveness.¹⁶

2. All eyes fixed on national parliaments

The debate about the need for an increased role for national parliaments in EU decision-making has been around for decades. To date, the role of national parliaments has been limited to the national legal system.¹⁷ Even this role has been curtailed by European integration: the more the powers of European institutions are expanded, the fewer opportunities and veto rights the national parliaments have. Attempts have nevertheless been made — in the Treaty of Lisbon which entered into force in late 2009 but also in earlier treaties — to better involve national parliaments in European decision-making, for example by introducing the 'yellow card' system to increase scrutiny of the subsidiarity principle.¹⁸ Minister Timmermans claims that these changes have had only limited results.¹⁹ This is why the Dutch government continues to work on strengthening the role of national parliaments and the democratic accountability of the EU at the national level: 'Shared governance and intertwined legal systems require the adequate involvement of national parliaments.'²⁰

In our opinion, the prevailing mantra that national parliaments should be able to monitor European economic policy is not without risks. In the 1990s, parliaments proved themselves incapable of monitoring European developments relating to the euro, as they — and their governments — neglected to spot the deficiencies in the design of the single currency. The Dutch Lower House had invested too little in knowledge and insight into the institutional structure of the EMU.²¹

Special rapporteur

The Dutch House of Representatives has regularly evaluated its own performance within the EU system.²² In 2011, MPs were highly satisfied with their involvement in European decision-making. They patted themselves on the back and concluded that they had been 'on the ball' — and this coming at a time when they must surely have been very concerned about the future of the EMU.²³

¹⁴ Ministry of Foreign Affairs (2013), *Staat van de Europese Unie 2013*, 'Bruggen slaan in Europa' (Building bridges in Europe), MINBUZA-2013.13317, 15 February 2013.

¹⁵ Ebben, I., A. Schout en J.M. Wiersma (2012), 'De EU-paradox van kabinet-Rutte: zowel voor als tegen' (The Rutte cabinet's EU paradox: both for and against), in *Internationale Spectator*, 66:9, September 2012, pp. 416-420.

¹⁶ Majone, G. (2011), 'Monetary Union and the politization of Europe', Keynote speech at the Euroacademia International Conference, Vienna, 8-10 December 2011; Scientific Council for Government Policy (2007), 'Europa in Nederland', Amsterdam University Press: Amsterdam, 2007.

¹⁷ Council of State, Advies W01.12.0457/I, 18 January 2013.

¹⁸ With the yellow card system, which is laid down in Protocol 2 of the Treaty of Lisbon, if one-third of the national parliaments considers a proposal to be incompatible with the principle of subsidiarity, the European Commission must reconsider it.

¹⁹ Timmermans, F., 'Monnet's Europe needs reform to fit the 21st century', in *Financial Times*, 15 November 2013.

²⁰ Ministry of Foreign Affairs (2014), *Staat van de Europese Unie 2014* (State of the European Union 2014), 19 February 2014, p. 9; Ministry of Foreign Affairs (2013), p. 7.

²¹ Geelhoed, A. (1995), 'Maastricht en de Nederlandse sociaal-democratie' (Maastricht and Dutch social democracy), in *Nederland in de wereld*, WBS Jaarboek 1995, pp. 87-118.

²² Dutch House of Representatives (2002), 'Op tijd is te laat' (On time is too late), Parliamentary paper 28 632, nr. 1, 11 April 2002; DCO Internationaal en Ruimtelijk, Marisa Gerards (2006), 'Parlement aan zet' (It's parliament's turn), 26 April 2006; Dutch House of Representatives (2011), 'Bovenop Europa' (Being on top of Europe), Parliamentary paper 32726 nr. 1, April 2011; Dutch House of Representatives (2013), 'Democratic legitimacy in the EU and the role of national parliaments. A position paper of the Dutch House of Representatives', 17 October 2013.

²³ Dutch House of Representatives (2011), p. 20.

With the dust settling on the eurocrisis, the Dutch parliament is now striking a more moderate tone.²⁴ Perhaps it realises that national parliaments have reached the limits of their role. The Dutch Lower House has assigned a special rapporteur for democratic legitimacy, Liberal MP René Leegte, to explore ways in which greater influence can be exercised on European decision-making through the better use of existing instruments such as the 'yellow card' system, or through the introduction of new instruments.²⁵ As reforms would have to take place within the limits of existing treaties, this would rule out substantial changes.²⁶

The subsidiarity principle

In the quest for a stronger role for national parliaments, much attention has been given to the subsidiarity check. The Dutch government's policy emphasises that both the accountability and the implementation of European policy must remain as close to the citizen as possible. In 2013, the cabinet initiated a subsidiarity exercise to take stock of the possibilities for rearranging tasks and responsibilities at the European and national levels. The conclusion was that the era of moving towards an 'ever closer union' in all possible policy areas is over.²⁷ Paradoxically, the second Rutte cabinet, which has regularly avoided questions regarding its long-term outlook on Europe, has presented an alternative vision of Europe as a counterpoint to political union: less Europe in some policy areas, and more Europe where necessary. A strong and independent Commission and a greater role for national parliaments are important ingredients in this Dutch ideal.

The government has drawn up a list of cases where, in its opinion, the EU should take a step backwards. The list includes internal market rules, agreements about the environment, and policy arrangements in the area of justice and home affairs. The government's subsidiarity exercise has therefore focused mainly on common European rights and obligations — the *acquis communautaire*. While it is relatively easy to apply subsidiarity to more technical regulations and standards, political control over distribution issues is a whole different ballgame. With regard to the latter, subsidiarity is hardly applicable, especially given that the government and also a number of opposition parties are in favour of further integration of the EMU.

Interparliamentary cooperation

A second method of strengthening the role of national parliaments is through interparliamentary cooperation. Minister Timmermans and the Dutch parliament believe there is potential here, especially with regard to coalition forming in the yellow-card system.²⁸ The Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC, established in 1989) is the primary forum for the exchange of information and best practices. Whereas COSAC up to 2010 focused its discussions on the procedural involvement of national parliaments in European decision-making, the members have since decided to put more emphasis on the political debates about the EU,²⁹ preferably in an early stage of the decision-making process,³⁰ with the EMU receiving special attention.³¹

3. Doubts about national parliaments

All eyes are now fixed on national parliaments. In this debate, the Dutch House of Representatives is playing a proactive role. Yet we would argue that national democratic control over European decision-making runs into limits that are often not touched upon in the discussion.

²⁴ Dutch House of Representatives (2013), p. 1.

²⁵ Dutch House of Representatives (2013).

²⁶ Blockmans, S. et al. (2014), 'From Subsidiarity to Better EU Governance: A Practical Reform Agenda for the EU', Clingendael CEPS report, March 2014.

²⁷ Ministry of Foreign Affairs, "uitkomsten subsidiariteitsexercitie" (Results of subsidiarity exercise), 21 juni 2013.

²⁸ Timmermans, F. (2013), Europe speech, 19 February 2014; Ministry of Foreign Affairs (2014), p. 10; Dutch House of Representatives (2013).

²⁹ COSAC (2010), Conclusions of the XLIII COSAC, Madrid, 31 May-1 June 2010.

³⁰ COSAC (2012), Contribution of the XLVIII COSAC, Nicosia, 14-16 October 2012.

³¹ COSAC (2013), Conclusions of the XLIX COSAC, Dublin, 23-25 June 2013.

Lack of focus on the entire EU / EMU

The aim of strengthening the role of national parliaments stands in stark contrast to the trend of deeper European integration and an increased role for the European Parliament in the democratic control of European economic governance. The (inherently political) recommendations of the European Commission to the member states as well as the ECB's policies are dictated by targets set for the EMU as a whole. National parliaments are mainly interested in the implications of EU policies on their own country. They therefore do not size each other up sufficiently. This spring the Commission concluded that structural economic reforms in member states such as Italy and France were behind schedule.³² The low competitiveness of these large European economies poses a risk for the stability of the EU. Each member state has an interest in the EU following a healthy economic direction and in having strong political control over this direction. If the 28 national parliaments cannot fulfil this function, then this is an essential democratic role for the European Parliament.

No incentive to look across the border

National parliamentarians lack the kind of comprehensive understanding needed to actively interfere with Europe and with other member states.³³ It is debatable whether nationally elected parliamentarians can rise above their inclination to make cost-benefit analyses at the national level. It would be impracticable for national parliamentarians to read through all of Rehn's reports and country-specific recommendations. Moreover, it is not only the recommendations that need to be monitored but also the implementation of these recommendations in the individual member states. MPs have neither the capacity nor the desire to criticise countries such as France and Italy regarding their lack of reforms. In addition, it is unrealistic to expect an MP to be vigilant with regard to developments surrounding the ECB and to estimate the effects of an interest rate increase for the EU as a whole. When asked by MP Gert-Jan Segers about the risk that the ECB's power would grow at the expense of that of the Dutch central bank, Prime Minister Rutte responded: "That is a possibility. We all need to carefully watch how this develops".³⁴ Not a word was said on ways in which the monitoring of European institutions could be strengthened.

Not worth their time

Spending time monitoring EU policy procedures that have yet to have political consequences is far from appealing for a national parliamentarian. The political relevance only emerges at the last stage — when national parliamentarians no longer have a say in matters. If a national parliament *does* actively interfere with a dossier through its government, it has to deal with the views of not only 27 other member states but also the Commission and the European Parliament. The indirect influence of national parliaments in the Council's negotiations with the European Parliament is at best weak, certainly in comparison with the legislative power of the European Parliament. If the Dutch parliament were to make a cost-benefit analysis for its political efforts, the outcome is bound to be negative.

Yellow cards seldom used

While the subsidiarity check should in theory give national parliaments direct influence on European decision-making, there is dissatisfaction with the effectiveness of the yellow-card system. Since the Treaty of Lisbon entered into force, a yellow card has been drawn only twice. Only nine Commission proposals elicited subsidiarity objections from six or more parliaments, which demonstrates that interests vary widely.³⁵ This in turn means that attempts to strengthen this instrument by forming coalitions through interparliamentary cooperation are likely to be cumbersome.

³² European Commission (2014), Results of in-depth reviews under Regulation No 1176/2011 on the prevention and correction of macroeconomic imbalances, COM(2014) 150 final, Brussels, 5 March 2014.

³³ Schout, A. (2014), 'Kamer kan EU niet controleren' (Parliament can't control the EU), in *Volkscrant*, 21 January 2014.

³⁴ Dutch House of Representatives, Debate on the theme of "subsidiarity", 19 September 2013.

³⁵ European Commission (2013), Annual Report 2012 on Subsidiarity and Proportionality, COM (2013) 566 final, Brussels: European Commission, 30 July 2013; Piedrafita, S., (2013), 'EU Democratic Legitimacy and National Parliaments', Brussels: CEPS essays.

No support from European institutions

There are signs indicating that European institutions do not see interparliamentary cooperation as the solution to its problem of legitimacy. Although President Barroso is willing to look for 'complementarity and cooperation between the European and national parliaments',³⁶ he believes 'interparliamentary cooperation as such does not ensure democratic legitimacy for EU decisions. That requires a parliamentary assembly representatively composed in which votes can be taken' (read: the European Parliament).³⁷

The Council has also shown that it has few ambitions with respect to the conference for interparliamentary cooperation in the field of economic and monetary governance.³⁸ President Van Rompuy is of the opinion, as is Barroso, that national parliaments are incapable of assessing the interests of the EU as a whole.³⁹ On this point the European Parliament is in agreement with Van Rompuy, as it sees itself as a unique supranational democratic axis within the EU and the institution best able to secure the future of the euro.⁴⁰ It even claims that creating new interparliamentary partnerships would be 'ineffective and illegitimate' in the framework of the EMU.⁴¹ The strengthening of the institutional role of the European Parliament, a long-cherished goal, appears to be irreversible.⁴² National parliaments thus are, and will remain, the big losers of European integration.

Conclusion: Misleading mantra

Many are deeply concerned about the lack of support among the general public for decisions made at the European level. National parliaments are increasingly being expected to broaden this public support. The Dutch House of Representatives is endeavouring to expand its involvement and influence, but its options are limited. More importantly, the feasibility of such an aim is questionable, despite the optimistic assumptions. Serious doubts have been expressed about the ability of national parliaments to monitor European decision-making, which involves shaping policy and working out the different scenarios for 28 member states – or 18 in the case of the eurozone – and for European institutions. National parliaments are too removed from supranational European issues to be able to fulfil this complex role.

If national parliaments are unable to take on the task of making Europe more accountable, who will? Brussels is bound to propose alternatives of its own. European institutions are committed to strengthening democratic legitimacy at the European level, with the Commission extending its functions under the supervision of the European Parliament. This leaves little room for national parliaments. In this discussion, it is not enough — and can even be misleading — to repeat the prevailing mantra about strengthening the role of national parliaments.

³⁶ European Commission (2012A), State of the Union 2012 Address, 12 September 2012.

³⁷ European Commission (2012), p. 40.

³⁸ Kreiling, V. (2013), "The new inter-parliamentary conference for economic and financial government", Policy paper 100, October 2013, Notre Europe - Jacques Delors Institute, p. 10-11.

³⁹ Van Rompuy H., 'Towards a genuine Economic and Monetary Union', 5 December 2012, p. 16.

⁴⁰ European Parliament Secretary General, "Preparing for complexity. The European Parliament in 2025. The Answers, January 2013, p.19.

⁴¹ European Parliament (2012), resolution of 20 November 2012 'Towards a genuine Economic and Monetary Union', Strasbourg, 20 November 2012.

⁴² Priestley, J., *Six Battles*; Fasone, C. (2013), "European economic governance and parliamentary representation: What place for the European Parliament?", in *European Law Journal*, doi: 10.1111/eulj.12069.