

THE CHANGES PROVOKED BY THE EUROPEAN INTEGRATION PROCESS –ESPECIALLY IN TIMES OF CRISIS– ON THE RELATIONSHIPS BETWEEN PARLIAMENT AND GOVERNMENT IN FRANCE, GERMANY AND SPAIN

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RESUMEN: Este artículo analiza la relación entre los Parlamentos nacionales y sus gobiernos en el proceso de integración europea a la luz de los casos alemán, español y francés. Demuestra que existen variaciones entre estados y a lo largo del tiempo. Los Parlamentos nacionales fueron considerados “perdedores” de la integración durante mucho tiempo pero su posición mejoró desde el Tratado de Maastricht y, aún más, desde la aprobación del Tratado de Lisboa. Sin embargo, la crisis económica y financiera sufrida por Europa amenaza en cierta medida esta tendencia positiva

PALABRAS CLAVE: *Unión Europea, Parlamentos nacionales, Tratado de Lisboa, Democracia, crisis económica europea.*

ABSTRACT: This article analyses the relationship between national Parliaments and their governments in the European integration process in the light of the French, the German and the Spanish examples. It shows that variations over the countries and over time exist. National Parliaments were long “losers” in this process but their position has been improving since the Treaty of Maastricht and even more so since the Treaty of Lisbon. The economic and financial crisis however challenges this positive tendency to a certain extent.

KEY WORDS: *European Union, National Parliaments, Lisbon Treaty, Democracy, European economic crisis.*

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SUMARIO: I. A clear predominance of the Executive until the entry into force of the Lisbon Treaty; II. The Treaty of Lisbon; III. Conclusion.

The European integration process has, undoubtedly, provoked important changes to the relationship between parliament and government in all Member States. This “europeanisation”, whose primary effect is the “transfer of legislative powers to the Council and European Parliament at the expense of national institutions and actors”,² has brought about a “deparliamentarisation.”³ Although national parliaments have themselves accepted this loss of powers by ratifying the successive Treaties, they are considered to be the great “losers” of the integration process.⁴ Their control over their “governments” action in this domain was not immediate, and looser than regarding internal affairs: Parliaments generally lacked information, technical knowledge, control and influence. In addition, when they were required to authorise the ratification of a Treaty, in reality, they were –and still are– tied to their government’s will: they only had veto power without having the possibility to amend the text itself. National parliaments are also in a similar position when they have to

² Adam Jan Cygan, *Accountability, parliamentarism and transparency in the EU* (Edward Elgar 2013), 19-20

³ The belief in the existence of such a “deparliamentarisation” due to the European integration process is widely spread and supported among the doctrine. Some, like Simon HIX and Raunio TAPIO, are however more sceptical and claim that “in fact, in some countries, European integration has been a catalyst in the re-emergence of parliaments. Legislatures, alarmed by governmental autonomy resulting from integration, have started to invest in holding executive office-holders accountable on EU-related as well as non-EU-related matters”. Tapio Raunio and Simon HIX, “Backbenchers learn to fight back: European integration and parliamentary government” (2000) 23 *West European Politics* 142–168 143. I consider that although this may be the case occasionally, the loss of parliamentary powers due to the European integration is much more important than this marginal phenomenon. However, the economic crisis and the measures it has required at European level may, in fact, lead to a change in this domain.

⁴ Andreas Maurer and Wolfgang Wessels, “National Parliaments on their Ways to Europe. Losers or Latecomers?”, Baden-Baden, Nomos verlag, 2001.

approve acts to enforce, i.e. to transpose, European legislation: their margin of appreciation is limited.

Their degree of marginalisation has, however, varied over time depending on several factors related to the depth of the integration or the political system of each Member States, among others.

In this contribution, I analyse how the European integration process has influenced the relationship between Parliament and Government over time. Some parts of the answer will be provided through a study in contrasts of the French, German and Spanish cases.

Such a historical approach is justified since it allows showing how the European integration process has affected the balance of powers in different manners, and it also permits comparisons among the Member States studied here. This will serve to highlight the importance of the political culture and of the political system in determining how, and how much, the relationship between executive and legislative powers was affected. These three Member States have furthermore been chosen for their individual characteristics in this respect: while Germany is a federal State with a traditionally strong parliament, Spain is a regionalised State in which parliament is much weaker and dependent on the government's will. Lastly, the French Constitution of the Fifth Republic –adopted in 1958– has long been qualified, with regard to the role it gives parliament, as a sum of all the possible means to weaken this institution after it had been so strong during the Fourth Republic (1946-1958)⁵. In addition, France and Germany are founding States whereas Spain entered the European Communities in 1986.

This study will firstly show that there was a clear predominance of the executive power until the Lisbon Treaty (I). The Maastricht Treaty also being a first turning point, this part will first focus on the period that preceded its entry into force (a) to present how it provoked some changes (b). Secondly, the new context that has

⁵ On the French “rationalised parliamentarism”: Bernard Chantebout, *Droit constitutionnel* (Sirey 2012), 400.

existed since 2009 will be addressed (II): new context due to the entry into force of the Lisbon Treaty (a) and due to the ongoing economic and financial crisis (b).

I. A CLEAR PREDOMINANCE OF THE EXECUTIVE UNTIL THE ENTRY INTO FORCE OF THE LISBON TREATY

The first decades of the integration process were characterised by a quasi absence of National parliaments: the construction of the European Communities clearly empowered the executive with regard to the legislative.

Indeed, at that time, the Council—and hence, national governments—had the last say on virtually everything: the European Parliament played a mere consultative role until the co-decision procedure was introduced by the Treaty of Maastricht in 1992, and even after 1992, the co-decision was applied only in certain areas. In parallel, as will be illustrated below, the national parliaments exercised little control and had only limited information regarding European affairs.

This is unequally true of all Member State Parliaments, though, since for instance both British Chambers were given the means to follow EU Affairs—not necessarily to be informed or be in control—since their accession to the European Communities in 1973.⁶ However, it is true of the three Member States analysed here.

1. FROM A TOTAL ABSENCE...

Following the beginning of the integration process, the balance of powers between executive and legislative was modified, first of all, due to the fact that the Treaties approved were initially conceived,

⁶ See, on the UK Parliament: Adam Jan Cygan, *The United Kingdom Parliament and European Union legislation*, Amsterdam, Kluwer Law International, 1998. Also the Danish parliament is traditionally considered as a “strong scrutiniser” in EU affairs.

and perceived by the national legislatures, as ordinary treaties of international law.

For a long time, the parliamentary interest in these questions remained therefore very low –international affairs have always been a part of the reserved domain of the executive–. This made all the more surprising the fact that the European parliament was composed of national delegated deputies until the introduction of direct universal suffrage in 1979. It could have been expected that this double belonging would have ignited their curiosity and interest for these questions. However, this was not the case. In Germany for example, the real knowledge of deputies who were not also MEPs was extremely limited; the European documents were discussed in each sectoral committee individually and never in larger circles or during the sessions of the plenary⁷. A similar lack of interest existed among the French members of Parliament; only a few of them assumed the related tasks.

In fact, in Germany, the transfer of rights of sovereignty (*Hoheitsrechten*) to the European Communities was, originally, neither submitted to the vote of a qualified majority in the *Bundestag* nor was the approval of the *Bundesrat* even required.

Additionally, the parliamentary structures specifically designed to permit the participation of the chambers to the European integration process emerged very late, thus making their involvement very difficult. This is unsurprising given the double membership –national and European– that existed until 1979, and given the assimilation of those questions to the foreign affairs. It is therefore not until the introduction of direct universal suffrage that the French and the German Chambers effectively reformed their institutional structure in order to enable the parliamentarians to follow what

⁷ Philippe A. Weber-Panariello, *Nationale Parlamente in der Europäischen Union. Eine rechtsvergleichende Studie zur Beteiligung nationaler Parlamente an der innerstaatlichen Willensbildung in Angelegenheiten der Europäischen Union im Vereinigten Königreich, Frankreich und der Bundesrepublik Deutschland*, Baden-Baden, Nomos verlag, 1995, p. 244.

was going on in Brussels more effectively. For instance, the German *Bundestag* created the Commission Europe (*Europakommission*) in 1983. This Commission faced severe difficulties and was reformed and transformed several times until 1992.

The German *Länder*, which delegates from their governments form the *Bundesrat*, identified the threat represented by the European integration to their competences from the very beginning of the integration.⁸ Although they tried to be involved in the European decision-making process to make sure that their competences would not be delegated to the Communities without them having a say, and to make sure that they would not be constrained in their decisions by the duty of execution of European acts in whose elaboration they had not participated, they only had more information and powers after the Single European Act of 1986;⁹ this was the condition they set up for their approval. It seems as if they had no other choice if they wanted to be heard because the federal Government had always been denying them the right to be involved, for example because article 32 Basic Law gave the Federation the exclusive responsibility in the domain of foreign affairs.¹⁰ In the 1980s, they became fully aware of the reduction of their capacity to approve national laws, and of the decrease of the *Länder's* prerogatives, and therefore realised that they had to take actions in the European domain.¹¹

⁸ See, regarding the *Länder's* attempt to be involved since the approval of the ECSC, R. Hrebk, "Doppelte Politikverflechtung: Deutscher Föderalismus und Europäische Integration. Die Deutschen Länder im EG-Entscheidungsprozess", in *Die Deutschen Länder und die Europäischen Gemeinschaften : Referate u. Diskussionsbeiträge eines Symposiums der Deutschen Vereinigung für Parlamentsfragen am 20./21. Juni 1986 in Stuttgart*, Baden-Baden, Nomos verlag, 1986. 18.

⁹ An Observer of the *Länder* was established in 1957 however to inform the *Länder* through the *Bundesrat*.

¹⁰ See on the arguments raised by the Federal Government: Hrebk, "Doppelte Politikverflechtung: Deutscher Föderalismus und Europäische Integration. Die Deutschen Länder im EG-Entscheidungsprozess" 19.

¹¹ C. Janowski, "Die Rolle von Bundestag und Bundesrat in der europäischen Rechtsetzung", in Peter-Christian Müller-Graff (ed.) *Deutschlands Rolle in der*

In sum, although both German Chambers had been examining all European documents since the approval of the Rome Treaties, the *Bundestag* gave itself the capacity to act efficiently only after several decades. This contrasts strongly with its position in internal affairs where it cooperates efficiently with the Federal Government. As for the *Bundesrat*, even though it adapted in a timely manner and had an efficient commission as early as 1957, its real capacities of influence were limited. Therefore, even if its approval is not always required for a federal law to be adopted,¹² its position in European matters was clearly less favourable than it was in internal affairs.

The French Chambers have faced similar difficulties but with the added challenge that the French parliament of the Fifth Republic (1958-...) is also characterised by weakness in internal affairs.¹³ In France too European affairs were long assimilated with foreign affairs, which are clearly part of the government's reserved domain according to article 20, and especially article 52, of the French Constitution. Furthermore, the French members of Parliament, who regularly held several terms, had, in general, little interest in European affairs, and, truth be told, could do little. It is striking that, originally, even the information regarding Parliament in European matters was not ensured by the government but by the

Europäischen Union, Baden-Baden, Nomos verlag, 2008, p. 316.

¹² In Germany, there are two types of federal laws: those whose adoption requires the approval of the *Bundesrat* (*Zustimmungsgesetz*) and those for which the *Bundesrat*'s opposition can be overridden by a vote of the *Bundestag* (*Einspruchsgesetz*). For more information regarding the legislative procedure: Wolfgang Rudzio, *Das politische System der Bundesrepublik Deutschland* (VS Verlag für Sozialwissenschaften 2011) 237 ff.

¹³ The government has several instruments to tame the parliament to its will: the possibility for the government to commit its responsibility on a legislative project (art. 49-3 French Constitution), the possibility for it to organise a referendum on a legislative project or on the authorisation of ratification of an international Treaty (art. 11) or the right it long had to define the agenda of the assemblies. This predominance has, however, been mitigated, especially since the Constitutional reform of the year 2008.

European Parliament!¹⁴ There were no specific organs designed for the participation in European affairs either. The imbalance between government and parliament was in France even sharper than in other Member States: the parliament was not involved in the preparation of the European legislative proposals like in other States, and it did not necessarily participate in the so-called “descending phase”¹⁵ either. As in the German Bundestag, the first major change took place in 1979 with the creation of the Delegation for European affairs. However, these Delegations did not really contribute to the improvement of Parliament’s role in this domain since they were created as “organs of reflection”¹⁶ dependent on a permanent committee’s will to adopt their conclusions, and even if these conclusions were indeed adopted, they remained conclusions with no binding effect on the government whatsoever. As in internal affairs, the chambers had no possibility to adopt any resolution. The information they received – from the government then – was also incomplete since all documents were first submitted to the *Conseil d’Etat* that filtered those documents that affected the *domaine de la loi* (domain of the law) from those that affected the *domaine réglementaire* (regulatory domain), responsibility of the executive. Even the documents that the government had to send to the chambers since 1979 were, in practice, not transmitted until this obligation was constitutionalised in 1992.¹⁷

¹⁴ Didier Blanc, *Les parlements européen et français face à la fonction législative communautaire. Aspect du déficit démocratique* (L’Harmattan 2004) 295.

¹⁵ Opinion of the State Council of 20 May 1964 in favour of the adoption of (governmental) regulations to give application to regulations and decisions of the European Communities. Opinion of the State Council quoted by Loïc Azoulai: Loïc Azoulai, “La loi et le règlement vus du droit communautaire” [2006] *Cahiers du Conseil Constitutionnel* <<http://www.conseil-constitutionnel.fr/conseil-cons>>, [last accessed, october 2015].

¹⁶ Assemblée nationale, *Fiche n° 54: Les délégations parlementaires*, Assemblée Nationale, Paris, 2012. <http://www.assemblee-nationale.fr/connaissance/fiches_synthese/septembre2012/fiche_54.asp>, [last accessed, october 2015].

¹⁷ Marc Culot, “La place du Parlement national dans l’Union Européenne: Etude comparée entre la France et le Danemark”, *Revue internationale de Droit com-*

Regarding the French case, it can therefore be said that, in practice, the parliament was absent in European matters until the Maastricht Treaty, since the conclusions prepared by the Delegations, though being of very high quality and resembling resolutions, attracted the moderate interest of the government that was not bound by them.¹⁸ In a sense, the general weakness of the French Parliament was even amplified in EU affairs. A note should be made that this lack of structure and of capacity of the French parliament is accentuated by the very well-organised governmental structure in EU Affairs.¹⁹

The Spanish case is radically different from the French and the German ones. As has been mentioned in the introduction, Spain joined the European Communities in 1986 at a point when the integration process was already well advanced and its impact on the Member States was identifiable. The Joint Committee for the EU Affairs was created at the moment of the accession but a general pro-European attitude –that also long existed in France and in Germany–, combined with the strength of the political parties and the general weakness of the parliament *vis-à-vis* the government²⁰ led to the Joint Committee playing a secondary role in EU affairs. From the moment of the adhesion, its information regarding the legislative proposals and the Government’s policy was anchored in Law 47/1985 of 27 December but, in practice, this information

paré, 2004, 677–683 680.

¹⁸ Emmanuelle Saulnier, *La participation des parlements français et britannique aux Communautés et à l’Union européenne* (LGDJ 2002)544.

¹⁹ The General Secretary for European Affairs (SGAE) is the result of a long tradition that has existed since the beginning of the integration process. <<http://www.sgae.gouv.fr/site/sgae/SGAE/Le-SGAE/Historique>>, [last accessed, october 2015].

²⁰ The Spanish bicameralism is “asymmetrical and unequal” since the Congress of Deputies and the Senate have distinct attributions and since it is characterised by a clear superiority of the Congress. J. Garcia Morillo, “La estructura de las Cortes Generales”, in Luis Lopez Guerra, Eduardo ESPIN, Joaquín Garcia Morillo (eds.) *Derecho constitucional. Volumen II. Los poderes del Estado. La organización territorial del Estado*, Tirant lo Blanch, Valencia, 2007. 71.

was often transmitted late and incompletely.²¹ This law additionally did not foresee any specific mechanism of influence or control. The members of parliament did make regular use of their traditional means of control (questions and hearings, for example) but these instruments were mostly used to the benefit of the government, to give visibility to its position rather than to control its action.

For these reasons, in Spain as well the government had a dominant position in the field of EU Affairs. Even if the parliament's weakness is striking, it is more easily understandable in view of parliament's general weakness in the national institutional system as compared to its German counterpart for instance. The assimilation of EU affairs with foreign affairs surely contributed to this situation, too.

It appears that the first decades of the integration were characterised by an empowerment of the government at the expense of the parliament, by governments that made the required decisions practically by themselves without being held accountable. Nevertheless, this situation did not appear to be too problematic as the public opinion was generally characterized by a mostly pro-European tendency, also based on an "output legitimacy".²² In other words, the European integration process was not questioned by the European peoples because it produced wealth and guaranteed peace.

²¹ Manuel Cienfuegos Mateo, "El control de las Cortes Generales sobre el Gobierno en asuntos relativos a las Comunidades europeas durante la década 1986-1995" [1996] *Revista de las Cortes Generales* 47-99 78. It is noteworthy though that this lack of information was not always due to the government's action: the EU Commission itself did not always provide a clear and complete Spanish version in due time, and in 1994 the Spanish parliament still complained of this failure to the Commission. Cienfuegos Mateo, "El control de las Cortes Generales sobre el Gobierno en asuntos relativos a las Comunidades europeas durante la década 1986-1995", 87.

²² F. W. Scharpf, "Economic integration, democracy and the welfare state", *Journal of European Public Policy*, vol. 4, no. 1, 1997, p. 18-36 originally talked about "output-oriented effectiveness".

2. ...TO A MINOR ROLE AFTER THE MAASTRICHT TREATY

With the creation of the Political Union through the approval of the Maastricht Treaty, a new opportunity to balance the predominance of the executive over the legislative power emerged.

The Treaty itself mentioned the national parliaments for the first time, although it did so in a declaration only. As a consequence, this declaration reflected rather a declaration of intention than any kind of formal obligation: with regard to the role of national governments, it simply foresaw that “the governments of the Member States w[ould] ensure, inter alia, that national Parliaments receive Commission proposals for legislation in *good time* for information or possible examination”.²³ This particularly vague wording –when is a “good time”?– did not provide national parliaments with a solid argument to base themselves on and claim more rights at the national level.²⁴

In Germany, however, the role of the *Bundestag* especially was reinforced. First of all, the Basic Law was reformed: the European integration process was constitutionalised with the introduction of articles 23, 45 and 52. The rights of the chambers in European matters were consequently guaranteed in the Basic Law; this guarantee was a complete novelty for the *Bundestag* whereas the rights of the *Bundesrat* were simply –but undoubtedly– improved.

²³ Emphasis added.

²⁴ When the Amsterdam Treaty was approved in 1997, this omission was corrected on French insistence and a minimum period of six weeks was guaranteed to national parliaments between the moment when the legislative proposal was made available to the Council and the European Parliament in all languages and its placement on the Council’s agenda. An exception of urgency was possible but had to be duly justified. Furthermore, the Declaration was replaced by a Protocol that has the same legal value as the Treaty whereas the Declaration is only of political value. The National parliaments were also to be informed of all Commission consultation documents and not only of the legislative proposals as was the case until then.

The introduction of article 23 Basic Law (Article Europe) clearly put an end to the assimilation of European affairs with foreign affairs. Furthermore, it introduced the requirement to obtain a qualified majority to transfer further competences to the Union whereas, until then, a simple majority and no approval of the *Bundesrat* were needed. The participation of both chambers in EU affairs is since guaranteed (“The Bundestag and, through the Bundesrat, the Länder shall participate in matters concerning the European Union”.). and so is the government’s duty of information (“The Federal Government shall keep the Bundestag and the Bundesrat informed, comprehensively and at the earliest possible time”). The Chambers should be granted the right to express their opinion, in any event for the *Bundestag* and with some restrictions related to its competences and the necessity to consult it in a similar case at national level for the *Bundesrat* (Art. 23-4 to 6 BL).²⁵

As regards the *Bundestag*, its Committee on the European Union was created and anchored in the Basic Law; this was the first efficient structure created therein. The *Bundestag* demanded to have the same rights as those given to the *Bundesrat* when the Single European Act was approved, and the Federal Constitutional Court’s decision (Maastricht decision) contributed to the larger implication of the *Bundestag* in EU affairs: the lower Chamber was granted a role in the EU’s democratic legitimation since the European Parliament still failed to fulfil this task.²⁶ In spite of these changes, the government conserved its predominant position: it was not until 2006 that the procedure for the transmission of all EU documents was defined,²⁷ and its obligation to take account of the *Bundestag*’s position –defined

²⁵ These criteria were modified in 2006 in the Federalism Reform II so that the *Länder* had better capacities of participation.

²⁶ BVerFGE, 155, par. 113 among others.

²⁷ Agreement between the German *Bundestag* and the Federal government on the cooperation in European affairs of 28.9.2006; it has since been incorporated to the Law on the cooperation between the Federal Government and the *Bundestag* in 2009.

by its Committee on the EU— during the negotiations was still weak (“Before participating in legislative acts of the European Union, the Federal Government shall provide the *Bundestag* with an opportunity to state its position. The Federal Government shall take the position of the *Bundestag* into account during the negotiations”. Art. 23-3 BL).²⁸ However, the Committee on the European Union has rarely made use of this prerogative, since the procedure is complex, since a frequent use of it would create animosity with the other committees and also —and most importantly— because the government also has “its” majority within the Committee.²⁹ Additionally, other rights were attributed to this Committee by the rule of procedures of the *Bundestag* (Art. 93). It thus appears that after the Maastricht Treaty the *Bundestag* was formally guaranteed more information and rights to participate in EU affairs —some of which have been mentioned here— but, in reality, the information provided remained poor until a few years before the entry into force of the Lisbon Treaty, and the use made of these prerogatives was not frequent. The deputies were in their vast majority not keen to dedicate energy to EU affairs, although an improvement in this domain between the middle of the 1990s and the middle of the years 2000 was visible.³⁰

As has been underlined, the position of the *Bundesrat* was improved by the constitutionalisation of its possibilities of participation that guaranteed them more formally, although it seems that this right was suspensory since the responsibility of the Federation for the whole Federal state had to be preserved (art. 23-5 BL).

²⁸ The doctrine generally considers that this does not represent an imperative mandate for the government, since a law should be approved to have such an impact. Roland Sturm and Heinrich Pehle, *Das neue deutsche Regierungssystem. Die Europäisierung von Institutionen, Entscheidungsprozessen und Politikfeldern in der Bundesrepublik Deutschland* (Springer 2012) 75.

²⁹ Annette Elisabeth Töller, „Dimensionen der Europäisierung-Das Beispiel des Deutschen Bundestages“ (2004) 1 *Zeitschrift für Parlamentsfragen* 25–50 39-40.

³⁰ Töller, “Dimensionen der Europäisierung-Das Beispiel des Deutschen Bundestages”, 40-43.

It appears, as a consequence, that when the Lisbon Treaty entered into force, the German chambers had already started to gain some rights to be informed and involved in EU affairs after they had remained particularly weak during the first decades of integration in spite of the general strength of the *Bundestag* especially in the German political system. Yet, in practice, the Federal government still clearly held a dominant position in 2009.

A very similar conclusion can be drawn from the French and the Spanish cases: as has been shown, the French chambers were not even allowed to review all the European documents, and the conclusions they adopted had little value. With the entry into force of the Maastricht Treaty, and the constitutional reform its approval required in France as well, the predominance of the executive remained, although the statute of the parliament was slightly improved. These improvements are the fruit of the parliament's own will: it used this opportunity to –eventually– guarantee itself more rights in European matters.³¹ These changes affected its information –which was constitutionalised– and its capacity to approve resolutions,³² whose importance for the government was amplified thanks to a circular from the Prime Minister. It required that these resolutions should be “the object of an interministerial analysis so that they could be taken into account during the European negotiations”.³³ The obligation of the government did not go further, but parliament's role was reinforced by the introduction of a scrutiny reserve in 1994:³⁴ this aimed at

³¹ Jean-Dominique Nuttens, *Le parlement français et l'Europe: l'article 88-4 de la Constitution* (LGDJ 2001) 26 ff.

³² These novelties only applied to the I Pillar, though. Yet, the chambers still had the possibility to submit conclusions regarding other documents transmitted to them in accordance with the Decree 58-1100 of 17 November 1958.

³³ Circular of 21 March 1994 on the relationship between the French administrations and the institutions of the Republic, Official Journal of the French Republic of 31 March 1994, 4783.

³⁴ Circular of 19 July 1994 on the consideration of the opinion of the position of the French parliament in the elaboration of Community acts. Official Journal

providing a remedy for the fact that, until then, the chambers often adopted resolutions too late for them to be effective.³⁵ The entry into force of the Amsterdam Treaty also collaborated to providing greater information and increased capacity of participation to the chambers, since the government could also send them other documents that did not belong to the legislative domain on which they could prepare resolutions (art. 88-4 French Constitution).

As regards Spain, contrary to France and Germany, the entry into force of the Maastricht Treaty did not provoke the inclusion of the European integration process in the Constitution; until today, it is only mentioned in relation to the European budgetary “Golden rule” since article 135-2 and 3 were reformed in 2011. The law governing the Joint Committee was replaced in 1994 by Law 8/1994 of 19 May. The information of the Joint Committee was improved in general, and some specific means of action were introduced. For instance, the possibility to organise a debate on a legislative proposal in the Committee or one of the chambers is provided (art. 3c), and the Committee can request that the government be submitted to oral questions. However, following these debates, the Committee can only adopt a resolution which does not FORMALLY constrain the government’s position. After 1994, the Committee could also organize a debate with the government once a proposal submitted to scrutiny had been approved; however, this procedure only permitted a control *ex post* of the procedure followed, not of the outcome of the procedure itself.

As a result, the new law passed in 1994 following the entry into force of the Maastricht Treaty did improve the Joint Committee’s position

of the French Republic of 21 July 1994, 10 510. The impact of this positive change needs to be cautiously interpreted though: after the introduction of the scrutiny reserve, the number of accelerated exam procedures which, *de facto*, cancel the reserve, have grown so that the chambers still have no guarantee to have enough time to perform their scrutiny. On this growth: Blanc, *Les parlements européen et français face à la fonction législative communautaire. Aspect du déficit démocratique* 443 ff.

³⁵ Nuttens, *Le parlement français et l’Europe: l’article 88-4 de la Constitution* 89-90.

since the Committee was better informed and could better control the government's actions through debates. From the perspective of the balance of powers between the parliament and the government, the parliament remained weak and clearly inferior since the Government could decide to follow, or not, the recommendations expressed in the resolutions. Therefore, as the former judge of the Spanish Constitutional Court Pablo Pérez Tremps remarked the Spanish parliament was still part of the "group of countries where the parliamentary influence in EU matters is weak".³⁶

In spite of the improvements introduced in the three countries studied here following the entry into force of the Maastricht Treaty, the parliaments remained weak and the governments had the last say in EU affairs. In Germany, however, a new era began for the parliament after 1994: it was granted more importance and should have been better informed and have more prerogatives. This change is in line indeed with the German political culture. At this point in time too, the Federal Constitutional Court began protecting the parliamentary prerogatives from drastic limitations due to the European integration process.

II. THE TREATY OF LISBON

When the Treaty of Lisbon entered into force in 2009, it not only brought about profound changes in the EU integration process but it also granted directly prerogatives to national parliaments for the first time. As a consequence, a minimum level of parliamentary implication in EU affairs has now been set up and those Member States that still had not adapted to permit the participation of their parliaments in this domain were hence forced to adopt reforms.

³⁶ P. Perez Tremps, "La débil "parlamentarización" de la integración en España", in Eduardo Garcia De Enterría, Ricardo Alonso García (eds.) *La encrucijada constitucional de la Unión Europea*, Civitas, Madrid, 2002. 410.

On the other hand, the economic and financial crisis that has been hitting Europe for the past years has also, once again, threatened the possibilities of participation of national parliaments. Many decisions adopted in this domain are –or at least were at the beginning– adopted in an anti-transparent and anti-democratic manner so that a new kind of European “democratic deficit” emerged, while the Lisbon Treaty had been deemed to have improved this European “democratic deficit”. Indeed, it now contains an extensive definition of the concept of democracy in the EU (art. 10 TEU) which grants special importance to the European Parliaments as guarantors of democracy.

In this second part, I would like to highlight some important developments that have affected the balance of powers related to both the Lisbon Treaty and the crisis.

1. THE LISBON TREATY AS AN ATTEMPT TO IMPLICATE NATIONAL PARLIAMENTS

The Treaty of Lisbon has, for the first time, acknowledged the importance of National Parliaments in the European Union since its article 12 TEU specifies clearly that “National parliaments contribute actively to the good functioning of the Union.” It gives them some specific rights and prerogatives: rights of information (art. 12-4, 12-c, 12-e) and rights of opposition (art. 12-b, 12-d, 12-f). Details for the implementation of these rights are contained in Protocols 1 and 2 annexed to the Treaty. They additionally have veto power when some of the passerelle clauses are used (art. 48-7 TEU and 81-3 TFEU).

The introduction of these dispositions regarding national parliaments is of great importance for the relationship between governments and parliaments at the national level: a minimum level of participation in EU matters is now secured to national parliaments in the Treaty itself since, for example, they can send their reasoned opinions notifying the breach of the principle of subsidiarity to the

European Commission. But what is more important with regards to their relationship with their own governments is the fact that since the entry into force of the Lisbon Treaty, Protocol 1 defines that “Commission consultation documents (green and white papers and communications) shall be forwarded directly by the Commission to national parliaments upon publication. The Commission shall also forward the annual legislative programme as well as any other instrument of legislative planning or policy to national parliaments, at the same time as to the European Parliament and the Council.” (art. 1) and that “Draft legislative acts sent to the European Parliament and to the Council shall be forwarded to national Parliaments” (art. 2). Previously, the Protocol on the role of national parliaments in the European Union annexed to the Amsterdam Treaty simply foresaw that “All Commission consultation documents (green and white papers and communications) shall be promptly forwarded to national parliaments of the Member States”. As a result, as has been shown, national parliaments lacked prompt and comprehensive information. By contrast, since the entry into force of the Lisbon Treaty, national parliaments are rather overwhelmed with the numerous EU documents they receive directly from the EU institutions.³⁷

The introduction of these new prerogatives has required an adaptation of the Member States, and this has been the opportunity for the national parliaments –or some of them at least– to regain control over their government in EU Affairs.

The German case is distinct from the French and the Spanish ones because the laws that have permitted the adaptation of the German institutional system to these novelties have gone beyond the content of the Lisbon Treaty: more rights were guaranteed, to the *Bundestag* especially. This also results from the decision of the

³⁷ However, certain deficits may still exist as for instance when trilogues take place. In the framework of these more informal negotiations, parliamentary involvement and information may be imperfect. See, for instance, House of Lords, “The role of National parliaments in the European Union”, 2014, 31.

Federal Constitutional Court that attributed a “responsibility for the integration” (*Integrationsverantwortung*) to the lower Chamber.³⁸ Indeed, four “accompanying laws” approved following the approval of the Lisbon Treaty on 8 September 2009 defined the modality of the Chambers’ participation.³⁹ One of them, the Responsibility for Integration Act submits the Government representative seating in the Council to the approval of a law or a motion before it can give its agreement to a decision in certain cases: for example, if the Council contemplates making a simplified revision of a procedure which is defined in art. 48-6 TEU, art. 281-8 TFEU or 311-3 TFEU, the German representative will only be able to give its consent –or not– once a law has been approved⁴⁰. Similar provisions regard the approval of the German representative in case of use of the procedure defined in art. 42-2 sub-paragraph 1 phrase 2 TEU, but in that case the *Bundestag* must first issue a decision authorising the participation or the abstention of Germany in the Council. This decision must later be confirmed by a law submitted to the approval of the *Bundesrat* too. The same rules apply to the use of the passerelle clauses contained in article 48-6 TEU and 81-3 TFEU for which

³⁸ BverfG, 2 BvE2/08 of 30 June 2009.

³⁹ The most important of these four laws is the Responsibility for Integration Act, the others being the Act Implementing the Amendments to the Basic Law for the Ratification of the Treaty of Lisbon, the Act amending the Act on cooperation between the Federal Government and the German *Bundestag* in matters concerning the European Union (EUZBLG) and the Act amending the Act on cooperation between the Federation and the *Länder* in matters concerning the European Union (EUZBLG). The Basic Law was also reformed (art. 23, 45 and 93); the paragraph added to article 23 now permits the control of the respect of the principle of subsidiarity *a posteriori*. The modification of article 45 allows the *Bundestag* to give more rights to its Committee on EU affairs, and the change made to article 93 regards the modalities of dispute settlement when there is a disagreement regarding their competences between the Federation and the *Länder*.

⁴⁰ The law does not contain any indication on the type of majority required. See on this point: A. von Arnould *et al.*, *Systematischer Kommentar zu den Lissabon-Begleitgesetzen*, Nomos, Baden-Baden, 2011. 125-126.

the participation of the national parliaments is indeed foreseen in the Treaty contrary to the other cases. A law will also be needed to approve a European Council proposal to use the procedure defined in article 86-4 TFEU or if a decision is made by the Council to use that defined in article 352 TFEU.⁴¹ In other cases, the vote of the German representative in the European Council is only dependent on a decision of the *Bundestag* (and of the *Bundesrat*): this happens in case of use of special passerelle clauses (art. 31-3 TEU and 312-2 TFEU and 153-2, 192-2, 333-1 and 333-2 TFEU). It results from these changes that the Chambers have indeed been granted a responsibility for integration,⁴² the government is much less free to decide without the parliament's consent than it was before the entry into force of the Lisbon Treaty. In this sense, the long existing imbalance of powers has been, to some extent at least, improved. However, the procedures subject to the approval of a law or a resolution –passerelle clauses for example– are “Sunday questions”⁴³ rather than procedures used on a daily basis. And it remains unsure whether the parliament will be willing to activate these mechanisms, due to the political balances within it, or since the government is often supported by a coalition.

The French case is characterised by the fact that the Constitution of the Fifth Republic was deeply modified a few months after it

⁴¹ This is the flexibility clause. A law was approved, for example, when this clause was used for the replacement of Regulation (EC) n 1968/2006. Kristin Rohleder, “Die Beteiligung des Deutschen Bundestages an der europäischen Rechtsetzung in Theorie und Praxis” (2011) 2 *Zeitschrift für Gesetzgebung* 105–121 115.

⁴² There exists a certain “parallelism” between the responsibilities granted to the *Bundestag* and those granted to the *Bundesrat*. Fabian Wittreck, „Wächter wider Wille –Probleme der Beteiligung von Parlamenten am europäischen Integrationsprozeß auf Bundes- und Landesebene“ (2011) 2 *Zeitschrift für Gesetzgebung* 122-135 125. When only a resolution is required or when a use of the passerelle clauses defined in articles 48-7 TEU and 81-3 TFEU, some restrictions apply to the *Bundesrat*'s participation however.

⁴³ Simon Neumann in A. von Arnould *et al.*, *Systematischer Kommentar zu den Lissabon-Begleitgesetzen*, Baden-Baden, Nomos, 2011, cit. 306.

was reformed to conform to the Lisbon Treaty.⁴⁴ The second reform aimed at modernising the institutions of the Republic and brought about a reinforcement of parliament with respect to the government in order to “rebalance the institutions of the V Republic”.⁴⁵ Regarding the relationship between parliament and government, these reforms –and the modifications of the chambers’ rules of procedure and of the Order of 1958 (58-1100 of 17 November 1958)– have led to better information for parliament: the restriction to the domain of law has now disappeared. Nevertheless, this reform merely ratifies the provisions according to which all EU documents are directly forwarded to national parliaments with no consideration of the French domain of the law. The chambers’ capacity to adopt resolutions has been extended accordingly. However, these resolutions are still the only instrument of influence at the parliament’s disposal, and the importance granted to them by the government is still limited to it being committed to examining “the consequences that have to be given to the assemblies” resolutions, given the French position”.⁴⁶ Both chambers also scrutinize European council meetings and governmental hearings are organised since the failure to adopt the Constitutional Treaty⁴⁷

⁴⁴ This reform of 23 July 2008 followed the Reform of 4 February 2008.

⁴⁵ Anne Levade, “Les nouveaux équilibres de la Ve République” [2010] *Revue française de Droit constitutionnel* 227–256 230.

⁴⁶ Circular of 21 June 2010, Official Journal of the French Republic of 22 June 2010, 11 232. However, the government now regularly informs the chambers about the follow-up it has given to their resolutions, which is an improvement, although this mechanism is only applied to the resolutions approved on a specific legislative proposal. As a consequence, if a resolution is adopted on the basis of another EU document or if it relates to a question of European policy in general, the government will not provide any information on the treatment reserved.

⁴⁷ See, on the scrutiny of European Council meetings: Kreilinger Valentin et al., “Report on France” in Wessels Wolfgang et al., “Democratic Control in the Member States of the European Council and the Euro zone summits –Annex 1”, [2013] European Parliament study available at <http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/474392/IPOL-AFCO_

whereas hearings around EU Council meetings have been put into place more recently, in autumn 2014, in the National assembly. Therefore, the government has been confirmed in its dominant position and the parliament is –still– marginalised to a certain extent in EU affairs or, at least, dependent on the government’s will to take its views into account.

The adaptation of the Spanish system to the content of the Lisbon Treaty operated through the adoption of two laws (law 24/2009 and 38/2010) that reformed the law of 1994 which defines the conditions of action of the Joint Committee on the EU. They contained novelties regarding the information provided to it by the government –although it remains limited to the proposals that have, in the government’s view, “a repercussion on Spain”– and to the Committee’s capacity to submit the government to oral questions. Apart from this, the content of the Lisbon Treaty regarding the participation of National parliaments in the EU has been strictly integrated and most of the new rights were granted to the Joint Committee. As a result, although the Joint Committee is slightly better informed and has more extended possibilities to call members of government to be accountable, in reality, the Lisbon Treaty has not substantially modified the relationship between the parliament and the government in EU affairs. The parliament’s weakness is still the rule and the government can still act in EU matters as it sees fit. Besides, the plenary is rarely involved outside of governmental hearings and so are sectoral committees given the fact that most

ET(2013)474392(ANN01)_EN.pdf>, [last accessed, october 2015]. Kreilinger Valentin et al., “Report on France” in Wessels Wolfgang *et al.*, “Democratic Control in the Member States of the European Council and the Euro zone summits –Annex 2”, [2013] European Parliament study available at <[http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/474392/IPOL-AFCO_ET\(2013\)474392\(ANN02\)_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/474392/IPOL-AFCO_ET(2013)474392(ANN02)_EN.pdf)>, [last accessed, october 2015]. And Diane FROMAGE, “National parliaments and governmental accountability in the crisis: theory and practice”, *Perspectives on federalism*, (2014) 6 149–171.

competences in terms of parliamentary scrutiny of EU legislative proposals still belong to the Joint Committee.

After 2009 as well, the German parliament is in better position than its French and Spanish counterparts: it has been granted more rights than those contained in the Treaties. This evolution confirms the tendencies previously observed.

2. *THE EUROZONE CRISIS*⁴⁸

The Eurozone crisis has, once again, modified the balance of powers between executive and legislative within the Member States—in the field of EU affairs—and more largely between the EU and its Member States, since it has resulted in a reinforcement of the European Central Bank and the EU Commission, two non-elected EU institutions⁴⁹, and of the European Council. As Katrin Auel and Oliver Höing highlight, there has been a “dramatic strengthening of European executives”.⁵⁰

It has required the quick approval of decisions at European level that have affected domains traditionally reserved for parliaments, such as their budgetary capacity. Furthermore, traditionally, national parliaments focused their control on the legislation rather than on the decisions made by their governments’ representatives or their

⁴⁸ This section will focus solely on the parliamentary involvement in the decision process taking place in the economic and financial area at EU level. Aspects related to the relationship between governments and parliaments in the fulfilment of EU obligations at national level, such as for example the implementation of the European semester, are not considered here due to their national nature.

⁴⁹ Underlined by the UK House of Lords: “The Role of National Parliaments in the European Union”⁴⁴ ff. The new possibility offered by the Two-Pack to the Commission to strike down National yearly budgets alone, that is without the Council’s approval, is particularly representative of this increase of power.

⁵⁰ K. Auel, O.höing, “Scrutiny in Challenging times-National Parliaments in the Eurozone crisis”, *European Policy Analysis-Steps*, vol. 2014, 1, 2014, 3.

heads of State.⁵¹ Moreover, some structures were created outside of the EU Treaties, and national governments tried to treat these matters as foreign rather than EU policies.⁵² Therefore, this new situation has represented a challenge for national parliaments that have had to adapt their control procedures. Before having a look at the adaptation of the three Member States analysed in this paper, it should also be recalled that it has not yet been possible to establish fully the interparliamentary conference on economic financial governance in the EU, set up in article 13 Treaty on Stability, Coordination and Governance (TSCG). Its first meeting was held in Vilnius in October 2013 but no effective and efficient agreement could be reached,⁵³ nor could any agreement be approved during the second meeting held in Brussels in January 2014. According to the French National assembly, the European Parliament's strong will to limit the scope of this conference and to affirm its own prerogatives played a major role in this failure.⁵⁴ The responsibility to approve the conference's rules of procedure was then delegated to the Speakers' conference –which brings together all national parliaments' speakers twice a year and has the task to decide on the main orientations of interparliamentary cooperation in the EU– and this conference finally approved guiding principles during its meeting in Rome in April 2015. The Conference is therefore expected to eventually approve its rules of procedure during this autumn.

⁵¹ W. Wessels; C. Heffler *et al.*, “Parlements nationaux : l'émergence d'un contrôle du conseil européen”, *Notre Europe Policy Paper*, 2013.

⁵² K. Auel; O. Höing, “Scrutiny in Challenging times-National Parliaments in the Eurozone crisis”, *op. cit.* 3.

⁵³ On this first meeting: V. Kreiling, “la nouvelle conférence interparlementaire pour la gouvernance économique et financière”, *Notre Europe Policy Paper*, 2013.

⁵⁴ Commission des affaires européennes, Assemblée Nationale, *Communication sur la conférence interparlementaire sur la gouvernance économique et financière de l'union européenne des 20-22 janvier 2014*.1.

The question of the parliaments' role in this field has had special importance in Germany where it has led to a revision of the Act on Cooperation between the Federal Government and the German Bundestag in Matters concerning the European Union (EUZBBG) in July 2013:⁵⁵ its article 1-2 now defines what the European affairs are, and that they include "international agreements and intergovernmental arrangements are also matters concerning the European Union if they supplement, or are otherwise closely related to, the law of the European Union." This article further defines that "[in] matters concerning the European Union, the Bundestag shall participate in the decision-making processes of the Federation". The reference to these "international agreements and intergovernmental arrangements" undoubtedly refers to the agreements reached outside of the Treaties in economic and financial matters. The reference to these questions is even clearer in article 4 that states that "The notification of the Bundestag under section 3 of this Act shall be effected in particular through the transmission of all of the following items received by the Federal Government: [...] documents: [...] of the euro summits, the Eurogroup and comparable institutions that meet on the basis of international agreements and other arrangements which complement or are otherwise particularly closely related to the law of the European Union". The *Bundestag* is also guaranteed comprehensive information by the Government "in writing and orally". On top of this, in their latest decision on the European Stability Mechanism (ESM),⁵⁶ the judges sitting in Karlsruhe also insisted on the obligation to involve the *Bundestag* as a whole in all the decisions related to the ESM. This duty has now been anchored in the Act on Financial Participation in the European Stability Mechanism whose articles 4 and 7 address the issues of the

⁵⁵ This reform followed the Federal Constitutional Court's decision on 19.6.2012, BVerfG, 2 BvE 4/11 in which it declared that the conditions and especially the timeframe of the *Bundestag*'s information was unclear.

⁵⁶ BVerfG, 2 BvR 1390/12 of 18.3.2014.

parliamentary involvement and information when this European Stability Mechanism is activated. Indeed, article 4 establishes that “The plenary of the German Bundestag will take responsibility for matters of the European Stability Mechanism that concern the budgetary comprehensive responsibility of the German Bundestag”. The budgetary comprehensive responsibility is particularly affected when stability aid is granted (art. 4-1-1 and 2) and when the approved share capital as well as the maximum loan volumes vary (art. 4-1-3). Furthermore, the Bundestag’s information and possibility to take position are comprehensively guaranteed in article 7: “The Bundesregierung [federal government] must comprehensively, at the earliest possible point in time, continually and as a rule in writing, inform the Bundestag and the Bundesrat in matters of this law. [...] The Bundesregierung must give the Bundestag, in matters that concern its competencies, opportunity to take a position; the Bundesregierung must also consider the opinions of the Bundestag.” The *Bundestag*’s budgetary responsibility is therefore considered to be safeguarded but the obligations of the Federal Government in this field are strictly and overwhelmingly defined.

It is thus clear that in Germany at least the Parliament cannot be set aside in these matters, and that this question attracts generally a large interest of the deputies who were the initiators of the request for constitutional review.

This situation in France is strikingly different from that in Germany: the rules governing the information or the rights of the Parliament have not been amended in relation to the crisis, nor have those relating to their capacities of actions including in the framework of the ESM. When decisions are taken in this field at European Council or EU Council level, the chambers benefit from the information and participation rights guaranteed to them by the rules in force and by customary procedures.⁵⁷ But they have not been

⁵⁷ Indeed, practice has been instrumental in permitting the control of European Council meetings in France and a more recent practice launched in

guaranteed any specific rights regarding Eurogroup meetings or any other type of body at EU level. For instance, contrary to Germany, parliament is only involved in the approval of capital payments in the framework of the ESM Treaty, and only in some part of it; and nothing further. On the other hand, this situation characterized by a limited involvement at national level might explain why –following their traditions– both French Chambers have shown a profound interest for the establishment of the conference provided for in article 13 TSCG.⁵⁸

The Spanish parliament, though Spain was most directly affected by the EU financial measures, did not formally gain special importance in this process either. It is for instance the government who is responsible for the compliance of Spain's obligations deriving from the ESM Treaty.⁵⁹ In February 2013 the socialist group had to insist on the necessity for the government to be submitted to oral question by the Congress of deputies or the Joint Committee

autumn 2014 now permits the involvement of the National assembly before EU Council meetings too. On the practice and parliamentary involvement in the framework of European Council meetings, see: Fromage, "National parliaments and governmental accountability in the crisis: theory and practice" The information related to EU Council meetings is extracted from the minutes of the EU affairs committee available on the National assembly's website.

⁵⁸ European resolution on the deepening of the Economic and monetary Union. SENAT, 4.2.2014. European resolution on the democratic anchorage of the European economic governance. Assemblée nationale, 27.11.2012. According to the French government, the annual reports which have to be sent to the European parliament and to the national parliaments on the application of the ESM Treaty, together with the creation of this interparliamentary conference, were included on France's initiative. D. Fromage and R. Gaddled, "Report on France" prepared in the framework of the project "Constitutional change through Euro crisis law" funded by the EUI research council available at <<http://eurocrisislaw.eui.eu/country/france/>>, [last accessed, october 2015].

⁵⁹ M. Estrada-Cañamares, G. Gómez Ventura & L. Díez Sánchez, "Report on Spain" prepared in the framework of the project "Constitutional change through Euro crisis law" funded by the EUI research council available at <<http://eurocrisislaw.eui.eu/country/spain/topic/esm-treaty/>>, [last accessed, october 2015].

in order to inform them before the ECOFIN Council meetings.⁶⁰ As underlined above, the parliament is generally weak in EU affairs, and in spite of the importance of the decisions made in economic matters, no further mechanisms have been created for its participation nor were even regular debates organized at the time when the European Council was making the most important decisions on Spain and its rescue.⁶¹ However, this situation seems to have been slightly improved as the parliamentary involvement in the framework of European Council meetings has recently become more frequent.⁶² This change might have intervened a bit late, though, as it was launched after the major decisions affecting Spain's financial situation and especially the rescue of its banking sector were taken at European level.

It seems that the economic crisis has empowered governments in general and has led them to approve at home more frequently acts that do not require any parliamentary consent.⁶³ In this context, there appears to be a cleft between Germany on the one hand, and France and Spain on the other, at least formally. It probably not only results from the role of parliament in general or in EU affairs –although empirical data shows that the classification between weak and strong parliaments is confirmed in this context–⁶⁴ but also from the role Germany is playing as a moneylender rather than as a beneficiary. As the framework necessary to respond to the crisis of the European common currency has now been approved though, and as practice has often been instrumental in allowing national

⁶⁰ Official Journal of the *Cortes generales* n. 127 of 8 February 2013.

⁶¹ DG for internal policies; European Parliament, *Democratic control in the Member States of the European Council and the Euro zone summits*, 2013 56.

⁶² Fromage, “National parliaments and governmental accountability in the crisis: theory and practice”.

⁶³ For example, in Spain, the number of decree-law has grown greatly.

⁶⁴ K. Auel; O. Höing, “Scrutiny in Challenging times-National Parliaments in the Eurozone crisis”, cit.

parliaments to hold their governments to account, this state of facts might not be as dramatic as it seems in a first glance. Still, it would be desirable that parliaments (or their governments) develop procedures in order to be at least informed *ex ante* and *ex post* on the content of meetings organized at EU level that affect the economic and financial area.

III. CONCLUSION

This brief analysis has shown that national parliaments have passed from being strictly outsiders in EU affairs to being largely informed and capable of holding their governments to account, in the framework of the EU legislative procedure at least. Hence, although the governments still play *de facto* a major role in the European integration process at the expense of their parliaments –which are only directly involved in the framework of the control of subsidiarity–, the parliaments' position at national level has been improved following the entry into force of the Lisbon Treaty. This improvement is, however, once more challenged by the crisis and is requiring their adaptation to this unprecedented context that appeals for a change of focus –from a control of the legislative proposals to one including the positions defended by the ministries or the heads of State in the EU Council or the European Council meetings– while the national parliaments are at the same time also losing power within their very sphere of competences. This process, surely still ongoing, will show whether the parliaments, and especially the weakest ones, manage to regain their power even if no formal guarantees are introduced in their favour at national level.