De-Parliamentarisation Re-Considered: ‘Representation Without Corresponding Communication’ in EU Affairs

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Representative assemblies are often taunted by their enemies with being places of mere talk and bavardage. There has seldom been a more misplaced derision. (John Stuart Mill)

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Parliaments have had a bumpy ride over the last years. While long accepted, even taken for granted, as the core institutions within our systems of representative democracy, their ability to represent citizens adequately has increasingly come under question. Within Europe’s nation states, it is mainly the ability of parliament to make collectively binding decisions that has come under criticism. This is due to the ‘relocation of politics’ (Bovens et al. 1995, cited from Hupe and Edwards 2012: 177) to new arenas of decision making (see also Castiglione and Warren 2008: 1): transnational and supranational arenas including new international, supranational or global actors, on the one hand, and collective decision-making arenas at and across different levels involving both semi-private and private actors, on the other hand. The involvement of such new actors in decision-making, who often lack both formal electoral authorisation as well as electoral accountability, creates a serious problem of ‘power without corresponding representation’ (Hupe and Edwards 2012: 185) in terms of democratic legitimacy. In addition, scholars point to a decreasing legitimacy with regard to the input-side of parliamentary representation due to lower turnout in elections, diminishing party identification, and, at the same time, an increase in demands for group recognition undermining the representational link between political institutions and the citizens (Mair 2009) and thus leading to ‘representation without corresponding participation’ (Hupe and Edwards 2012: 184). Finally, staying with Hupe and Edwards’ distinction, one can add another problem. The fact that traditional political institutions, and parliaments in particular, lose decision-making competencies to other arenas and actors while at the same time remaining the main institutions with regard to formally authorised and electorally accountable representation creates ‘representation without corresponding power’.

These developments have led at least some scholars to give up on parliamentary representation, arguing that under such circumstances ‘[m]onitoring, overview, investigation, deliberation, decision-making is far beyond the capacity of a parliament (and its membership), no matter how large, how capable, how well organised, how specialised’ (Andersen and
Burns 1996: 244f.). With the standard model of representation, in which parliaments occupy centre stage, seen as no longer adequate, reflections turn to a ‘refurbishment’ of the theory of democratic representation. While political theory had, for some time, ‘embarrassingly little to offer by way of guidance or critique for emerging issues of representation’ (Castiglione and Warren 2008: 2), the ‘representative turn’ (Kröger and Friedrich 2013) in the literature has led to an exciting and stimulating search for new democratically legitimate forms of representation and different conceptions of representation (e.g. Saward 2006).

At the same time, the developments sketched above have also led to a greater empirical interest in national parliaments. Within the context of the EU, the debates focus mainly on the so-called ‘de-parliamentarisation thesis’. According to the standard diagnosis, the process of European integration has, on the one hand, led to the transfer of large areas of decision-making from the national arena to the EU level, resulting in a loss of legislative competences for national legislatures, who have no direct control over European policy-making. Thus, for national parliaments, the problem of ‘representation without corresponding power’ is seen as the most pressing. On the other hand, the European Parliament is not seen as being able to compensate the loss of democratic legitimacy formerly provided by national (or regional) parliaments. With the increase in legislative power of the EP over the course of recent Treaty revisions, the main focus is here on the lack of a tight electoral connection between MEPs and the European citizens, i.e. on the problem of ‘representation without corresponding participation’. As a result, the political system of the EU suffers from a serious and growing gap in parliamentary legitimacy (Føllesdal and Hix 2006).

In the following I want to focus on the role of national parliaments in EU politics and argue that the diagnosis is flawed, mainly because it is incomplete. As a result, the proposed therapy will also remain insufficient at best. The main problem is that the standard definition of de-parliamentarisation focuses almost exclusively on the legislative competencies of national parliaments. In doing so, proponents of the de-parliamentarisation thesis often tend to measure the loss of legislative competencies against a rather unrealistic and idealised standard of parliamentary policy-making. More importantly, however, they overlook that national parliaments have other, and more important, functions.

In fact, both therapies suggested in the literature, and here unduly summarised as the ‘compensate for the loss of legislative competencies’ and the ‘look elsewhere for representation’ therapies, fall short, one trying to cure just one aspect of the illness, the other simply accepting the illness as incurable and leaving the patient to die. Instead, I want to suggest a different diagnosis as well as a different therapy. The main argument is that legislating in the sense of policy-making is not the only function of parliamentary representatives in the first place, and thus the loss of further legislative competencies, while not unproblematic, is not the only problem. Rather, a realistic discussion of how parliaments represent their citizens needs to focus on other parliamentary functions as well: the communication function including the function of holding the government publicly to account. In doing so, I do not claim that the problems of democratic legitimacy in the EU or beyond can be solved by parliamentary representation alone. I do, however, argue that
parliamentary representation and communication is still fundamentally and vitally important for the organisation of democratic politics both within and beyond the nation-state.

**The standard account of de-parliamentarisation**

Nowhere has the thesis of the decline of parliamentary representation been more discussed than in the context of European integration. Scholars started to point out the challenges of European integration for national parliamentary representation as early as the 1970s (Niblock 1971). Yet the European Parliament (EP) featured far more prominently in the literature, sparked by institutional reforms such as the move towards direct elections and greater involvement in the legislative process. This changed in the 1990s with the ratification of the Maastricht Treaty and the famous ‘Maastricht decision’ by the German Federal Constitutional Court (BVerfGE 1993) that argued that democratic legitimacy in the European Union had to be tied to national parliaments as the main institutions representing the European peoples. The ensuing debate on the democratic legitimacy of the European Union, or rather on the lack thereof, brought national parliaments into the limelight, but mainly as the victims of the integration process. Indeed, most scholars would probably have replied to a hypothetical Eurobarometer question that European integration was rather ‘a bad thing’ for national parliaments and for parliamentary legitimacy in general. European integration was seen as ‘a classical case of a gradual process of de-democratisation’ (Seidelmann 1995: 79) or ‘de-parliamentarisation’ (Wessels 1989; Birkinshaw and Ashiagbor 1996).

The new term ‘de-parliamentarisation’ stuck. According to the standard definition of ‘de-parliamentarisation’, European integration has weakened national parliaments by transferring legislative competencies to the EU level. First, agenda setting power has been delegated to the European Commission. As a result, parliaments (and, one might add, Cabinets) at least partly lose their formal power to set the agenda for collectively binding decisions on policies that will nonetheless be domestically applicable. Secondly, European integration also entails the delegation of legislation in the sense of policy-making to EU institutions including the Council, the European Parliament, the Commission and a multitude of other actors and institutions. Finally, parliaments lose their right to make the final decision on legislation, as EU law receives this final approval by the Council of Ministers and, where applicable, the European Parliament or even the European Commission and independent agencies. Depending on the type of EU legislation, national parliaments do retain a possibility to amend or delay European legislation through the transposition of European directives, but in the end member states are forced to comply with EU law. Moreover, when exercising its legislative competencies, the Council acts as a collective actor. Thus, where the Council decides under unanimity, single Council members can veto a decision, but not enforce the adoption of a particular policy against the will of other members. Where the Council uses qualified majority voting (QMV), even the power to veto a policy is no longer given as Council members can potentially be outvoted. In the latter case, national parliaments may have to adopt policies even their own government did not agree to.

In line with the standard diagnosis of de-parliamentarisation as loss of parliamentary legislative competencies, therapies have mainly aimed at compensating this loss with
parliamentary participation and co-decision rights. National constitutions or statutes usually now give national parliaments not only a right to comprehensive information on EU affairs, but also – more or less binding – participation rights concerning the formulation of the national position on EU decision. In addition, they have specific competencies regarding the transposition of EU legislations as well as the ratification of EU Treaties. Today, even the EU Treaties include participation rights for national parliaments. Not even mentioned in early European Treaties, Declaration 13 annexed to the Maastricht Treaty was a first timid step towards recognising their role. Subsequent Treaties have gone further by including Protocols on national parliaments, and now the Lisbon Treaty even gives them an explicit role in European politics as the new ‘guardians’ of the subsidiarity principle through the so-called ‘Early Warning System’ (EWS).¹

The academic literature² on national parliaments in the EU mirrors these changes: During the early years of integration few publications dealt with its impact on national parliaments, but the 1990s saw them emerge as a salient issue in the debates on the democratic quality of governance in the EU. A first wave of case studies in the 1990s mainly confirmed the arguments about the decline of parliamentary power (e.g. Laursen and Pappas 1995; Norton 1996a): Although most national parliaments adapted to European integration by creating European Affairs Committees and became somewhat more active in the scrutiny of European documents, the studies showed them to remain basically marginalized in the EC/EU law making process. The broad consensus was that national parliaments had been ‘left behind in the rush’ (Norton 1996b: 192).

The early gloom and doom is not really surprising. In fact, the early period of integration between the 1950s to the mid-1980s was indeed characterised as much by parliamentary non-involvement as by a lack of parliamentary inclination to be involved: European matters were mainly considered to be foreign affairs and thus the prerogative of the executive, and since ‘[n]ational interests remained protected through national governments’, there ‘appeared little reason for national parliaments to get involved’ (ibid.: 177). However, since the late 1990s, early 2000s, scholars have increasingly observed that backbenchers were more willing ‘to fight back’ (Raunio and Hix 2000). A second wave of studies (e.g. Auel and Benz 2005; Barrett 2008; O’Brennan and Raunio 2007) questioned the overall de-parliamentarisation

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¹ The ‘Protocol on The Application of the Principles of Subsidiarity and Proportionality’ provides national parliaments with the right to submit a ‘reasoned opinion’ to the Commission if it finds a legislative draft act to violate the subsidiarity principle (Article 7.1). If one third of the national parliaments submit a reasoned opinion, then the Commission must formally review the proposal and may withdraw or amend it but also maintain it unaltered (Article 7.2). Thus, in these cases national parliaments can only show the Commission the ‘yellow card’, but not force it to take their concerns into account. If, however, at least half of the national parliaments submit reasoned opinions on a legislative proposal falling under the ordinary legislative procedure (co-decision), and the Commission maintains the proposal, the legislative proposal will be submitted to both the Council and the European Parliament for review. If either body decides with a majority of 55 per cent on the incompatibility of the proposal with the principle of subsidiarity, the ‘legislative proposal shall be given not further consideration’ (Article 7.3.b). In addition, according to Article 8 of the Protocol the Court of Justice of the European Union (ECJ) will have jurisdiction in actions on grounds of infringement of the principle of subsidiarity by a legislative act, and such action can now also be brought forward by national parliaments through their governments.

² For an overview over the literature see also Goetz and Meyer Sahling 2008, Raunio 2009, Winzen 2010.
thesis, and argued that instead of absolute ‘losers’, parliaments may be ‘latecomers’ to the integration process (Maurer and Wessels 2001). As a result, scholars have been increasingly interested in comparing the effectiveness of alternative scrutiny systems and in explaining the adoption of specific scrutiny models (for recent rankings Karlas 2012; Winzen 2012).

What is remarkable about this debate, is not only that there is still no consensus over whether national parliaments are still the main victims of the integration process or able to become more influential player in EU politics, but also that the whole de-parliamentarisation debate centres on the question of how much influence parliaments have over EU decision-making via their governments. Interestingly, this preoccupation with parliamentary influence in EU politics can also be found among national MPs. As Tapio Raunio (2011) has shown, the debate in the Convention on the future of Europe centred almost exclusively on issues of government scrutiny and compliance with the subsidiarity principle. Even COSAC\(^3\), which has a basically unconstrained agenda and can discuss any issue it chooses, has so far focused mainly on different aspects of parliamentary scrutiny and, more recently, on the subsidiarity control mechanism.

### Challenging the Standard Decline Diagnosis

As I have outlined above, the diagnosis of de-parliamentarisation as loss of legislative powers has mainly been met with a therapy of strengthening parliamentary participation and co-decision rights in EU politics. In the following, I will argue that this diagnosis is flawed, and that therefore the therapy will remain insufficient.

A first argument is that enhancing parliamentary rights of influence in EU affairs, while certainly important, will not solve the problem of ‘representation without corresponding power’. Second, this problem is actually not altogether new or simply a result of EU integration given that parliamentary representation has for quite some time now been characterised by ‘representation with weak corresponding power’ at best. This, however, does not mean that the role of national parliaments in EU affairs is not problematic. Rather, I will, third, and most importantly, argue that the standard account of de-parliamentarisation with its focus on legislative competencies ignores that parliaments have other, and in my view even more important, representative functions, namely a communication function which includes the function of holding the government publicly to account.

### The Limited Impact of Parliamentary Influence in EU Affairs

The literature discusses a number of factors that make EU affairs especially challenging for national parliaments, such as the highly technical and complex character of European policy-making or the problem of information overload. However, national parliaments have found a number of procedural and institutional solutions to deal – more or less successfully - with these challenges, such as a consequent involvement of the specialised Standing Committees,

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\(^3\) ‘Conférence des Organes Spécialisés dans les Affaires Communautaires’, a parliamentary conference at the EU level consisting of members of national European Affairs Committees and Members of the EP.
the establishment of ‘filter’ committees or units, that deal with incoming floods of documents and filter out important issues, or the set up of specialised administrative units to support committee work. In addition, the literature has pointed out the problem of the late involvement in EU affairs (i.e. just before the decision in the Council when important issues have generally already been decided on). And finally, as mentioned above, within the highly complex decision-making processes at the EU level and the multitude of actors involved, parliament can only exert influence over one representative in the Council, who in turn has to negotiate with 26 other member states’ representatives. And even that influence will be without impact if the government representative it outvoted in a QMV decision (or simply abstains, if the Council decision is not supported by parliament but the government). Unless national parliaments are given an explicit right to ratify (and thus veto) European legislation, thus transferring the power of final assent back to the national level, the influence of even the most powerful national parliament on the outcome of EU decisions will remain limited. Policy-making power within EU politics lies with the executive, and for national parliaments ‘representation with at best modest corresponding legislative power’ is and will remain a fact.

However, the delegation of legislative powers in parliamentary systems is not a development owed exclusively to EU integration, it is not even a very new one. Trying to re-establish national parliaments as more powerful policy-makers seems to be based on an idealised and somewhat flawed understanding of parliamentary democracy. The lament over the loss of legislative competences due to EU integration tends to compare - at least implicitly - the current situation to some idealised pre-EU ‘golden age of parliamentarism’, which, however, had been over long before, if indeed it ever existed outside of 19th century Britain (or the not quite so golden age of parliamentarism in the French 3rd and 4th Republic). In the early 1920s, Lord Bryce (1921) already lamented the ‘decline of legislatures’, arguing that the growing dominance of parties limited the ability of MPs to express their opinions freely. With the rise of party government and representation by parties rather than Honourables (Manin 1997), the power balance within parliaments has shifted from the dualism between legislators and the executive to the ‘not quite so new anymore’ dualism of the government and its supporting parties vs. the opposition. Thus, although most parliaments have a varying degree of influence over the content of legislation, it is mainly the executive that possesses policy-making power. Within their policy area, ministers not only have ‘a near monopoly on policy initiative’ (Gallagher, Laver, and Mair 2006: 43), but also several means to direct the ratification of their bills (Heller 2001) as well as the implementation of their policies.

This does not imply, however, that parliaments are nothing more than a ‘rubber stamp’, approving legislation initiated elsewhere and laid before them by the government for ratification. On the contrary, the literature on the ‘uneasy, delicate, yet necessary relationships between parliamentary members and leaders’ (Longley and Hazan 1999; see also Franchino and Høyland 2009; Martin and Vanberg 2005) has repeatedly suggested that backbenchers have various, formal and informal, ways of influencing government policy. However: ‘Whoever prefers a parliamentary system of government must accept the collective action of disciplined parliamentary parties’ (Ibid.: 24) and a general dominance of (executive) party leaders over backbenchers (Bowler et al. 1999; Hazan 2006; Laver 2006).
As Norton points out, the ‘decline thesis implies that there has to be something to decline from’ (Norton 1994: 15), yet in the light of these developments, most modern national parliaments in Europe were at the very best modest policy influencers to begin with. From this perspective, European integration is simply one more challenge national parliaments have to face, and, as Raunio and Hix argue, one that ‘has not alone had any significant impact on domestic executive-legislative relations’ (Raunio and Hix 2000: 151). Similarly, Damgaard and Jensen state: ‘It is not certain that the [Danish] parliament has lost influence. It seems that the impact of the EU on national executive-legislative relations has less to do with the EU than with the national organisation of executive-legislative relations’ (Daamgard and Jensen 2005: 394).

So does this mean that national parliaments are indeed condemned to a fringe existence as more or less ‘rubber stamps’ for decisions taken elsewhere and that they have only little influence over? Quite the opposite is true. What is often overlooked in the debate on deparlamentarisation is that the legislative function in the sense of policy-making has never been the only or even the most important function of parliaments (Packenham 1970; Patzelt 2003). The classic, still widely referred to, catalogue of parliamentary functions by Walther Bagehot (2001 [1867] lists

the elective function (‘it elects the people it likes. And it dismisses whom it likes too’),

the expressive function (‘to express the mind of the English people on all matters which come before it’),

the teaching function (‘to teach the nation what it does not know’),

the informing function (‘it makes us hear what otherwise we should not’)

as more important than the legislative function, (‘which I only deny to be as important’).

A similar, and even more radical view comes from John Stuart Mill (1998 [1861]):

‘Instead of the function of governing, for which it is radically unfit, the proper office of a representative assembly is to watch and control the government; to throw the light of publicity on its acts; to compel a full exposition and justification of all of them which any one considers questionable; to censure them if found condemnable’ (282). … Parliament’s ‘part is to indicate wants, to be an organ for popular demands, and a place of adverse discussion for all opinions in relation to public matters, both great and small; and along with this, to check by criticism, and eventually by withdrawing their support, those high officers who really conduct the public business’ (ibid.: 284).

One may not be inclined to follow Mill’s view on the role of parliament completely, or even agree with the relative importance accorded to different parliamentary functions by Bagehot. I do, however, claim that where parliaments, and parties acting within them, neglect their expressive and informative function, where they fail to hold the government accountable

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4 All direct quotes from Bagehot (2001 [1867]), pp. 99-102, italics added.
and to ‘throw the light of publicity on its acts’ - especially where such acts no longer receive final assent from the assembly - they fail to fulfil their task as parliamentary representatives.

**Parliamentary Representation and the Promise of Communication**

The argument that public debate and access to information are a fundamental precondition for the exercise of democratic popular control over government activities is so widely shared, mentioning it seems almost trivial. But given the focus in the literature outlined above, it is nonetheless worth making the argument in some more detail. The following will focus on two related arguments regarding the importance of communication in political representation - as a precondition for political accountability and as the embodiment of the fundamental principle of equality.

As has been pointed out repeatedly in the literature, representative democracy is not in fact indirect government *by the people* (instead of many: Manin 1997); it is the aristocratic government *by a few chosen by the people*. Yet this should not imply an elitist model in which the concept of democratic representation is divorced from any notion of responsiveness. Many definitions of representation include the element of ‘acting in the best interest of those represented’ (Eulau et al. 1959: 743; Pitkin 1967: 209). However, it is more than difficult to define what that actually means, given the variety of potentially conflicting interests among citizens or the fact that they may lack clear preferences in the first place. As Lord and Pollak argue, “common interest” may only be identifiable at such an abstract level as to leave unanswered the question of how to select between multiple “best” and equally justifiable courses of action (Lord and Pollak 2010: 970).

Beauty, they say, lies in the eye of the beholder. The same is true for the judgment of whether representatives have indeed acted in our best interest. The democratic aspect of representative government is not exhausted in the act of selecting representatives, it is also based on the fundamental principle that *the people* get to judge whether these representatives have represented them in a way they approve of. Representatives thus do not have to (and usually cannot) accommodate and serve all wishes of their electorate, but they have to take the reaction of their electorate at future elections into account, and thus the possibility of being (positively or negatively) sanctioned for their actions. In other words, representative democracy ‘is not a system in which the community governs itself, but a system in which public policies and decisions are made subject to the verdict of the people’ (Manin 1997: 192). To allow the people to make such verdicts, actions of the represented need to be communicated.

Second, representative democracy is usually based on majority decisions. One important aspect of democratic representation is thus to ensure that those whose ‘opinions are over-ruled feel satisfied that their opinion has been heard and set aside […] for what are thought to be better reasons’ (Mill 1998 [1861]: 282). Representatives need to account for their decision to act upon the preferences or in the interest of some but not others (Lord and Pollak 2010: 974; Esaiasson et al. 2011: 20). Such a ‘right to justification’ (Forst 2007) follows from the fundamental principle of equality as a cornerstone of democracy. Democratic equality first
requires that citizens have equal rights in authorising their representatives. Just as important however, is the fact that while not all citizens will enjoy equality in terms of a realisation of their interests, they must all have the equal right to receive an explanation and justification why their interests were set aside. This is why, as Lord argues, ‘a definition of democracy as (a) public control with (b) political equality … falls short without the addition of a third condition: namely, (c) individual rights to receive justifications for collectively binding decisions’ (Lord 2013: 249). In other words, equality in representative democracy does not necessarily mean equality in interest realisation, but it does mean equality in terms of justification and accountability.

At the same time, communication is not a one-way street. It not only entails a requirement to explain and justify, but also to listen and thus to allow for political participation. The central idea behind participation is that citizens do not remain mere bystanders but become actively involved with the aim of realising specific group interests or what in their view constitutes the public good. Such active involvement usually, but not exclusively, means making demands vis-à-vis political and administrative representatives, and the principle of equality demands that citizens have an equal right to have their voices heard.

Responsiveness in representative democracy can thus be seen as ‘a promise of communication’ (Esaiasson et al. 2011: 17). While representatives are free to act on behalf of the citizens, they are obliged to listen, and to communicate and justify the reasons for their action. Democratic political representation is realised through an ‘activation of the communicative current’ (Urbinati 2006: 24) though continuous public debate over, and the constant ‘making present’ of the represented in, choices over public policies.

Keeping the Promise of Communication

One can, of course, argue that the promise of communication is best kept through frequent personal contact between the representatives and the represented (Fenno 1978). In the short run, the argument goes, such close contacts mean that the representative hears about opinions and views first hand and can directly respond to them. In the long run, the expectation is that such personal contacts will build trust. And this type of direct communication is certainly important, for example in the constituency surgery. However, people are not only hard to find (Fenno 1978: 234), there are also so very many of them. Even allowing for the fact that only a smaller proportion of the citizens would actually want to have such personal contacts, this kind of communication is difficult to establish as the standard procedure.

Thus, while direct encounters may be preferable from a normative point of view, in practice representative democracy also means mainly indirect communication between representatives, who voice citizens’ interests on their behalf, who hold the government accountable and who pass judgement on their actions in between elections (for a critical discussion, Lord and Pollak 2010: 974ff.). Outside of the parliamentary arena, the functions of voicing citizens’ interests and demands and of holding the government to account is fulfilled by civil society, interest and advocacy groups, the media, but also courts, ombudsmen etc. Within the parliamentary arena, communication takes place between
different parliamentary parties, and holding the government to account is mainly job of the parliamentary opposition, which acts as the public parliamentary ‘police patrol’ (McCubbins and Schwartz 1984: 165) and who ‘can force the executive to defend publicly what it has proposed. In doing so, the opposition fixes accountability for the government’s actions and puts itself in a position to assess the political costs for these actions at the next general election’ (Mezey 1998: 784). Parliaments are thus ‘means by which the measures and actions of government are debated and scrutinised on behalf of citizens, and through which the concerns of citizens … may be voiced. The extent to which they carry out such actions, and are seen by citizens to carry out such actions, may be argued to constitute the essential underpinning of legitimacy of the political system in the eyes of electors’ (Norton 1998: 1, emphasis added). Parliamentary debates are, of course, no guarantee that the promise of communication is actually kept, given that information and justifications can be obscured by strategies of ‘blame shifting’ and ‘credit claiming’ (Lord and Pollak 2010: 977f.). But parliamentary debates provide the means by which the justifications of some (i.e. government, governing parties) can be continuously challenged by others within (the opposition) and outside of the parliamentary arena (media, interests groups etc.) and thus be exposed to the ‘best of disinfectants, sunshine’ (Louis Brandeis).

In this, parliament can also not simply be replaced by other representatives. As Nancy Fraser (1990) has argued, actors outside the parliamentary arena can certainly contribute to opinion formation and public accountability (constituting what she terms ‘weak publics’, 1990: 75), but they cannot substitute parliamentary justification of collectively binding decisions. In addition, it has been argued that communication by representatives outside of the parliamentary arena, such as interest groups, may be hampered by their interest in policy input and long-term relationships leading to opaque and ‘complacent old boy networks’ (Harlow and Rawlings 2008: 289, see also Coen 2007). Participation takes place ‘through informal and semi-formal rather than formal channels, offers little scope for feedback and excludes critical voices unwilling to exchange the possibility of initial consultation for subsequent passive compliance’ (Bellamy and Castiglione 2011: 112, see also Kohler-Koch 2010). Finally, interest or civil society groups and other self-authorised representatives represent the interests of their specific group rather than the interests of the citizens at large, a problem that is compounded by the fact that groups are unequal in their access and the ability to mobilise (ibid., see also Coen 2007, Smismans 2008). None of the above means that communication or accountability by civil society groups, business associations, advocacy groups, NGO’s and other potential claims makers is impossible or unimportant. To quote Fraser, ‘public life in egalitarian, multi-cultural societies cannot consist exclusively in a single, comprehensive public sphere. That would be tantamount to filtering diverse rhetorical and stylistic norms through a single, overarching lens’ (1990: 69). However, while parliamentary communication can be and should complemented by communication by other representatives, it cannot be substituted by it.

Parliamentary Communication in EU Affairs – Symbolic Politics at Best?
While information and communication are important in every political system that aspires to be democratic, they are of particular relevance in the EU system of multilevel governance. Deficits in the EU’s democratic legitimacy are not primarily caused by deficits in the mediation of citizens’ interests, at least if compared to the political practice of nation states and using realistic standards to assess the quality of interest mediation. Regarding the transmission of citizens’ interests, the European multi-level polity proves ‘to be open to a plurality of interests …, to those of different territories as much as to those of sectoral interests’ Benz (2003: 103). At the same time, it is exactly this interplay of different interests and institutions which results in the opacity of policy-making processes and the lack of accountability that have been defined as core problems in the debate on the democratic deficit of the EU (e.g., Bovens et al. 2010; Curtin et al. 2010a; Føllesdal and Hix 2006; Gustavsson et al. 2009; Harlow 2002; Héritier 2003; Mair 2005; Puntscher Riekmann 2007).

However, one may argue that national parliaments are not the proper venue for communication on EU issues, which ought to be the responsibility of the European Parliament. What is more, given that national parliaments no longer decide on EU issues, is communication not basically moot and the emphasis on the communication function of national parliaments not simply a feeble attempt to gloss over their demise with symbolic politics?

Such arguments are based on two flawed assumptions. The first is that parliamentary debates are deliberations that aim at coming to a decision. This myth is based on the fact that parliamentary debates usually precede the final vote on the floor of the house. In reality, however, debates have for a long time been the means to communicate decisions taken elsewhere (within the cabinet, the administration, within the political parties, party groups or parliamentary committees and in networks with private and semi-public actors). What makes the debate so important and much more than a purely symbolic spectacle of vain posers is the fact that it is done for the sake of the represented so that all of the considerations that have gone on before and the reasons for making a specific decision can be discussed and criticised publicly.

A second flawed assumption is that EU policy-making is somehow disconnected and easily separable from the domestic politics at the national level. If that were the case, one could indeed identify the spheres of communication for national parliaments and the European Parliament more easily. Yet European and domestic politics have become so intertwined that it has become difficult to distinguish between the two. While national governments are certainly no longer the only decision-makers due to the empowerment of the European Parliament, they still have a dominant role in EU decision-making in both the European Council and the Council of the EU including all its satellites. ‘In other words national ministers and national civil servants will appear on various political stages – international, European and national – even though they may be playing different roles in each (Curtin et al. 2010b: 935). In addition, the distinction between domestic and European policies has become increasingly blurred. Today there is hardly a policy area where European legislation does not have an impact, whether it needs to be transposed into domestic law or whether if affects the conditions for domestic policy-making. This also means, that
government representatives still make important decisions that impact their citizens’ daily lives, they only do so at a different level.

Thus, the fact that decisions are made at the EU level or within a multi-level setting does not let national parliaments off the hook. National parliaments remain crucial as arenas for debates over important EU issues and their national implications. By holding their governments accountable, that is by inducing them to explain European issues and decisions, to clarify European negotiation situations and to justify their negotiation behaviour, national parliaments can effectively contribute to making policy processes more transparent, and thus more accessible to and for their national public. The promise of communication still needs to be fulfilled.

De-parliamentarisation Re-Considered: ‘Representation Without Corresponding Communication’

Parliamentary democracy is, when it comes down to it, organised public dispute, in which the government and its supporting party/parties define problems and propose solutions while the opposition and representatives/actors outside the parliamentary arena criticise them and develop alternatives. As the German Constitutional Court stressed in its 2009 decision on the Lisbon Treaty (BVerfGE 2009) and again in its recent decision on Organstreit proceedings regarding the Bundestag’s participation rights in decisions on the EFSF in 2012: ‘Open negotiations between argument and counter-argument, public debate and discussion are vital elements of democratic parliamentarism. The degree of publicity of debates and decision-making ensured by parliamentary proceedings opens up opportunities for balancing conflicting interests and provides the preconditions for control by the citizens’ (BVerfGE 2012, para 108). Put somewhat more casually, ‘politics is ultimately a glorified “soap opera”, with weekly instalments of confrontations and intrigues between vibrant (or sometimes dull!) personalities’ (Hix 2006: 10). This means that a diagnosis of de-parliamentarisation cannot be limited to an analysis of the ‘representation without corresponding power problem’, it also has to take into account to what extent parliaments and the parties acting within them do provide publicity of debates and decision-making and thus address the ‘representation without corresponding communication problem’. In other words, de-parliamentarisation occurs when European integration means that multiple episodes of the soap opera are taken off the program, i.e. when specific issues are no longer subject to public – party political – debate simply because the government now deals with them at the EU level.

Given the focus on the legislative functions in the literature, our understanding of the communication of EU issues through parliaments and parties is still limited. A study by Bergman et al. (2003) suggested that national parliaments were hardly living up to the promise of communication in EU affairs. A recent collection of studies also paints a rather sobering picture (Auel and Raunio 2012a). EU affairs have gained in importance over the last two decades within national parliaments, and they now also provide far more information on EU politics for their citizens, for example by publishing EU and parliamentary documents on their websites. Yet communication cannot be reduced to information and transparency.
Access to documents, however welcome, cannot replace communication in the sense of justification and politicisation.

In most parliaments, EU matters are mainly delegated to EU or specialised Standing Committees. Especially the establishment of EU committees reduces the use of plenary, as the former coordinate parliamentary work in EU matters and are often authorized to speak on behalf of the whole parliament on these issues. And while the handling of EU affairs has become more open in many parliaments, almost half of the EACs continue to meet behind closed doors. In addition, most EACs meeting in public have the option to close parts of their meetings, an option usually used in connection with more sensitive EU matters or when the government position is debated (Auel and Raunio 2012b).

In the plenary, however, Europe seems a rare guest outside of debates about Treaty changes (Maatsch 2010) or on sessions of the European Council (Van den Steeg 2010). Analysing parliamentary questions in the French Assemblée Nationale, Navarro and Brouard (2012) also show that parliamentary attention for EU issues has slowly increased over time, but still focuses mainly on the ‘big issues’ such as treaty negotiations or the French Presidency. Similarly, a comparison of EU debates in four national parliaments between 2002 and 2010 revealed that especially day-to-day EU matters, and thus issues not part of the EU’s high politics, are rarely debated (Auel and Raunio 2012b). Debates did, occasionally, take place on high profile EU decisions, such as the Service Directive, but often only after an ex-ante politicisation of the issue by actors outside the parliamentary arena and intensive reporting in the media (Miklin 2012). An active politicisation of EU issue through national parliaments, in contrast, was very rare (Auel and Raunio 2012b): Between 2002 and 2010, In the British House of Commons or the French Assemblée Nationale debated EU matters in less than 5 to 6 per cent of all plenary sessions. In the Finnish Eduskunta, which together with the Danish Folketing is regarded as one of the most powerful and active parliaments in the EU, literally only a handful of plenary debates took place between 2002 and 2010. A relatively positive example, in contrast, is the German Bundestag where over 20% of all plenary sessions included an EU topic, although a non-negligible share of these debates were on the Bundestag’s own role in EU affairs and the 2009 Lisbon Decision of the German Federal Constitutional Court.

A study covering the more recent period of 2010 to 2012 comes to similar results (Auel and Tacea 2013). On average, national parliaments devoted around 5.5 per cent of their plenary time to EU issues, and in many cases it is far less. Exceptions are the German Bundestag, the Irish Dáil Éireann, the Austrian Nationalrat, the Dutch Tweede Kamer or the Finish Eduskunta. However, even in these parliaments EU debates do not exceed 15 per cent of the overall plenary time. In addition, in most parliaments a large share of debates is related to the Eurocrisis, which explains especially the greater debate activity of the Finnish Eduskunta compared to Auel and Raunio’s findings. While the crisis has thus at least to some extent led to a greater politicisation of Europe within the plenaries, this is still not the case for most European ‘day-to-day’ decisions.

Interestingly, this is also the case with regard to policy issues integrated under the Open Method of Coordination (OMC). The OMC deals with policy issues that are from an electoral
point of view highly relevant, such as employment or social policy. At the same time, the OMC’s benchmarking processes provide national parliaments with important information to monitor and assess their government’s policies. Still, parliamentary debates on OMC issues are rare. Even opposition groups rarely ‘go public’ with information about the performance of their governments or use OMC information to shame the government publicly for suboptimal outcomes or low benchmarking results (De Ruiter 2012).

There are, of course, a number of reasons why parliaments prefer to conduct their EU business away from the prying eye of the public (Auel 2007). Negotiations between the government and the parliament (and especially the governing parliamentary party groups) are clearly facilitated by closed doors. Publicity threatens to make divisions and conflict within the governing party or parties public and thus weaken its bargaining position. Greater publicity could also make information on the government’s negotiation strategy available to other member states and thus weaken its bargaining position. Finally, the government’s bargaining position in Brussels may be weakened by public conflicts between the government and the parliament as other negotiation partners at the European level could easily point out that the government’s position is not even supported at home. It is therefore not surprising that both government representatives and their MPs have little incentive to discuss concrete issues in a broad public debate.

More importantly, however, it has been argued that mainstream parties usually have an incentive to depoliticise issues of European integration. First, party positions on European integration deviate from the left-right dimension, which is the basic structure of party competition in Europe (Hooghe and Marks 2009). And national mainstream parties across the EU are ideologically less cohesive on integration than on traditional socio-economic issues that dominate the domestic political discourse. Although most mainstream parties publicly support European integration, very few of them are perfectly united on this issue. Indeed, intra-party dissent over the issue has increased fairly consistently over the past 20 years (Hooghe and Marks 2006). Thus, the issue of European integration may threaten the internal cohesiveness of political parties, as the example of the French Parti Socialiste during the referendum on the Constitutional Treaty demonstrated. Unsurprisingly, party leaders are reluctant to emphasise an issue that threatens to divide their party since disunity may reduce a party’s electoral popularity.

Second, despite intra-party dissent, mainstream parties, and governing parties in particular, are generally more Europhile than their voters (Mattila and Raunio 2006, 2012). While opposition towards the European Union is found at the extreme left and right (Ray 2007; De Vries and Edwards 2009), parties in the political centre are usually supportive of European integration - the Eurosceptic position of the British Conservatives being a notable exception. In the large majority of member states, voters for governing parties are more Eurosceptic than their own governing parties Hobolt et al. 2009). This suggests that at least so far the parties’ stance on European integration is clearly less important than domestic issues in national elections. But it also means that politicising European issues may make this gap more obvious and may lead to an alienation of part of the electorate. As a result, even mainstream opposition parties rarely make use of their opposition right (such as ‘opposition days’, major
interpellations etc.) to debate EU issues in the plenary and to criticise the government’s EU policies publicly (Auel and Raunio 2012b).

For mainstream parties, EU issue voting is thus often more of a liability than an asset (De Vries 2010). It is therefore hardly surprising that the idea, introduced during the Convention on the Future of Europe and later discussed by COSAC, to introduce a ‘European week’ in which all national parliaments would hold a debate on the annual legislative and work programme of the European Commission was received with little enthusiasm by most parliaments (Raunio 2011). Where, in contrast, EU integration is supported by a broad cross party and, especially, societal consensus, the communication of EU issues comes with far less risks for mainstream parties. For example, in the German Bundestag EU matters are not only far more often on the plenary agenda than in the other member states’ parliaments, the European Affairs committee now meets - in contrast to the other specialised Standing Committees – almost always in public (Auel and Raunio 2012a, b). At the same time, however, this broader public debate does not come with a stronger politicisation of EU issues. Even though this is slowly changing due to the more Eurosceptic Left List and parts of the CSU, parties often search for a cross-party consensus on EU issues. As a result, party competition over European issues, and thus the provision of political alternatives for the voters, remains limited. Similarly, Garcia Lupato’s (2012) analysis of budget and investiture debates in Italy and Spain demonstrates that government parties used references to the EU in debates to legitimise their own policies. However, while he observed a slowly growing politicisation of EU issues in Italy, the overall party consensus on EU matters in both Spain and Italy ‘implies that there is not a real debate on European issues in general parliamentary debates. This de-politicization can … produce a clear deficit in the relation between the parliamentary debate, political competition and the voters (Ibid.: 106).

It is not yet clear to what extent the Eurocrisis has changed these dynamics. As mentioned above, we can observe an increase in plenary debates on EU issues, which is at least partly due to the Eurocrisis, a trend that is also observable in some member states with a rather Eurosceptic public, such as Finland. Similarly, Wendler has also found a clear polarisation and politicisation within parliamentary debates on the crisis and the future development of the European Monetary Union in Austria and the UK – but also in Germany. Although we we so far have only scetchy empirical data, studies suggest that at Eurosceptic parties initiate parliamentary debates on crisis issues more frequently. For Austria, for example, Puntscher Riekmann and Wydra (2012) have found that opposition parties used their right of interpellation, sometimes also connected to the demand of a vote of no confidence, extensively to trigger debates. In the German Bundestag, in contrast, debates on the crisis mainly took place after governmental policy statements in parliament and during legislative debates. They have also found clear party polarisation over ‘the motives (e.g. neoliberal vs. social European market order), the necessity of accompanying measures (e.g. further austerity measures) or demands for a different direction of measures (e.g. financial transaction tax)’, even though an ‘approving opposition’ (SPD, The Greens in Germany, the green party in Austria) accepted the necessity of the proposed measures and thus secured the necessary parliamentary majorities (Puntscher Riekmann and Wydra 2012: 8). The dissenting
opposition, in contrast, completely rejected the proposed measures and voted against them (FPÖ in Austria, the Left in Germany). Similarly, Wendler has found deepened party polarisation over both, EU integration and competing party ideologies in the debates on the crisis management and EMU development (Wendler 2012). Whether this politicisation will last, however, and spill over into other aspects of European politics, is so far an open question.

Finally, studies also indicate that while there may be a slowly growing awareness within national parliaments of the need for better communication and politicisation of EU issues, studies also observe a certain helplessness among parliamentarians. For example, national parliamentarians lament their citizens’ growing and difficult to overcome discontent with the EU, which makes the topic generally unattractive. At the same time, however, they also lament the paradoxical apathy of citizens for EU issues as well as the lack on media interest in parliamentary EU activities (e.g. Pollak und Slominski 2012 for Austria). Indeed, studies suggest that parliamentary communication is very rarely reported on by the media (De Wilde 2012): Not only are the news dominated by members of the government, these also play an inferior role in the media compared to the government of the large and powerful member states or the EU institutions (see also Koopmans 2010). In addition, parliaments have to compete for attention in an increasingly unpredictable and fluid public arena due to the ‘digitalization of traditional media spheres and the practices of publishing, sharing and commenting political news online’ (Michailidou and Trenz 2013: 262). However, while this means that national parliaments will have to adapt their strategies to reach a mass audience, one might also argue that this is somewhat of a ‘hen and egg problem’: As long as EU issues do not become the regular focus of controversial parliamentary debates and party competition, we can hardly expect much attention from the media or the broader public. Outside of the Eurocrisis at least, parliaments do so far not live up to their promise of communication.

Conclusion

European integration and the challenges it poses for national parliaments is certainly no reason to write off parliamentary representation at the national (and, of course, sub-national) level. Arguments based on the ‘representation without corresponding power problem’, i.e. on the loss of parliamentary legislative competencies, remain as insufficient as counter-arguments that all is well with regard to the intergovernmental element of the EU simply because national governments acting at the EU level are accountable to their national parliaments. Governments are indeed (or should be) accountable to their parliaments, and parliaments may in fact have become much better at controlling and influencing their governments in EU politics. However, given the overall scarcity of public parliamentary debates on EU issues, domestic actors involved in EU politics remain fairly untroubled by public parliamentary accountability to their citizens. De-parliamentarisation is also – and vitally – a ‘representation without corresponding communication problem’. Over the last two decades, and in the context of the current Eurocrisis in particular, parliamentary attention for EU issues has clearly increased, but so far most parliaments seem not live up to their task of bringing ‘Europe’ closer to the citizens or enabling them to make informed political choices.
and to exercise democratic control on EU affairs. So far, national parliaments, and the parties acting within them, seem to break their ‘promise of communication’.

To conclude, ‘de-parliamentarisation’ cannot be reduced to a decrease in legislative competencies; first and foremost it means that political decisions are removed from parliamentary organised public debate and accountability. Empowering national parliaments by providing them with participation and co-decision rights is certainly helpful in that it can raise parliamentary awareness of EU issues and strengthen scrutiny procedures. As Bellamy and Castiglione argue (2013: 220), enhancing the influence of parliaments in the European sphere may help foster an interactive relationship between the national demoi and their respective governments over EU policymaking, thickening the thin democracy of the intergovernmental channel’. However, as long as such scrutiny or participation takes place mainly in EU and other Standing Committees, the impact in terms of democratic legitimacy remains limited. As mentioned above, one may argue that parliamentary debate on decisions taken elsewhere is basically symbolic politics. In contrast, I would argue that parliamentary scrutiny and influence that takes place without much parliamentary debate (and that may, in the end, have a limited impact on the final decision taken at the EU level), is basically an undemocratic form of parliamentary representation. As long as national parliaments – and the political parties acting within them - do not fulfil their communication function in EU affairs, they exacerbate, rather than alleviate, the problem of the lack of transparency and accountability in the EU, and this ‘representation without corresponding communication problem’ is the most pressing therapies aiming at a re-parliamentarisation need to focus on.

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