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Research

Research Briefing
European integration

Referees or spectators?

National Parliaments and subsidiarity in the VIIIth European Parliament

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The interest for a higher democratic accountability in the EU is stronger than ever. Simultaneously, the competences of the EU have been widened considerably following the Euro crisis. Today, governments face growing public pressure to enhance accountability of EU policies, or even to repatriate powers to the national level.

At the national level, parliaments use different techniques to scrutinise the EU. These include increasing the number of MPs involved in scrutiny, the role of committees, the use of scrutiny reserves, information rights, and the ability to table plenary debates. On balance, there is no single recipe for effective scrutiny.

At the EU level, parliaments have seen their influence increase steadily. The principle of subsidiarity, introduced in the 1993 Maastricht Treaty, serves as the basis for parliaments' role. Subsidiarity stipulates that Union-level legislation is appropriate only in cases where its aims cannot be achieved at the national or sub-national level. National parliaments are thus increasingly viewed as challenging the position of the European Parliament.

Parliaments have since 2009 enjoyed the right to collectively raise concerns about individual proposals on subsidiarity grounds. Although this procedure has been triggered only twice, the volume of input by national parliaments has increased substantially.

Despite of this progress two key challenges have emerged at Union level. First, the definition of subsidiarity raises a number of legal questions. Second, the possibility has emerged of asymmetric integration between the euro area and the rest of the EU. The uncertainties surrounding these questions represent a significant challenge to the reform of accountability mechanisms.

Policy proposals reveal that there is scope for action. Nevertheless, a number of procedural, institutional, and legal reforms have been proposed to strengthen the role of national parliaments in the nearer future. Within the time frame of the eighth European legislative period (2014-2019), an interinstitutional agreement is a viable option. This could lay down a working definition of subsidiarity, enhance interparliamentary cooperation, and structure the use of 'yellow cards'. In the medium-term, a stronger role for national parliaments would require an outright treaty revision.

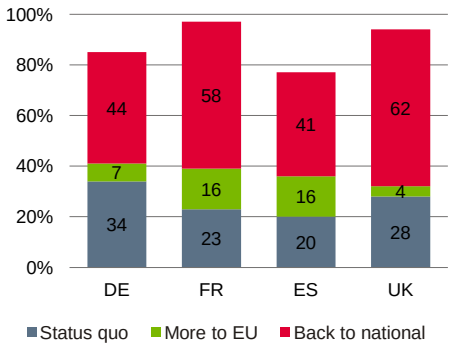
National Parliaments and subsidiarity in the VIII[th] European Parliament

Subsidiarity and Proportionality – two key principles of EU law 1

- Introduced in Article 5 TEU (1993).
- Laid out in the Lisbon Treaty (2009) in Protocol Nr. 2 "on the application of the principles of subsidiarity and proportionality".
- Subsidiarity limits policy-making competence of the EU to those cases, in which policy aims cannot be achieved at a lower (i.e. national or regional) level.
- Proportionality restricts the scope of Union-level policy. Under proportionality, legislative acts of European secondary law must be of a scale that is proportional to the aims of the proposal in question.
- The two principles are closely linked, which is why they are often cited together in political debates.
- Nevertheless, subsidiarity alone serves as the legal basis for national parliamentary scrutiny of EU policy-making.

High Demand for Repatriation 2

How should powers be distributed?



Sources: FAZ, IfD Allensbach

Staff in European Affairs Committees 3

0 - 4	MT, SI1
5 - 9	AT1, AT2, BE1, BE2, CZ, CY, DE1, DK, EE, ES, HR, HU1, HU2, LU, LV, PO, SK, SI2.
10 - 14	BG, GR, IE1, IE2, NL1, NL2, PL1, PL2.
15 - 19	FR1, IT1, IT2, RO2, UK2.
20 - 24	LT, UK1,
25 - 29	FR2, RO1
55 - 59	DE2

For bicameral legislatures:1= upper house, 2= lower house

Source: COSAC

National parliaments of European Union (EU) member states have hitherto been largely absent from fundamental public debates surrounding European integration. Since the Euro crisis, things are different. Intergovernmental rescue mechanisms such as ESM and EFSF required swift parliamentary ratification, bringing parliaments to the forefront of public attention as actors of European politics.

In addition, reforms to EU governance in the wake of the euro crisis and recent successes of populist parties, both at national and European level, have fuelled demands for a greater formal legitimation of EU policy-making. This is reflected in polls that indicate a rising demand for the repatriation of powers to the national level (see figure 2).

In light of this political pressure, the question of national parliaments' role in scrutinising EU policy-making has found its way onto the agendas of several member state governments. National MPs are thereby often said to hold a stronger democratic mandate than MEPs.[1] The principle of subsidiarity is a cornerstone of this debate. As a principle of EU law, it limits EU policy-making to those cases in which policy aims cannot be achieved at a lower level of government (see box 1).

This research briefing takes on the current debate on national parliaments' ability to exercise control over EU policies in line with the principle of subsidiarity. It will address three issues in particular:

- Participation at national level: the first section presents a range of tools parliaments use to influence European policy at national level.
- Participation at EU level: the second section traces the evolution of Union-level capacity for national parliamentary involvement and evaluates the challenges arising from this development.
- Policy proposals in perspective: the third section provides an overview of policy proposals that are being discussed for the current legislature of the European Parliament.

The national level: diverging modes of scrutiny

Since the treaties of Rome (1957), national parliaments have scrutinised their respective governments' European policy. Yet, the way in which parliaments exercise control over policy-making in EU matters differs widely, as parliaments vary substantially in their formal powers, practices, and traditions. The ability to exert influence can therefore be illustrated along five main tools of scrutiny:

- Attracting political interest through 'mainstreaming'. European Affairs are still primarily the purview of European affairs Committees. In most member states their resources remain limited (see box 3). The growing volume of legislation forwarded for scrutiny from Brussels – as well as its increasing technical complexity – represent an additional challenge. Since 2011, Ireland has been a pioneer in widening the participation of MPs in scrutiny of EU affairs. A number of chambers have followed its example, pointing to enhanced visibility of EU affairs in parliamentary business as specific advantage of 'mainstreaming'.

[1] This is due to EP elections' 'second-order' character, typically resulting in lower turnout, disproportionate gains for small parties, and 'punishment' of parties in government (see e.g. Hix and Marsh 2011; Raif and Schmitt 1980).

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— Bundling competences in committees. The division of labour between European affairs committees, sectoral committees, and plenary chambers varies significantly from country to country. Examples of delegation of scrutiny tasks to sectoral committees are both Irish *Houses*, the Italian *Senato*, the Luxembourg *Chambre des Députés*, and others. At the other end of the spectrum, the Polish *Sejm* and Hungarian *Országyülés* rely on a centralised system i.e. scrutiny is pooled in the European affairs committees only. Other countries (e.g. Germany and the UK) have given major responsibilities to their European affairs committees but involve sectoral committees (e.g. budgetary committees) on a case by case basis.

— Political agenda-setting through mandating and scrutiny reserves. The oldest and most prevalent form of scrutiny involves mandating ministers to negotiate in the Council. Thus parliaments can define explicit or implicit boundaries to governments' negotiating positions. These parliamentary scrutiny reserves might delay the vote of the respective national minister in the Council. In some countries even the vote of the permanent representative in COREPER can be delayed, until the parliament has cleared the proposal in question. For instance, Denmark and Finland have particularly stringent systems, requiring ministers to seek an explicit negotiating mandate almost without exception. In the UK, there is no comparable system. Nevertheless, British ministers can be summoned to explain their positions, facing severe political consequences should agreements in Brussels be made without clearance. This is particularly true in light of the prevailing political climate in the UK. French ministers are reported to invoke reserves frequently, though often for strategic purposes i.e. to retain room for manoeuvre during negotiations in Brussels (cf. Auel, Rozenberg and Thomas 2010).

The Negotiating Mandate System in the Danish *Folketing* 4

— Created with Denmark's EEC accession in 1973. First such system in Europe.

— Primary mechanism for scrutiny by the powerful European affairs committee.

— The government is obliged to seek a mandate for ordinary Council meetings on a weekly basis.

— For intergovernmental negotiations a mandate must be sought before a Danish position is established, and if a proposal changes substantially during negotiations.

Source: ft.dk

— Enhancing transparency through information rights. Informal negotiations such as 'trilogues' between the Commission, Parliament, and Council are an important part of the EU policy-making process. For national parliaments, the key to influence in these cases is information. The German *Bundestag*, Italian *Camera dei Deputati*, Swedish *Riksdag*, and Czech *Senát* are examples of chambers with particularly extensive information rights. As the euro crisis has shown, parliamentarians have been tempted to use their information advantage to influence the domestic political agenda. In chambers with few comparable rights (e.g. the Dutch *Twede Kamer* or the UK *House of Commons*) briefings with ministers or the head of government are the only source of information. Accordingly, the parliamentary information advantage depends on the sensitivity of the issue and the political will of the executive.

Information rights of the German *Bundestag* 5

— 1992: Article 23 of the Constitution granted basic information rights, and was followed by the creation of the European affairs committee after the ratification of the Maastricht Treaty in 1993.

— 2006: agreement between the federal government and the *Bundestag* extending access to negotiating documents.

— 2007: permanent office in Brussels opened.

— 2009: following the Lisbon Treaty, the constitutional court ruled in favour of more extensive access to government documents, including classified preliminary summit documents.

— 2012: dedicated research and legal service with a policy of actively reporting and evaluating arising issues.

Sources: Das Parlament, bundestag.de

— Generating public interest by tabling plenary debate. Moving debate on a policy proposal from debate in sectoral or EU committees to the plenary can also increase pressure on negotiating governments. This generates public and media attention as well as potentially altering the focus of debate. For instance, the Portuguese *Assembleia da República* and the German *Bundestag* have so far heavily relied on this method to draw public attention to particular issues. This strategy can be effective for both secondary legislation and more intergovernmental forms of policy. Nevertheless, in the latter case stark asymmetry can be observed between (e.g.) the controversial ratification process of the European Stability Mechanism (ESM) and Stability, Coordination and Growth (SCG) Treaties, and very limited political will to scrutinise foreign policy (cf. Huff 2013).

COSAC 6

— COSAC: "Conference of Community and European Affairs Committees of Parliaments in the European Union".

— Created in 1989 to foster interparliamentary dialogue.

— Meets bi-annually under a rotating presidency to exchange best practices and put forward policy proposals.

— Acts as a collective spokesperson for national parliaments vis-à-vis other EU institutions.

Yellow, orange, and red cards 7

— Protocol 2 TFEU introduced the reasoned opinion procedure, drawing on Article 5.

— Draft legislation is circulated by the Commission to national parliaments, except in areas where the Union has exclusive competence (e.g. customs union, competition and antitrust in the Single European Market, etc.).

— Parliaments are given 8 weeks to issue a 'reasoned opinion', explaining why the proposal violates the subsidiarity principle.

— If one third of parliamentary chambers (unicameral legislatures have two votes) issue a reasoned opinion, they are said to have collectively issued a yellow card. The Commission must initiate review proceedings and may either maintain, amend, or withdraw its proposal.

— If over half of the legislatures issue an opinion, an orange card is issued. The Commission must initiate review and justify its actions if it upholds the proposal. In this case the Council and the EP can jointly block the proposal.

— Protocol 2 also permits national parliaments (via their respective governments) to bring a case to the Court of Justice of the EU, in order to adjudicate a possible breach of subsidiarity *ex post*. This (as yet unprecedented) scenario is often referred to as a red card.

On balance, it is clear that there is no single recipe for effective scrutiny at national level, as parliaments are embedded in different national institutional contexts and traditions. To address these asymmetries, the establishment of COSAC in 1989 (see box 6), created a permanent forum enabling bi-annual exchange of best practice among parliamentarians. At the same time, COSAC has served as an increasingly important entity for the emerging Union-level role of national parliaments.[2]

Parliamentary scrutiny at European level

A second stream of influence over EU policy-making has emerged, complementing the traditional scrutiny of governments. With the progressive widening of the treaties, the powers located at the Union level increased substantially in the first four decades of integration. The 1993 Maastricht Treaty introduced the principles of subsidiarity and proportionality to counterbalance this momentum.

Subsidiarity (proportionality is not a formal basis for parliamentary scrutiny – see box 1) limits the scope of Union-level policy to those cases in which the political, macroeconomic, or other aims cannot be achieved at national, regional, or other levels. In other words, competences are to be allocated to the level at which policy aims can be achieved most effectively. This effectively creates a division of labour between the levels of government.

Though lacking legal substance and enforceable criteria, subsidiarity has triggered significant political debate. By 1994 an interinstitutional agreement required the Commission to justify EU action on these grounds when proposing legislation in grey areas of competence. A decade later, demands arose for a formal mechanism to monitor and enforce compliance with subsidiarity in the course of the debate on a European Constitution. The provisions included in the unsuccessful 2004 Constitutional Treaty were re-packaged into the Lisbon Treaty, introducing the reasoned opinion procedure, also known as the 'yellow card' procedure (see box 7). This procedure allows parliaments to challenge specific legislative proposals made at EU level in advance. Specifically, there are two instruments of parliamentary control:

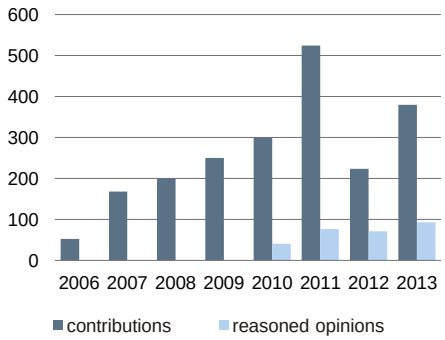
— Contributions. As part of the so-called consultation phase, the Commission distributes its proposals to a string of stakeholders – among them national parliaments. These are invited to formulate 'contributions' i.e. commentaries on individual aspects of the proposal in question.

— Reasoned opinions. These allow parliaments to raise concerns about specific policy proposals on subsidiarity grounds, before the proposal is tabled for a first reading by the European Parliament. Since the Lisbon Treaty, parliaments have thus collectively enjoyed a direct channel of influence over EU policy-making.

National parliaments have therefore increasingly challenged the purview of the European Parliament (EP) in conducting scrutiny. The EP maintains that scrutiny ought to be exercised at the European level, where decisions are taken.[3] National parliaments have criticised this, particularly on grounds of representativeness and electoral connection allegedly being stronger at the national level. In this context, cooperation with the EP remains limited to information-sharing and a string of meetings between speakers, committee chairs, MPs, and MEPs.

[2] COSAC 21st Bi-annual Report (June 2014).
[3] EP Annual Report on Inter-Parliamentary Cooperation 2014.

Pre-legislative opinions 2006-2013 8



Source: European Parliament

The Lisbon Treaty – parliaments as 'guardians of subsidiarity'

At the Union level, the impact of national parliaments in exercising subsidiarity control has undoubtedly been augmented with the creation of formal powers in the Lisbon Treaty. Nevertheless, to date only two yellow cards have been issued, despite a significant increase in the number of opinions submitted to the Commission (see figure 8). Parliaments are still adapting to their new role as 'guardians of subsidiarity' (Korhonen 2011), with the vast majority of opinions still containing pre-legislative input, rather than direct challenges on subsidiarity grounds. Although the first yellow card resulted in the Commission repealing its proposal ('Monti II'),[4] it rejected the alleged breach of subsidiarity. The second yellow card on the so-called 'EPPO Proposal'[5] for a European public prosecutor reflects the sensitivity of harmonising criminal justice in the EU – a key component of national sovereignty. In its response to the card, the Commission nevertheless argued that no breach of subsidiarity had occurred and consequently announced that it would maintain the proposal. In view of this mixed record, the yellow cards can be deemed effective political signals.

Two key challenges

The Lisbon Treaty has strengthened parliaments' capabilities for a more influential role in EU policy-making. This has led to pressures between the Commission, EP, and national parliaments. The resulting instability stems from two key issues.

— The legal question. Scrutiny of EU-level policy-making by national parliaments is based on the principle of subsidiarity. Nevertheless, subsidiarity is closely intertwined with the principle of proportionality in the treaties which requires that legislative acts of European secondary law must be of a scale that is proportional to the aims of the proposal in question (cf. box 1). In practice, this creates uncertainties over the interpretation and implementation of both principles. Indeed, both principles are considered injusticiable, despite being laid down in the Lisbon Treaty.[6] In other words, they are articulated, but not defined, which is why they have hitherto been interpreted primarily as political 'brakes' to breaches of competence at Union level (Kiiver 2012). With regard to parliamentary scrutiny, it is therefore unclear how the principle of subsidiarity could be applied legally. This question is particularly acute with regard to the direct mechanisms of scrutiny introduced in the Lisbon Treaty, which specifically invoke the principle of subsidiarity. In other words, a contradiction has emerged between the increasingly institutionalised mechanisms of parliamentary control on the one hand, and the legal standing of subsidiarity on the other. This could have severe consequences, given the real possibility of a national parliament taking the Commission to the Court of Justice of the EU over a breach of subsidiarity ('red card' – see box 7). No such litigation has yet taken place, but the prospect raises serious questions over the interpretation of subsidiarity in the medium-term.

— Variable geometry. In the wake of the Euro crisis, a series of new governance structures were created between Euro area member states. Among them intergovernmental treaties such as the TSCG, or secondary legislation that primarily concerns Euro area countries (e.g. 'six-pack' and 'two –pack'). This creates diverging speeds of integration, which are

Variable geometry 9

— 'Variable geometry' refers to the complex institutional setup that arises out of differentiated integration.

— The 'concentric circles' comprising different institutions, agreements or semi-institutionalised forms of cooperation include the Common Security and Defence Policy, the Schengen Agreement, and (crucially) the Eurogroup – a permanent Council formation comprising Eurozone finance ministers.

— As the integration of the Eurozone proceeds, non-euro countries (among them the UK, Poland, and Sweden) fear a loss of influence over key economic and financial policies.

— The implications of a 'multi-speed EU' are as yet unclear, with concerns being raised about efficiency and democratic legitimacy.

[4] COM (2012) 131.
[5] COM (2013) 534.
[6] References to subsidiarity in case-law are increasing in number, though the Court's argumentation (e.g. in Case T 526/10 §§79-86) consistently demonstrates that the principle is not justiciable.

reflected in a 'variable geometry' of institutions (see box 9). This represents a challenge for accountability, especially for parliamentary scrutiny. On the one hand, the Council has reiterated the EP's general position that scrutiny ought to be conducted at European level, enabling the EP to represent the interest of the Union as a whole.[7] On the other, several member states (particularly non-Euro states such as the UK) have demanded that scrutiny be conducted primarily at national level, especially in light of differentiated integration, which undermines the effectiveness of standardised parliamentary scrutiny as envisaged in the Lisbon Treaty. In view of these diverging demands, the challenge arises of articulating an effective division of labour between national parliaments of the Euro area, the remaining legislatures, as well as the EP. As yet, it is unclear what a viable solution could look like, or indeed whether tensions between the aforementioned actors might be exploited so as to avoid substantially enhanced scrutiny altogether.

The two challenges outlined above could embroil the EU in interinstitutional conflict in the future, with national parliaments inevitably playing a part. This is particularly the case in light of current debate over potential repatriation of EU powers to the national.

Policy proposals – an overview

In order to meet the challenges outlined above, a number of reform proposals have been put forward. They could be the building blocks of a future inter-institutional agreement (see box 10), which lays out competences of the EU institutions in a contractual manner. Specifically, proposals for reform address procedural, institutional, and legal aspects of national parliamentary scrutiny of EU policy-making.

1. Procedural reforms

Procedural reforms have been put forward with aim of streamlining the current subsidiarity control mechanism in order to facilitate coordination between parliaments.

— Extend the deadline for yellow cards from 8 to 12 weeks. Parliaments repeatedly point to the immense administrative task of effective scrutiny, not least due to translation delays and limited staff.[8] Extension to 12 weeks would substantially lower procedural barriers to effective scrutiny. A period of 12 weeks would also match the standard Commission consultation phase of 3 months and thus hardly slow the policy-making process.

— Introduce standard formulae for opinions and Commission responses. In a recent report the UK *House of Lords* articulated a widespread complaint: 'a reasoned opinion deserves a reasoned response'.[9] Indeed, there are no formal requirements as to the length or level of detail that the Commission – as well as Parliaments – have to fulfil. A standard would provide the Commission with a clearer framework for assessment of 'reasoned opinions' and in turn ensure punctuality and consistency for responses. Creating a standard formula would also remove doubt as to the nature of an opinion i.e. whether it is to be understood as a 'reasoned opinion' or a 'contribution' to political dialogue.

Interinstitutional Agreements (IIAs) 10

— A contractual document between all or a selection of the EU's institutions, typically clarifying the interpretation of procedural rules or establishing codes of conduct for limited policy areas.

— Although without legal basis in the treaties, IIAs are regarded to be more binding than mere political statements or memoranda of understanding, as the respective institutions enter into legal obligations within the powers conferred on them by the treaties. Moreover, they pave the way for according changes of primary law at a later point in time.

— A prominent example is the 1988 *IIA on Budgetary Discipline and Sound Financial Management.* This resolved a long-standing conflict between the EP and Commission over budgetary competences, and provided the basis for later treaty revision.

Sources: European Commission, Lindner 2006

[7] Communication from the Presidency, December 5, 2012.
[8] COSAC op cit.
[9] HL Paper 151 (2014).

— Introduce a 'green card'. This proposal gives parliaments the option to declare their active approval of draft legislation. This is not to be understood as a direct veto, but rather a symbolic complement to the current system of passive consent. Such a measure is likely to be opposed by the Commission and the EP on the grounds of unnecessarily impeding the effectiveness of Union-level legislation.

2. Institutional reforms

Institutional reforms seek to alter the role of national parliaments more profoundly.

— Introduce a 'late card'. This stems from concerns[10] that amendments at a later stage in the ordinary legislative procedure could alter the nature of a proposal in terms of subsidiarity. However, continuing scrutiny beyond the Commission's initial proposal is already a substantial component of national-level mandating of ministers. Similarly, it appears unlikely that a proposal would be amended substantially enough to raise subsidiarity concerns strong enough to trigger a collective late card.

— Enhance the effect of or lower the threshold for yellow cards. Yellow cards are rare, nevertheless prompting proposals for more severe consequences. The British government, for instance, has proposed to give a majority of parliaments the power to block a Commission proposal before it is tabled as draft legislation in the EP and Council.[11] Critics have voiced concerns that this could prove an excessive impediment to effective EU legislation, especially in light of the legal uncertainty surrounding the principle of subsidiarity. Proposals for lower trigger thresholds face similar criticism. It must be added that both yellow cards saw parliaments reach the required majority of one third of chambers without difficulty.[12]

— Create a permanent COSAC presidency. A permanent presidency with a limited representative mandate would replace the current system, whereby the presidency rotates between chambers every six months. The advantage of this proposal is that it would consolidate national parliaments as a collective actor at EU level. This has the potential to facilitate overcoming collective action problems, as well as elevating the bargaining position of national parliaments in future interinstitutional bargaining or treaty conventions. Polls show that the majority of chambers support this initiative.[13]

3. Legal reforms

These reforms could be regarded as most controversial, as clarification or institutionalisation of existing provisions could entail deep substantive changes.

— Formally permit 'reasoned opinions' on the basis of proportionality. In the current system, 'reasoned opinions' can only be counted as 'reasoned' if they specifically draw on the principle of subsidiarity. In practice, subsidiarity is often cited jointly with the principle of proportionality, seeing as the two are closely intertwined (see box 1). It is therefore not always clear, under which principle specific arguments fall. This has led proponents[14] of the proposal to suggest removing uncertainty by including proportionality.

[10] Such concerns have been voiced by (e.g.) the UK House of Lords.
[11] BBC News, May 31, 2013.
[12] The Commission's "Monti II" proposal met with 12 reasoned opinions, while the "EPPO Proposal" triggered 11.
[13] COSAC op cit.
[14] Including among others the French Sénat and Assemblée Nationale, the Swedish Riksdag, and the UK House of Lords.

Nevertheless, in all likelihood, this would only be possible through treaty change, as this would alter the legal basis of parliamentary scrutiny and thus formally change their competence.

— Articulate a legal definition of subsidiarity. As outlined above, subsidiarity is at best vaguely defined. Enforcing a more substantial definition of subsidiarity would, however, require it to be articulated at treaty level. This raises the question of whether treaty change for this is politically feasible – and indeed whether it is desirable. Nonetheless, faced with a growing volume of parliamentary opinions, the Commission is developing a working definition (European Commission 2013). In the short term, 'codes of conduct' or similar interinstitutional agreements could avoid treaty change and establish working definitions to provide transparency – without eliminating the possibility of future treaty change.

— Permit reasoned opinions on the basis of insufficient justification. The Commission too must formally justify its proposals with regard to the principles of subsidiarity and proportionality. In practice, this is limited to a citation of the two principles. Some parliaments have therefore suggested shifting the burden of evidence – so to speak – onto the Commission. This would mean that parliaments could issue a 'reasoned opinion' solely on the grounds that a Commission proposal is insufficiently justified in terms of subsidiarity. This again raises the question of what constitutes 'sufficient' justification. An answer to this question would once more require a more detailed legal definition of subsidiarity. In this light, this proposal appears somewhat incongruously legalistic, given the highly political character of debates on interpretation.

Outlook – an interinstitutional agreement in sight?

The development of viable accountability mechanisms for EU policy-making is a key challenge for the coming five years. Political pressure is high, as demands are being voiced from across the political spectrum, demanding a strengthening of subsidiarity and more influence for national parliaments.[15]

The legal uncertainty surrounding the principle of subsidiarity represents a particularly difficult challenge. Significantly enhanced parliamentary scrutiny of EU policy-making will only be possible if the European treaties are changed. Treaty change has hitherto been a long and complex process. It appears unlikely that heads of state and government would sustain an interest in effecting treaty change for the purpose of national parliamentary scrutiny alone.

Nevertheless, many of the more short- and medium-term proposals presented in this *Research Briefing*, could in fact achieve the aim of enhanced subsidiarity control and accountability without treaty revision. The most viable option within the current legislature of the European Parliament is that of an interinstitutional agreement. Such an agreement could formally lay out a working definition of the principle of subsidiarity, increase the effectiveness of interparliamentary cooperation, and structure the use of yellow cards. While legally binding on the contracting parties, there would be no need for treaty change, permitting a focused negotiation for the medium term, without excluding the possibility of revision in later treaties.

[15] Although strengthening national parliaments' role has become a politically popular proposal, the role of the EP is unlikely to be reduced substantially. Indeed, many reform proposals aimed at achieving greater democratic accountability in the EU, continue to assign the EP a (if not the) primary role.

Whether an interinstitutional agreement is politically viable depends on the will and readiness of political actors at the national and European levels to delegate responsibilities – and indeed to assume them. In view of high political pressure,

there is a prospect of national parliaments seeing their role in scrutinising EU-level policy-making strengthened within the current legislature of the European Parliament.

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