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Can national parliaments benefit from the new opportunity structure? Effectiveness of the EU affairs scrutiny after Lisbon

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Introduction

The Lisbon Treaty has fully established the role of national parliaments in the EU political system. National parliaments obtained a direct access to a large number of EU documents, secured a right to monitor the implementation of policies in the domain of justice and home affairs, received rights to determine the compliance of EU legislative proposals with the principle of subsidiarity and to bring proceedings to the EU Court of Justice (in case the subsidiarity principle is violated). Parliaments also obtained a prerogative to veto the change of decision-making principle in a policy area from unanimity to QMV (the so-called "passerelle clause"). The status of inter-parliamentary cooperation was increased, as the Lisbon Treaty explicitly mentions the COSAC's role in spreading "best practices".

The aim of these provisions isn't merely to make policy-making more effective but also to address concerns about the democratic deficit of the European Union. Yet, there remains a challenge of "interpreting" the Lisbon Treaty provisions. It's unclear which mechanisms/factors contribute to a more effective scrutiny in the post-Lisbon environment.

The first section of the paper presents the theoretical framework, methods and explains the logic behind case selection. Then an overview of the scrutiny of the Green Paper on pensions and the Proposal on directive on the seasonal labour migrants in Sweden, Czech Republic and Romania is provided. It is analyzed which instruments have been involved in the parliamentary evaluation and how the scrutiny system has involved after the Lisbon Treaty. The final section provides a comparative analysis of the instruments used, claiming that involvement of standing committees and inter-party relations play a key role in how effective the scrutiny of EU affairs is. Also, it is argued that despite existing electoral incentives during parliamentary scrutiny no or little connection is made between the EU and domestic politics by political parties. A number of potential explanations (cartelization of political parties, attitude towards the EU) are provided to account for this.

Theoretical framework and concepts

According to Holzhaecker (2008, p.143) **parliamentary scrutiny** can be defined as the "exercise of power by the legislative branch to control, influence or monitor government decision-making". The paper focuses on the concept of influence as, according to Auel and Benz (2005), concentrating on control and monitoring functions of a parliament does not necessarily allow to gauge its real political power as little attention is given to their practical day-to-day working of the parliament.

Ultimately, building on Dahl and Stinebrickner (2002), Mokken and Stokman (1975), **parliamentary influence** is defined as the capacity of the parliament to (partially) determine the policy choices of the executive. A parliament is considered to be influential when the government:

- Accepts substantial² parliamentary amendments pertaining to a certain (draft) law;
- Changes its own logic of argument in the evaluation of a document under scrutiny³.

¹ The paper was presented at the UACES Student forum 13th Annual Research Conference, 18-19 June 2012 and the ECPR Graduate Student Conference, Bremen, 4-6 July 2012

² The extent to which amendments were substantial will be determined via interviews with experts and stakeholders, as well as document analysis

³ This would reflect a potential situation when the government and the parliament support the law for different reasons

Despite this lack of uniform interpretation, the Lisbon Treaty rules provide for a change in the **opportunity structure** of national parliaments. The opportunity structure is defined as various types of channels of access to the public sphere and to the policy-making and implementation processes (Nentwich, 1996). The different elements of the opportunity structure can be related to the various mechanisms/factors that can be used to enhance parliamentary scrutiny (Figure 2):

- Scope of opportunity structure (Legal factor) ó legally possible range of actions/competences, formal provisions dealing with parliamentary control of EU affairs;
- Cost of opportunity structure (Administrative factor) ó resources that have to be used in order to make use of the opportunities, e.g. capacity to acquire expertise and information, sufficient support staff;
- Implementation of the opportunity structure (Institutional practice factor) ó characteristics and interactions of actors involved in the process of the EU affairs scrutiny. On the domestic level, it deals with relations between sectoral committees and the role of opposition. On the EU level, this mechanism implies developing contacts with other national parliaments, EU-level institutions and stakeholders. Drawing on Hirschman (1970), one could claim that national parliaments can "exit" to the EU level, bringing the domestic conflict on EU issues to the "Brussels-level" in case they encounter strong resistance or insufficient cooperation at the national level⁴.

Ultimately, it is considered that the change of opportunity structure through the Lisbon Treaty provisions would lead to the "emancipation" of national parliaments: both weak and strong national assemblies will receive a certain boost of resources and political standing.

The choice of potential instruments of effective scrutiny is based on the existing academic research.

The first largely theoretical considerations about the factors of effective scrutiny can be traced to Maurer and Wessels (2001), as well as Gyri (in O'Brien and Raunio, 2007). The latter consider the scope of information, timing of scrutiny and the impact on the government's room for maneuver to play the key role. Recently several authors, for example Sprungk (2010), Neuhold and de Ruiter (2010), have turned to empirically testing these factors. Using a principal-agent model as theoretical background, Sprungk concludes that systematic involvement of sectoral committees and parliamentary opposition are the key factors influencing scrutiny effectiveness. Neuhold and de Ruiter test several hypotheses on the relationship between the characteristics of a political system (consensus/majoritarian) and the organization of EU affairs debates in bicameral parliaments.

Ultimately, the paper considers access to expertise, party relations and involvement of standing committees to be crucial explanatory elements for the effectiveness of parliamentary scrutiny.

Actor-centered institutionalism (Scharpf 1997) forms the theoretical backdrop of the study. Within the framework of this study the "structure" is represented by parliamentary routines⁵ (at both national and inter-parliamentary levels), new formal provisions of the Lisbon Treaty and the changes of parliamentary rules of procedure. Agency is considered through the prism of various stakeholders (individual MPs, party groups, parliamentary clerks, members of the European Parliament) that interpret and reassess the old routines in the aftermath of the Lisbon Treaty, ultimately creating new structures. Agency can intentionally shape the new structure, which is not just following its pre-set evolutionary development but is responsive to the pressure from the agents. Hence, the influence of structure/structures on the behaviour and

⁴ The term "exit" is used to describe the strategy of national parliaments which develop enhanced contacts with EU-level actors to circumvent the resistance of the national "veto players"

⁵ "Routines" imply both formal and informal practices adopted by the European Affairs Committee and sectoral committees or through inter-parliamentary cooperation (either via COSAC or bilateral cooperation)

decisions of various actors is not automatically pre-determined but has to be interpreted by the actors themselves. The basic assumption of actor-centered institutionalism is that interactions between actors are not determined but influenced and shaped by structures

The article uses Hirschman's (1970) and Dowding's (2000) concepts of *voice*, *exit* and *neglect* to classify the responses of parliaments to the new opportunity structure. *Exit*, *voice* and *loyalty* are considered to as strategies which national parliaments can adopt in the response to the challenge/opportunity that the Lisbon Treaty provides. *Voice* would imply an attempt by the parliament to directly address a policy issue by uploading its views to the executive's position via consensus-orientated negotiations. *Exit* means relegating a debate from a domestic agenda to an EU level if the national political sphere is not conducive to it. The cost of *exit* would be contingent on the policy issues and availability of resources at the national. Some parliaments may however decide to "**neglect**" (Dowding et al., 2000) the Lisbon Treaty provisions, being unable or unwilling to use the opportunities provided by the new institutional set-up.

Methods and case selection

The research is conducted on the basis of a qualitative comparative case study of three member-states (small N) through the process-tracing techniques (George, Benett, 2005; Checkel 2005) and open-ended semi-structured interviews⁶ (Tansy 2007).

The choice of policy issues / documents scrutinized by national parliaments was based on exploratory interviews with parliamentary representatives in Brussels (October-December 2010) and the information from the IPEX database:

1. Green paper towards adequate, sustainable and safe European pension system (COM 2010 0365)⁷
2. Proposal for a directive on the conditions of entry and residence of third country nationals for the purpose of seasonal employment (COM 2010 0379 final)

The two policy issues mentioned above were amongst the priorities of the political dialogue between the European Commission and national parliaments in 2010-2011 (European Commission 2011). Although in general scrutinizing the EU policies brings a member of parliament little electoral value, the issues of pension and migrants are highly salient for the general public. Hence, MPs have the potential to be *rewarded* by the electorate for assessing the policies of the EU in these domains. The selection of the parliaments of Sweden, Czech Republic and Romania was done on the basis of their respective *parliamentary strength*, drawing on the typology of national parliaments (Magone 2011) and the index of parliamentary budget power (Wehner 2006). The Swedish, Czech and Romanian parliaments represent the whole spectrum of *parliamentary strength*, thus allowing to gauge for the impact of the Lisbon Treaty on both strong (Sweden), medium-strong (Czech Republic) and weak (Romania) parliaments.

The following sections will provide an analysis of the development of parliamentary scrutiny of EU affairs in Sweden, Czech Republic and Romania.

The Swedish Riksdag

Swedish pension and labour migration policy

The fundamentals of the pension system are unlikely to be scrapped as all of parties present in the Pension group prefer to stick to consensus politics (Interview E1)⁸ but the system

⁶ Interviews marked A, B, C, E refer to interviews conducted in Sweden during the first half of 2012; interviews marked D & between September and December 2011 (mainly interview with EU level respondents); F, G, H & Romania during the first half of 2012; I, J, K & Czech Republic during the first half of 2012

⁷ In February 2012 the European Commission published a follow-up, a White Paper entitled an *Agenda for adequate, safe and sustainable pensions* COM 2010 55 final. The analysis of the scrutiny of this document is not included in the current paper

⁸ Swedish academic pension expert, 07.03.2012

has been coming under strain, triggering a discussion on the technical issues in 2012. So far it is unclear to what extent pension policy will constitute a major issue in the oncoming 2014 elections (Interview E2)⁹. Although the social-democrats could have the organizational power to adopt a more confrontational attitude on pension reform vis-à-vis governmental parties, after the change of leadership in 2012 the party has returned to the 'consensus mode' of discussing pension reforms. Still, after two consecutive defeats in 2006 and 2010 general elections and diminishing support, the left-wing parties will need an issue that could rally voters. The idea of prime-minister Reinfeldt to potentially raise retirement age to 75 links to the Green Paper's suggestion of connecting retirement age to longevity (IPE. 9.02.2010)¹⁰, yet this offers ample opportunities for left-wing parties to criticize the government and potentially gain votes.

The current Swedish labour migration rules were also implemented in inter-party consensus, yet the Social democratic party and the Left party were strongly in favour of continuing the application of labour market tests (now abolished) and giving more power to trade unions (Interview D4)¹¹. Generally there is an informal rule to avoid mobilizing migration issues in Swedish politics (Interview E3)¹². Yet the proposal for directive may provide a chance to re-introduce the labour market tests, as there are EP amendments supporting such a move. A likely point of contention (for all member-states) is also the interpretation of Article 16 of the proposed regulation that deals with the scope of welfare provisions available to seasonal migrants.

Evaluation of the policy proposals in the Swedish Riksdag

According to the rules of procedure of the Swedish Riksdag, the dossier on the Green paper on pensions was first referred to the Committee on Social Insurance in late July 2010. The report of the Committee was debated in November 2010¹³ with the EAC passing an almost identical resolution the same month¹⁴.

The EAC resolution claims that the Riksdag shares the concerns of the European Commission about the challenges of the pension systems. Nevertheless, all parties within the Riksdag firmly supported the idea the responsibility for social security system lies within the remit of the member-state. The resolution echoes the government's position that 'sharing of best practices' and coordination is possible but pension policy is a sovereign responsibility of the member-states. The resolution contains a special opinion of the Left party (Interview A9)¹⁵. It criticizes the Swedish pension scheme for discriminating against women, inability to cope with social exclusion and dependency on stock market. Yet this special opinion is directed more at the 'domestic stakeholders' and supports the elements of the resolution which argue against further involvement of the European Union in pension policies.

The Proposal for the directive on seasonal labour migrants was also referred to the Committee of Social Insurance with the EAC passing a resolution in September 2010¹⁶. The discussion in the Social Insurance committee was very brief, with the MPs not engaging with the content of the proposal to a great extent, only the issue of the division of competence between the EU and Sweden was addressed (Interview B5, B6)¹⁷. The European Affairs committee supported the opinion of the Committee on Social Insurance. The key aim of the Riksdag's scrutiny of the two proposals was to diminish EU's involvement and minimize the impact on Swedish policies.

⁹ Swedish journalist, national newspaper, 28.02.2012

¹⁰ Do politicians really have the stomach to reform pensions? Retrieve from www.ipe.com on 09.02.2010

¹¹ Member of the Swedish Permanent Representation, 06.10.2011

¹² Academic expert on Swedish domestic politics, 05.03.2012

¹³ Statement 2010/11:SfU5

¹⁴ Statement 2010/11:SfU5

¹⁵ Member of the Riksdag, 14.03.2012

¹⁶ The opinion of the Swedish EAC on the proposal for seasonal labour migrants isn't available at the IPEX webpage; dates of deliberations on this document mentioned on the IPEX webpage don't match any dates available at the Riksdag website

¹⁷ Members of the standing committee, 06.03.2012

The following section looks at the legal, administrative and institutional mechanisms of the EU affairs scrutiny in the Riksdag and argues how they have been used during the evaluation of the Green Paper on pensions and the Proposal for directive on seasonal labour migrants.

Mechanisms of parliamentary influence

The scope of the opportunity structure¹⁸ has widened for the Riksdag, although one can detect a certain path-dependency in its development. In the aftermath of the Lisbon Treaty the Swedish Riksdag had adopted the rules of procedure according to the reports of the Constitutional committee of the parliament (KU 2009/10:2) and the Board of Parliament (SOU 2008/09:RS4). These amendments don't amount to a major overhaul of the scrutiny system as the major changes were conducted already in 2007: sectoral committees were given the crucial role in making subsidiarity checks. The amendments to the Riksdag's rules of procedures have locked-in the 'decentralized' character of the EU affairs scrutiny. A potential major change that could have affected formal scrutiny procedures in the Riksdag was the so-called 'EU-MOT' working group which in 2011 proposed a number of possible scenarios for scrutiny reform, inter alia, abolishing the EAC and devolving mandating rights to standing committees (Interview B2)¹⁸.

The 'cost of the opportunity structure' doesn't seem to be unbearable for Riksdag. Although a number of MP respondents suggested securing more staff but this was not presented as an 'existential challenge' for the scrutiny system. As a staff member of the Riksdag directly dealing with the EU affairs has mentioned, 'more people wouldn't necessarily make things work better'¹⁹. Another cause for the lack of new staff could be the fact that MPs don't consider it necessary to invest many resources in the scrutiny system as they don't get 'voting points' for EU affairs (Interview C1)²⁰. Although the parliament depends on the information provided by the government, from 2006-2007 there have hardly been occasions when acquiring it or its quality was a problem (Interview B4). The crucial role of committee staff in providing expertise is strengthened by the fact that individual MPs have rather limited resources to engage in scrutiny. This is happening with both the opposition left-wing parties (Interview D1)²¹, and also with MPs from the government coalition parties, which often have to employ part-time assistants and secretaries. 'Resources' (money for staff, infrastructure etc) tend to be concentrated at the central party level with individual MPs receiving a lesser share of them: this becomes an issue for small parties, which have fewer possibilities to address EU topics in detail (Interviews A2, A3²²; second interview B4)²³. The 'cost' of opportunity structure is increasingly born at the committee level and not at the level of individual MPs.

The 'implementation of the opportunity structure' depends heavily on inter-party relations and the role of standing committees. Although (at the time of writing) the chair of the European Affairs Committee comes from the governing coalition the composition of the committee may favour the opposition (7 members from the parliamentary majority ó 10 members from the opposition). This advantage is rather hard to exploit given that it demands coordination of action between the Social-Democrats, the Left party, the Greens and the Sweden Democrats (radical right).

The Riksdag committees on many occasions simply formalize what has already been decided on the basis of 'inter party quid pro quo'. Information between committees is exchanged much more through party links than by the means of formal reporting. Currently, there has been more pressure to engage in formal reporting. This isn't only linked to providing the best expertise but also to 'filtering' party conflicts. Involvement of sectoral committee helps detect

¹⁸ Staff member of the Riksdag, 13.03.2012

¹⁹ Interview 13.02.2012, B3, staff member of the Riksdag

²⁰ Party staff member, 13.03.2012

²¹ Assistant of a Swedish MEP, 17.10.2011

²² Members of the Swedish Riksdag (different parties), 29.02.2012

²³ Second interview with B4, 15.03.2012

and resolve tensions between parties at the 'lowest possible level' before they reach the EAC and require involvement of high-profile political mediators (Interview A4)²⁴. Demanding formal reports from other committees is often complicated for the EAC: it can be considered as a break with a tradition of equal standing of all the committees, where the EAC is just 'one amongst the equals'. Party loyalty and internal coordination are high: even the occasional 'grilling' of ministers is considered to be more a preparation for Brussels negotiations than a conscious attempt to put the executive. Arguably, the focus of the scrutiny process is not to influence the government but to prepare a united country position for the Brussels arena and rigorously test it (Interview A6)²⁵.

The Riksdag has not attempted to 'exit' to the EU level. Although there is a lot of communication between the Swedish parliament and the European parliament, as well as visits on both political and administrative level (Interview 16.09.2011)²⁶, it does not seem to lead to more cooperation on legislation and policy-making in general between Swedish MPs and MEPs. The existing contacts run along party lines but the difference in work schedules and a resource gap between national and European parliamentarians hinder them. The Swedish parliament made no attempts to contact the rapporteur (EPP party group) on the Green Paper on pensions (Interview D2)²⁷, as well as shadow rapporteurs from S & D²⁸ and the Greens were not contacted (Information request 14.10.2011²⁹, Information request 23.09.2011)³⁰. Similarly, the proposal for directive on seasonal labour migrants did not provoke the Swedish MPs to contact the EP rapporteurs and shadow rapporteurs. (Information requests and interviews 7.10.2011³¹, 26.09.2011³², 27/29.09.2011³³, 14.10.2011³⁴, 17.10.2011³⁵, 30.09.2011³⁶). No attempts to establish direct contacts between Brussels-based organizations (Interviews 23.09.2011 and 07.10.2011³⁷; Interview 26.09.2011³⁸) or the European Commission's DGs (Interview 06.10.2011³⁹, 12.10.2011⁴⁰). Clearly, neither the parliamentary majority nor the opposition attempted to develop these EU-level ties to influence the legislative process. The Swedish social democratic party (SAP) might in the long run become an exception: since beginning of 2012 it opened a coordination bureau to streamline the work of SAP MPs and MEP. These measures are used to compensate for the weak position of the social democrats in the Riksdag, yet it's unclear to what extent these MEP-MP contacts are used strategically.

Romanian parliament

Romanian pension policy and migration policy

Romania has carried out a pension reform between 2006/2007 ó 2009/2010 within the framework of an inter-party consensus. Yet there have been ideas of bringing funds from second pillar back to the public sector in order to cover up the deficit of the state budget. Sustainability

²⁴ Member of the Riksdag, 12.03.2012

²⁵ Member of Riksdag, 08.03.2012

²⁶ Member of the European Parliament Secretariat General, 23.09.2011

²⁷ Interview D3 the assistant of the MEP rapporteur on the Green Paper on pensions

²⁸ There were contacts between the S&D rapporteur and the Belgian parliament, yet these were based primarily on the former social network of the rapporteur

²⁹ Information request D4, the assistant of the S&D shadow rapporteur 14.10.2011; Information request D5 from the assistant of the Green shadow rapporteur 23.09.2011

³⁰ No responses were received from GUE/NGL, ALDE and ECR shadow rapporteurs

³¹ Interview D6, assistant of ALDE group shadow rapporteur on the seasonal labour migrant directive

³² Information request D7, assistant of the GUE/NGL shadow rapporteur on seasonal labour migration directive

³³ Information request D8, assistant of the Rapporteur on the seasonal labour migrant directive in LIBE committee

³⁴ Interview D9, assistant of the Rapporteur on the seasonal labour migrant directive in the EMPL committee

³⁵ Interview D1

³⁶ Interview D10, shadow rapporteur (Green MEP)

³⁷ Interviews D11, D12, ETUC officials

³⁸ Interview D13, Business Europe representative

³⁹ Interview D14, member of DG Home affairs

⁴⁰ Interviews D15-D17, members of DG EMPL, DG MARKT, DG ECFIN respectively

of the Romanian pension regime is considered to be rather low, with the Green Paper having a potential to incite debate on the layout of occupational pension schemes and portability/transferability of pension rights due to a large Romanian population working abroad.

Third-country seasonal migrants may not be a direct concern for Bucharest as its key interest in this policy field is to secure the conditions of work of Romanian seasonal workers laboring elsewhere in the EU and avoid wage-dumping by third-country nationals. Romanian parties avoid politicizing and raising issues like pensions / labour migration as the key element of competition, as they would be forced to make hard choices about their own programs (Interview F1; Interview F2)⁴¹.

Evaluation of the proposals in the Romanian Senate and the Chamber of Deputies

Before spring 2011 both upper and lower chambers had a Joint European Affairs committee. The Green paper on pensions was discussed somewhat vaguely, no solution was found to provide a formal answer. As the chairman, who could tilt the balance of the discussion one way or another, was not present, no final decision was taken. A background note on the Green Paper was prepared, although it was more of an overview of the Commission's suggestion and less of an evaluation of the policy solutions proposed.

The Joint EAC did not have a formal opinion on the seasonal migrants' proposal for directive, it was not discussed at the plenary as well. The suggestion to deliberate on this came from the Czech Senate, it was not selected as a priority by the Romanian parliament itself. Nevertheless, the concern of the Romanian parliament was how the directive would interact with restrictions on the free access to the labour market of Romanians in some member-states and affect the Romanian seasonal workers elsewhere in the EU.

Mechanisms of parliamentary influence

The scope of the opportunity structure for the Romanian parliament remains very vague as since 2006 Romania could not adopt a legal framework on executive-legislative cooperation in the area of EU affairs. There seems to be no political commitment to finalize the discussion on the legal framework of cooperation.

In the spring of 2011 the Joint European Affairs Committee has been abolished with both houses adopting their own separate procedures. There was some resistance to such a move but it was mainly due to personal vested interests, as prominent figures from the same party (PSD; social-democrats) have both supported and opposed such a move (Interview D19)⁴². The initiative to split the Joint EAC came not so much from the impact of the Lisbon Treaty: the work of the committee was often stalled due to the differences in schedules of both senators and members of the chamber. Another reason for splitting the Joint EAC was political: a newly created party needed positions in the leadership of the parliament and one of the easy ways to do it was the creation of a new European affairs committee in the Senate out of the Joint EAC. Hence, party politics have played a significant role in determining the scope of opportunity structure.

The current draft prepared by the Ministry of EU affairs is unlikely to make the Romanian parliament a strong player. The original version of the document was not very clear on how issues are selected for scrutiny, which legal standing does the opinion of the parliament have etc. (Interview G6)⁴³. Due to procedural complications the original governmental version was accepted without any amendments from the Chamber being taken on board. It remains unclear when and if the Senate can discuss the draft law (Interview H1)⁴⁴.

⁴¹ Academic expert on Romanian domestic politics, 07.04.2012; NGO expert on Romanian domestic and social policy, 13.04.2012

⁴² Staff member of the Romanian Senate, 7.10.2011.

⁴³ Ex-member of the Romanian Chamber of Deputies staff, 14.02.2012

⁴⁴ Member of the Romanian Chamber of Deputies, 02.04.2012

The Romanian parliament seems capable of bearing the cost of the opportunity structure, although arguably to a much lesser extent than the Swedish or Czech parliament. In the long run there could be problems as it is complicated to attract and keep high quality staff (Interview G7)⁴⁵. Recruitment to positions in the parliamentary staff (and to civil service in general) is often conducted informally. There have been divisions amongst the parliamentary staff on the issue of choosing the optimal way to develop a legal scheme of EU scrutiny. The staff of the Joint EAC secretariat was more willing to develop a strict mandating system (emulating the Nordic model) from the very start, what continuously met staunch resistance from the government side. Also the staff of the Joint EAC was basically outfitted with people linked to the social-democratic party: there was a party capture of the secretariat. The staff of the EU department (later became the Community law unit) in the Chamber was more cautious, suggesting a more cooperative approach and fearing that the Romanian parliament would lose the few political resources it has in unequal battles with the government.

According to the expert opinions, administrative and expert support is not the main challenge of the EU affairs scrutiny, what is lacking are the political incentives and the little interest MPs have in EU issues (Interview F8⁴⁶, Interview G2, G3). Tensions between the EAC secretariats and the expert bodies (e.g. between the EAC in the Senate and the directorate of EU affairs) do not seem to deal with policy content but more with status and potential perks (second interview D19)⁴⁷. These tensions are more pronounced in the Senate than in the Chamber. Division of responsibilities and functions is often blurred, leading to turf wars.

The institutional practice of the EU affairs scrutiny is dominated by attempts to define the legal scope of action of the Romanian parliament. Apparently this has been used as a bargaining chip by political parties to gain concessions: the threat of the opposition PSD pushing for a mandating scrutiny was successively bought off by the government which wanted to have a free reign in EU affairs. Party politics dominate EU affairs scrutiny: the quality of the government's memo is always accepted by the parliamentary majority and always criticized by the opposition. Among the MPs the EAC is not very prestigious: it can attract people who want to deal with external affairs but even for them the first choice would be the foreign policy committee (Interview F8)⁴⁸. The work of the Joint EAC was hardly mentioned in the media during the last 5 years: this shows that incentives for the MPs who want to be re-elected are not very high (F8).

Consultations with other standing committees are of limited scope (on both the Chamber of Deputies and the Senate), although the new system of subsidiarity checks envisages that sectoral committees are the first ones to revise a policy proposal, which is then considered by the EAC. Members of the Joint EAC (and currently of the EACs in both chambers) are members of other committees, although the staff lobbied against it, attempting to create a core of EU experts with exclusive membership in the EAC. Although formally this decision was passed, it was ignored by political parties (Interview G1, second interview G6). The idea that Romanian MPs do not have a genuine interest in EU affairs is also shared by the parliamentarians (Interview H1).

Attention to the EU politics in the Romanian parliament does depend a lot on the personalities. For example, the former Speaker of the Senate⁴⁹ was keen on foreign policy and EU affairs, he supported the split of the Joint EAC; due to inter-party conflicts he was ousted and the new speaker focuses much more on domestic issues. This does affect the tempo and style of work in the Senate (second interview D19). Cleavage between the chambers and the government is rare and very unlikely as the same parties have the dominance in both houses.

⁴⁵ Ex-member of the Romanian Chamber of Deputies staff, 17.11.2011

⁴⁶ NGO expert on Romanian domestic politics, 03.04.2012

⁴⁷ It does not seem that these questions arise between the Chamber EAC secretariat and the Community law department

⁴⁸ NGO expert, 11.04.2012

⁴⁹ According to the Romanian Constitution (amendments of 2003), the Senate has a final say in foreign policy and EU issues, having a merely consultative voice in other domains

No attempts to develop ties with the EP rapporteurs / shadow rapporteurs or Brussels-based EU-wide organizations were attempted to influence the policy-process⁵⁰. During the scrutiny process no genuine link was made between the EU proposals and national policies, while the uncertain future of a legal framework of executive-legislative relationship in EU affairs remains a major handicap.

Czech Parliament

Czech pension policy and migration policy

Attempts to introduce reforms of the pension regime were done in 2005-2006 and from 2009, both within the so-called Bezdek expert group. In principle, there was a certain attempt to emulate the Swedish practice of conducting pension reform on the basis of a wide inter-party consensus although this was not very successful. The version of the reform adopted by the government was met with resistance by the social democrats, communists and members of trade unions, although they have not presented clear alternative projects (D20)⁵¹. The Czech pension reform will start to be implemented from 2013. Yet, there is a number of technical problems with the set-up of the new scheme (I6)⁵².

The two major issues which could provide a link between the provisions of the Green Paper and the Czech pension reform are the following. First, stressing the role of additional pension schemes, the Green paper could add to the debates on the supplementary pension schemes and ongoing pension reform. Also, the European Court of Justice ruling on the case C-343/08⁵³ had the potential to be an important topic. The Czech government was fined for not implementing the IORP fully although there are no occupational pension schemes in the Czech Republic. Here one can see a potential contradiction between the Green paper, which clearly states that the design of the pension regime is fully in the hands of national governments, and the actions of the Commission, which takes a member-state to the court for not being compatible with EU legislation on the functioning of pension schemes. This can be an excellent opportunity for the Eurosceptic parties, e.g. the Czech center-right ODS to criticize the EU. Surprisingly, this issue was not raised in the Czech public debate (J2)⁵⁴.

The proposal for the directive on seasonal migrants is relevant not so much due to the numbers of seasonal labour migrants but due to potential discussion over the provisions of the Article 16 of the directive (scope of social rights for migrants) and the suggestion to regularize irregular migrants. At the same time, migration hasn't been much debated among political parties, while successive governments have never had a clear strategy on migration (I1)⁵⁵.

Evaluation of the policy proposals in the Czech the Senate

The Czech Senate has deliberated on the Green Paper on pensions in July-November 2010.

The committee stressed that fundamental principles of social security are to be defined by the member-states, as well as the adequacy of the pension. Although the recommendation of the European Affairs Committee doesn't state explicitly that the Green Paper violates the subsidiarity principle, it stressed the need to adhere to it. The role of the Commission (and implicitly of the EU) in the sphere of pensions should be restricted to information exchange⁵⁶.

⁵⁰ See the footnotes above for the list of interviewees

⁵¹ Member of DG MARKT, 13.09.2011

⁵² Academic expert on pensions, 09.05.2012

⁵³ Deals with ambivalent implementation record of an EU directive on institutions for occupational retirement provisions (IORP directive)

⁵⁴ Former member of staff of the Czech Senate 08.09.2012

⁵⁵ Migration NGO expert, 30.04.2012

⁵⁶ Senate of the Czech Republic. 312th resolution of the Committee on EU affairs. 6.10.2010

The resolution of the Senate⁵⁷ was adopted on the 3rd of November. It is almost identical to the resolution proposed by the Senate's European Affairs Committee⁵⁸.

The Czech Senate European Affairs debated the Proposal for directive on seasonal labour migrants on the 21st of September 2010, the plenary adopting the resolution a day later⁵⁹.

The European Affairs committee suggested that enhanced EU regulation in the domain of labour migration was unnecessary, stating furthermore that the proposal violates the subsidiarity principle. Hence, the committee delivers a reasoned opinion on the subsidiarity breach in compliance with the Protocol 2 of the Lisbon Treaty. The concern of the Czech senators is the fact that the proposal doesn't hold any effective mechanism that would stop third country national applying to other member-states in case they fail their first residence and work permit applications. No other standing committees were consulted on the seasonal migrants dossier. Contrary to the arguments presented in the proposal for directive, the Czech Senate claims that establishing a common procedure and developing new regulation would increase the administrative cost of setting up a system of processing the applications. The Senate also presents the opinion that the application of article 16 of the Proposal for a directive may lead to higher levels of protection of third-country seasonal migrants than national workers

Evaluation of policy proposals in the Czech Chamber of Deputies

The 'Green paper' was submitted to the Chamber of Deputies of the Czech parliament in July 2010, passing a resolution at the end of November⁶⁰. The document seemed to be less critical towards the Green paper, than the view of the Senate. For example, the ECJ ruling C-343/08 is mentioned but it was just stated that it will create pressure on the Czech pension system, no harsh criticism was given. Both the opinions of the Chamber of Deputies and the Senate dealing with the Green Paper recall the Article 153 of the Lisbon Treaty, that states that the EU can only support and complement the activities of the member-states in the field of social policy. Also, the Chamber (as well as the Senate) fully support the position of the government, that is firmly against increasing EU competencies in the social policies. The Committee in Social policy was consulted but only after the EAC has passed a resolution, having no impact on the scrutiny process (J1).

The Chamber of Deputies received the proposal for directive on 'seasonal migrants' in July 2010, passing a resolution in the beginning of October. It stated that the proposal for directive on 'seasonal workers' is not in compliance with the subsidiarity principle. The Chamber argued that given that the matter can be tackled by national legislation, further EU competences and legal norms in that area are irrelevant⁶¹. The discussion on the document was very quick, the committee was meeting at the very end of the allowed 8-week period (J1)⁶². There is mixed evidence as to the level of the executive's involvement in developing this reasoned opinion. Although the parliamentary experts have started to discuss the issue quite early, the suggestion to adopt a reasoned opinion came from the Ministry of Interior. This could have been easy to communicate as the rapporteur on the seasonal labour migrant's issue and the minister came from the same party (D21)⁶³.

Mechanisms of parliamentary influence

⁵⁷ In the Czech Senate it's the plenary which ultimately is responsible for giving the official opinion on EU issues; in the Chamber the EAC can speak on behalf of the whole lower house

⁵⁸ Senate of the Czech Republic. 590th resolution of the Senate. 3.11.2010

⁵⁹ Senate of the Czech Republic, 307th Resolution of the Committee on EU affairs. 21.09.2010

⁶⁰ Chamber of Deputies, parliament of the Czech Republic. 35th Resolution. Committee of the European Affairs. 25.11.2010

⁶¹ Chamber of Deputies of the Czech Parliament. 20th Resolution of the Committee for European Affairs. 7.10.2010

⁶² Staff member of the Czech Chamber of Deputies, 02.05.2012

⁶³ Staff member of the Czech Chamber of Deputies, 13.10.2011

The scope of opportunity structure has increased for the Czech Parliament. The rules of procedure in both chambers were adapted to incorporate the Lisbon Treaty provisions⁶⁴. In addition, during the ratification of the Lisbon Treaty a certain bargain was struck between the government and a group of ODS party members. In return for supporting ratification, an imperative ex-ante mandate for the Czech government in a limited number of areas was introduced, for example when a passerelle clause is applied or a revision of a Treaty provision without an IGC being conducted. This mandating procedure is valid for both chambers⁶⁵. The mandate can be applied only where a policy issue touched upon isn't crucial for the functioning of Internal market: if crucial ó no mandate is give. This triggers a constant debate between the executive and the legislative on what are the essential elements of the internal market.

Both chambers don't seem to experience major problems with the administrative and expert support of the scrutiny process (I5)⁶⁶, so the cost of the opportunity structure is so far manageable for the parliament. According to respondents in both the Chamber and the Senate (I4)⁶⁷, their work hasn't qualitatively changed after the Lisbon Treaty. Due to budgetary constraints, no new staff was hired either in the European Unit of the Senate's Chancellery or the EU department of the Parliamentary Institute (PI), bodies responsible for providing expertise for the upper and lower houses respectively. In both chambers the EAC secretariats are dealing with more managerial issues (booking flights, organizing meetings etc.), while the EU department at PI and EU unit are geared towards expert evaluations. Although appointments seem to be transparent, there have started to appear cases when the MPs tried to promote their own people into cadre of the Senate's staff dealing with the EU

Acquiring information doesn't seem to be a major problem: the staff enjoys direct access to the governmental EU Extranet database as well as make good use of social networks in the executive structures. A problem in the Senate administration could be that EU law is covered by the EU unit while the upcoming national laws by the Legislative unit: interaction isn't always good, so a chance is lost to make MPs aware of the relevance of EU proposals and their impact on the national policy domain.

Although some key personnel have left parliamentary expert structures for the government or the private sector, for the past 2-3 years the staff has been more or less stable. Special focus is put on the links with academia: it's both a way of securing information channels and an additional mechanism for carrier development and financial support⁶⁸.

As scrutiny is conducted separately in both chambers, the European Unit and the EU department in the PI don't necessarily cooperate a lot. External expertise is almost never hired directly due to budgetary constraints (even in 2006-2010) and can come mainly in the form of stakeholder opinion: this is valid for both the EU unit and the PI (J10)⁶⁹. Although the expertise provided is of a very good quality, on a number of occasions it has limited impact on the parliamentary debate proper due to disinterest of the MPs. The basis of assessment is still the government's memo, the quality of which has been increasingly rising since the Czech membership in the EU.

The Senate staff is experiencing increased political pressure to take sides when drawing up reports and resolutions, although so far it seems to have been able to resist the pressure; the PI and the Chamber of Deputies EAC staff don't seem to experience this problem to the same extent. For example, in the Senate inter-party rivalry doesn't always allow to upload technical expertise of parliamentary staff into the scrutiny process: this does create a sense of frustration in

⁶⁴ Act of 6 May 2009 162/2009 í amending the Rules of procedure of the Chamber of Deputies and Act N 107/1999, on the Standing rules of the Senate, as amended

⁶⁵ Although the Czech system of EU affairs scrutiny is still by and large document based

⁶⁶ NGO expert on Czech domestic politics, 10.05.2012

⁶⁷ Staff member of the Senate, 27.04.2012

⁶⁸ Yet, some experts (J7; 10.05.2012) claim that the absence of the civil society code is another problem. The expert stressed that there is no systematic work of getting good staff

⁶⁹ Staff member of the Chamber of Deputies, 11.05.2012

all chambers (J6⁷⁰, J3⁷¹, J4⁷²). There were occasions when the members of the Czech Social-democratic party, who have a majority in the Senate were *compensating* for their weak position in the Chamber of Deputies by taking items proposed by the parliamentary majority off the agenda. Politicization and inter-party rivalry actually harms the content of the discussion, diminishing the added value of good administrative support (second interview J2)⁷³. Party rivalry also leads to occasions that there can exist two versions of the reasoned opinion on the same issue (J7).

In any case the MPs have a *carte-blanc* in terms of (not) taking on board the suggestions of parliamentary experts.

The *institutional practice* in the post-Lisbon environment shows the crucial role of party politics. For example, the plenary in both houses of the Czech Parliament have become more involved. In the Chamber the position of the EAC is always reaffirmed due to the similar majorities in the committee and in the plenary (ODS). In the Senate the plenary acts as a vehicle to keep the decisions of the EAC (lead by an ODS senator) in line with the CSSD majority. *Anything too critical of towards the EU will not be accepted by the parliamentary majority* (Interview J5)⁷⁴. Tensions between the committee and the plenary have intensified due to different party compositions (I4). The upper chamber has been *captured* by the opposition but apparently it has not contributed to better scrutiny: what matters more is political pressure on the government and not the expertise. Items were being taken off the Senate's agenda by the upper house leadership to *flex muscle* and demonstrate power to the government (J7).

It has never come to a cleavage between the government and the parliament (both chambers simultaneously) on EU issues. For the practitioners such a scenario seems very improbable, as EU affairs are being discussed within the parliamentary majority *vs* opposition axis.

Party politics can also *backfire* in the EU affairs scrutiny system. For example, the Chamber of Deputies' European Affairs Committee was devoid of leadership for 1,5 years (2008-2009) as the suggested member of the Green Party could not rely on sufficient parliamentary support and was appointed into office only from the third attempt. (first interview D21)⁷⁵. The member of the Green party initially earmarked for the position of the committee chair moved into the government. The Green party found it hard to select another candidate, while other parties were not willing to take up the chairmanship as it would have led to a renegotiation of a coalition agreement and the loss of more important committees. At the end the Green party member who took up the post was not able to really develop a working relationship with the rest of the Chamber EAC. Unwillingness to involve standing committees may also come out of complications with an 8 week deadline for conducting subsidiarity checks.

The Czech Senate (and the Chamber as well) has problems in acquiring the opinions of other sectoral committees, whose level of response leaves much to be desired (Suchman, 2010). Involvement of sectoral committees has for the time being not helped much in spreading the knowledge of the EU topics. Sectoral committees were either not involved (Senate; Chamber of Deputies on seasonal migrants) or participated after a resolution by a European Affairs Committee was already passed. Arguably, the problem of lacking communication between the EAC and standing committees is more apparent to the staff members: MPs can in principle overcome this by just going to other committee meeting (K3)⁷⁶ but amongst the staff this can provoke turf wars.

⁷⁰ Staff member of the Czech Chamber of Deputies, 09.05.2012

⁷¹ Ex-member of staff of the Czech Senate, 30.04.2012

⁷² Member of staff of the Czech Senate, 27.04.2012

⁷³ Conducted 22.09.2011

⁷⁴ Member of the staff of the Czech Senate, 07.05.2012

⁷⁵ Staff member of the Czech Chamber of Deputies, 02.12.2010

⁷⁶ Member of the Chamber Deputies, 05.05.2012

Arguably, few make a direct connection between the EU and domestic policy process. For example, the Chamber's rapporteur on the Green Paper on pensions was coming from the opposition party (Communists of Moravia and Bohemia), yet the criticism was directed towards the EU's attempt to acquire more competence in social policy and not the Bezdek pension reform, of which the communists are critical. The European affairs committee is in a sense the last choice by MPs, few parliamentarians except for committee chairs having a comprehensive knowledge of EU issues (I5, J1, J7⁷⁷, K2⁷⁸).

The attempts to 'exit' to the EU level were mainly taken up by the Senate. Yet, they seem to have been driven primarily by party interests. For example the CSSD complained several times to the European Commission that the government hasn't properly discussed national convergence reports (D22)⁷⁹. The representatives of the Czech Parliament in Brussels were not asked for extra information on the Green Paper after the Commission presented the documents to the national parliaments' staff in May 2010 (D23)⁸⁰. Also, during the EP hearing on the seasonal labour migrants directive in November 2010 no contacts were made between the Czech senator present and the European Parliament rapporteur on that issue (K1)⁸¹. Brussels-based organizations like ETUC or Business Europe were also not consulted; offices of Czech stakeholders in Brussels, for example the Czech confederation of industry were not consulted as well (first interview J2). No contacts were made with the EP party group rapporteurs⁸². Czech MEPs were also not contacted directly (Response to electronic questionnaire)⁸³.

In the aftermath of the Lisbon a practice of bi-annual meetings between Czech MEPs and MPs was set-up, yet the interest to these meetings remains somewhat limited. The event is used more for information sharing and networking, not for lobbying or coordination of policy activities (K1, J7).

Conclusions

Comparing the effectiveness of mechanisms of parliamentary influence

The paper argues that 'scope of the opportunity structure' has widened for all of the parliaments. Arguably after the Lisbon Treaty one can see a certain 'lock-in' of traditions of parliamentary scrutiny. Sweden continues the decentralization of its EU affairs scrutiny system, increasingly relying on standing committees and even potentially delegating to them mandating rights. The Czech parliament relies on a document-based scrutiny system. Yet, both chambers are willing to strictly apply the new mandating rules wherever possible, as the 'future role of the European Affairs Committee depends on this' (J6). Romania can potentially provide for a breakthrough in its scrutiny system, yet the chances of establishing it in the near future slim. In pure procedural terms, Sweden arguably is the most effective system as it engages not only the EAC but spreads the expertise of the EU throughout the whole parliament on a regular basis..

In principle, all parliaments have found ways to adapt to the 'cost of opportunity structure'. The workload has clearly increased, yet the parliaments seem to be able to process the information flow due to increasingly close cooperation between the EAC staff and the secretariats of standing committees (Swedish Riksdag), using the social networks cross-cutting the executive and legislative branches of power (Czech Chamber of Deputies) or the experience of staff members with 'institutional memory' (Romanian Parliament). For Romania the 'cost of opportunity structure' seems to be the highest, as there is a number of long-term problems with working routines and 'brain drain' of staff. The main challenge for the parliamentary staff seems

⁷⁷ Former member of the Czech Senate's staff, 25.04.2012

⁷⁸ Former member of the Chamber of Deputies, 24.04.2012

⁷⁹ Official from the Czech Permanent Representation, 19.10.2011

⁸⁰ Member of DG EMPL, 12.10.2011

⁸¹ Member of the Czech Senate, 26.04.2012

⁸² See the list of interviews in the section on the Swedish parliament.

⁸³ Response to electronic questionnaire by a Czech MEP. 10.10.2011

to be uploading their expertise to parliamentary debates and/or resisting political pressure to come-up with evaluations favouring the position of one or the other political party from the very start. Both Romanian (second interview G7) and Czech (J7) respondents, who used to deal with EU affairs, told of a sense of frustration that their work was not much needed and that they had to invent tasks for their staff.

What really seems to make a difference for the day-to-day functioning of parliamentary scrutiny in the post-Lisbon environment is inter-party dynamic. Ultimately, the political parties have the final word on the way the Lisbon Treaty provisions on national parliaments are implemented.

In none of the cases assessed have the EU affairs triggered a clear executive-legislative cleavage. This is valid not only for the evaluation of the two EU policy documents but also for the general climate of assessing European Union affairs which are still predominantly considered as the domain of the executive. As has been shown above, political parties can effectively undermine the establishment of legal rules (case of Romania) or be unwilling to use parliamentary expertise in political debates, concentrating on purely ideological fights (Czech parliament).

The involvement of sectoral committees does make a difference for the assessment of EU affairs. This is exactly the mechanism that forces the MPs to make a connection between the EU and the domestic policy arena. Yet again, committee input heavily relies on inter-party dynamic. In the Swedish case increased involvement of standing committees is used to resolve any potential controversies between the parties at the earliest possible stage. At the same time party discipline is high, loyalty is arguably the key term to describe the relations between the members of the governing coalition and the parliamentary majority. Given that the governing center-right coalition goes to great length to coordinate amongst its members, a joint uprising of the majority and opposition against the government is very unlikely. In the case of the Czech Chamber of Deputies the EAC can send its opinions on EU documents after it already conducted scrutiny, for information reasons only. The Czech Senate's EAC also faces a problem of integrating other committees in the working process. Yet, party politics take precedence again as the outcome of committee deliberations will be rigorously checked for compliance with the views of the Senate's majority. The same pattern is discernible in Romania: very slow involvement of standing committees and dominance of the parliamentary majority in the EACs.

So far contacts with EU level institutions or actors, as well as the dialogue between national parliamentarians and MEPs has not been the key mechanism of enhancing the quality of parliamentary scrutiny. The parliaments of Sweden, Czech Republic and Romania did not seek contacts with rapporteurs/shadow rapporteurs or EU-level NGOs. The active Czech Senate is an outlier in this situation, as it did directly complain to the European Commission about the conduct of the government and addressed the Romanian European Affairs Committee. Yet, these actions primarily depend on the party constellations. Further contacts can develop between opposition parties in national parliaments and their respective ideological family in the EP (for example, Swedish Social-Democrats) but it is by no means clear if and when such practice can take off the ground.

Party capture of a committee or a parliamentary chamber is not conducive to better scrutiny as the examples from Romania (Joint EAC) and Czech Republic (Senate plenary) show. EU affairs become instrumentalised: parliamentary pressure is discarded the very moment concessions are made by the government, hindering the development of a genuine EU affairs scrutiny system.

In none of the cases does involvement of sectoral committees translate into a better link between the EU and domestic policies. In line with the conclusions of Batory's study (2009), one could argue that soft Eurosceptic rhetoric or Eurphilia say little or nothing about a party's willingness or ability to make use of opportunities offered by the EU level of the political game. This takes place in both strong and weak systems of parliamentary scrutiny of EU affairs. The EU proposals mentioned above fit the left-right divide (affect socio-economic

rights), hence, according to Green Pedersen (2012), the necessary conditions for politicizing EU topics are created, although this opportunity is not addressed by political parties. The resolutions passed on the Green Paper/Proposal for directive on seasonal migrants have primarily addressed the division of competences between the EU level and national level but not the domestic policies as such. This is happening exactly at the time of pension and labour migration reform are conducted or re-assessed in Sweden, Czech Republic and Romania. National parliaments do adapt their rules of procedures, create different new legal frameworks to internalize the 'Lisbon acquis'. Yet, these provisions are not used to have an impact on the legislative process and on the domestic policy domains. The Lisbon Treaty does provide for a new 'opportunity structure' but political parties do not perceive it as an additional instrument to achieve their policy goals.

Speaking of the overall strategies of national parliaments towards the Lisbon Treaty provisions, it's possible to say that the 'exit strategy' has not been widely used. Although the contacts with MEPs and COSAC members have arguably developed in both quality and quantity, these links don't always constitute a conscious attempt to influence the policy-making process. 'Voice' is still arguably the most widely used strategy but the ability to promote parliament's interests comes back to the model or majority-opposition relations and the involvement of standing committees in the scrutiny process. 'Neglect' can also be considered as a strategy (unconsciously) adopted by some parliaments, when internal divisions forestall any effective use of the Lisbon Treaty's provisions. Looking back at the 3 countries analyzed we can say attempts to 'exit' are mainly driven by opposition parties, e.g. Swedish and Czech Social Democrats. 'Voice' is still the main instrument of influencing the scrutiny process. The Romanian parliament's strategy can arguably be considered as 'neglect': sharp inter-party rivalry and the lack of a legislative framework for executive-legislative cooperation diminish the salience of the Lisbon Treaty.

The following section provides potential explanation why political parties don't make a connection between the EU issues and domestic politics.

Potential explanations of the political parties' disinterest in the Lisbon Treaty rules

The first explanation would deal with the impact of Europeanization on national political parties. Most of the academic literature (Mair 2008, Ladrech 2010) claims that European integration has not profoundly affected national political parties. Although 'Europe' has found a way into the rhetoric of political parties, it has not profoundly affected their internal structure or the modes of political competition (Poguntke 2007, Ladrech 2007, Raunio 2002). Yet, in the policy domains (migration, social security) the national states have resisted further EU involvement or have actively tried to keep the spread of EU competences within certain boundaries. Hence, reference to the EU could support party competition on the issues of social security and migration, as they address the core elements of national sovereignty and topics, which are crucial for domestic policies.

Another explanation of the lacking party interest could deal with the development of cartel parties. The cartel party thesis, proposed by Katz and Mair (2009, 1995), argues that: modern party systems become increasingly reliant on state financing, limit political competition, depoliticize a number of societal issues and are unwilling to raise new sensitive topics. The cartel party thesis has received critique due to problems with operationalization and insufficient empirical support (Koole 1996, Detterbeck 2005, Kitschelt 2000, Loxbo 2011), yet its focus on depoliticization of a large number of issues seems justified. Presumably, political parties would be hesitant to connect the EU and the domestic policy debate as they would need to deviate from the established channels of competition and unwillingly 'break the cartel'.

The following section of the paper will address the cartel tendencies in Sweden, Czech Republic and Romania, as well as the potential party division on 'Europe'.

Hlousek and Pseja (2009) confirm cartelization of the Czech party system, although the outcome of the 2010 general elections clearly mean a restructuring of a cartel with two new parties entering the parliament and the key players like ODS and CSSD receiving less than 50%

of votes (Haughton et al., 2011). 'Europe' is contested amongst the Czech political parties, providing a source of internal division in the center-right Civic Democratic Party (ODS). The position of the ODS is somewhat endangered by TOP-09, another center-right party with a Europhile rhetoric which can attract a large number of ODS voters. The social-democrats adopted a more EU-positive stance in no small measure to differentiate themselves from the ODS, yet this doesn't provide for a deeper level of analysis of EU issues. Arguably, the Czech parties become more EU-positive while the public debate is still dominated by the 'hawkish' Eurosceptic figures.

There is indirect evidence that Romanian party system is becoming cartelized, as in comparison to the other countries of Central and Eastern Europe new parties find it harder to get into the parliament (van Biezen, Rashkova 2011). Despite acute inter-party rivalry, Romania can still be considered as a case for cartel party thesis as according to Mateescu (2010) high levels of conflict are not incompatible with cartelization. Restrictive electoral laws and 'cartel practices' were enacted in Romania due to high electoral uncertainty and volatility. 'Europe' was an important topic during the pre-accession stage but since then has largely fallen out of the party discourse (F1) and isn't a topic of party competition (F5).

Sweden provides mixed support for the cartelization thesis. For example Blyth and Katz (2005, p.52) argue that Sweden doesn't show a clear-cut example of a fully-fledged cartel as in 1990s the social-democrats and the center-right parties had to give way to the popular demands during Swedish welfare system reform, while substantial numbers of social-democrats' electorate deserted to the Green and Left party. Dependency on public funding is also something of a historical heritage as the practice dates back to 1960s (Vignaux 2008). Nevertheless the practice of 'contract parliamentarism' (Bale, Bergman 2006; Bergman, Bolin 2011) in Sweden can be considered as a proxy for party system cartelization: it implies a written contract that commits parties to collaboration beyond a specific deal or a temporary commitment. Such cooperation took place in both left- and right-wing parties (Christiansen and Damgaard, 2008, p.56-58; Isberg 2011). Concerning the use of 'Europe', Aylott (2002) claims that political leaders have indeed tried to isolate EU issues from intra-party discussion, providing examples from the Swedish social-democratic party (SAP). Except for the Sweden Democrats (anti-EU) and the Liberal party (very pro-EU) the Swedish political parties tend to be moderately EU-positive, yet in principle 'Europe' remains somewhat of a taboo in the Swedish party discourse: it is being addressed but not discussed in great detail (Interview I5/I6)

Arguably, in all the above-mentioned countries there is a tendency to keep the electoral market closed and not to address EU politics in greater substance in the public debates/public competition. The tendency to de-link EU and national politics has been noticed with both Eurosceptic and Europhile parties. For example, the EU critical Czech ODS has not paid attention to the ECJ ruling C-343/2008 directly impinging on the sovereign rights of member-states pertaining to pension reform design. The EU-positive Swedish governing center-right coalition has not used the Green Paper on pensions to provide additional arguments for increasing the retirement age. Unwillingness to address EU affairs and to link them to national policy issues may come not only from unwillingness to 'break the cartel'. Another cause would be the fear of losing credibility. The Czech social-democratic party has strong ties with the S & D group in the European Parliament and critical attitude towards EU issues could tarnish its image. Also, the parties may assume that trying to mobilize the electorate on EU affairs wouldn't be cost effective: there is evidence that amongst the general public EU issues are treated by and large with indifference (Duchesne et al, 2010) and parties would need to invest a lot of resources into 'activating the electorate'. The unwillingness of mainstream political parties to take EU topics into consideration may constitute a major hurdle for the Lisbon Treaty attempts to diminish the democratic deficit and increase the role of national parliaments. Enhancing the power of the national parliaments is still a useful procedural mechanism. Yet the actors, political parties, which are to function within the new structures of participatory democracy, seem unwilling to fully grasp the opportunity. The lack of party incentives hinders effective use of

Lisbon Treaty provisions for parliamentary scrutiny of EU affairs. At the same time if mainstream parliamentary parties fail to address the EU topics, they'd increasingly become used by social movements and non-parliamentary parties, which would play an increasingly important role in forming the public attitude towards the EU.

In case political parties are not willing to invest into parliamentary scrutiny of EU affairs and link EU and domestic policy proposals, expertise on EU may become too much detached from the party competition and the execution of a party's traditional functions. Political parties would refer to the EU in their rhetoric and develop connections with European Party groups but avoid EU topics in domestic political competition. Hence, national parliaments will be present in the decision-making towards the EU, will become part of the system of making EU politics but their involvement would be "shallow". In the EU domain national parliaments would be dealing with "constitutional issues" and not so much with public policies/legislation.

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Figure 1: Transformation of the EU scrutiny systems in the aftermath of the Lisbon Treaty⁸⁴

Countries	Sweden	Czech Republic	Romania
Mechanisms of influence	<p>Major overhaul in 2007 (pre-Lisbon)</p> <p>Lock-in of a decentralized scrutiny system via later amendments</p> <p>Long-term consequences of EU-MOT</p>	<p>New rules of procedure! (adds mandating elements to the otherwise document-based scrutiny system) ó direct effect of the Lisbon Treaty</p>	<p>New institutional structure for the scrutiny of EU affairs with no legal basis</p>
Administrative factor (additional staff and resources, external expertise etc.)	<p>No extra staff</p> <p>Centralization of resources at party level (as opposed to at individual MP level)</p> <p>No acute problems with receiving information</p> <p>Crucial role of committee staff in providing expertise</p>	<p>No extra staff</p> <p>Close links with academia</p> <p>Excellent access to government's information</p> <p>Growing inter-party rivalry creates less demand for expertise</p>	<p>No new staff</p> <p>Problems in keeping experts</p> <p>Tensions between the administrative bodies involved in the scrutiny process</p> <p>óParty captureö of the Joint EAC secretariat</p>
Institutional practice (majority-opposition relations, standing committees' role, contacts at the EU level)	<p>High party loyalty</p> <p>No executive-legislative divide; consensual politics</p> <p>High involvement of standing committees</p> <p>Committees as sifting grounds for potential conflicts</p> <p>No consistent óexitö to the EU level (potentially via the opposition parties, e.g. Social Democrats)</p>	<p>No executive-legislative divide</p> <p>Limited involvement of sectoral committees</p> <p>Increased inter-party rivalry/ work of the EACs sometimes paralyzed</p> <p>óCaptureö of the Senate by the opposition</p> <p>No consistent óexitö to the EU level (apart from the opposition Social Democrats)</p>	<p>Limited involvement of standing committees</p> <p>High political rivalry</p> <p>Opposition chairmanship of the EAC doesn't lead to better scrutiny</p> <p>No attempts to óexitö to the EU level</p>

⁸⁴ This table shows more the tendencies in the aftermath of the Lisbon Treaty than the óbefore and afterö situation. In some cases the distinctions are not so clear-cut as the necessary alterations in the rules of procedure and working practices started before the Lisbon Treaty came into force, yet were clearly done in anticipation.

Figure 2: Opportunity structure and factors of effective parliamentary scrutiny

