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## National Parliamentary Scrutiny over EU Issues

### Comparing the Goals and Methods of Governing and Opposition Parties

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#### ABSTRACT

This article compares national parliamentary scrutiny over European Union matters in two countries with coalition governments, Germany and the Netherlands, based on interviews with members of parliament serving on their European Affairs Committee. While acknowledging that legal powers and institutional structures are important when evaluating parliamentary-government relations, the examination focuses on the goals and methods of party groups when overseeing government. In Germany, the goal of the governing coalition parties is to protect the government, whereas in the Netherlands they scrutinize the government's position in order to be sure the compromise in the cabinet sufficiently protects the party's interests. Although the Dutch governing parties normally support the government, a 'floating coalition' occasionally emerges with ruling parties working with parts of the opposition to amend a proposal toward their own preferences. The study concludes that it is not only the legal powers and institutional structures that determine parliamentary scrutiny in a given member state, but also party interactions.

#### KEY WORDS

- democratic deficit
- European Union
- floating coalition
- national parliaments
- political parties

## Introduction

Commentators have bemoaned for years the democratic deficit that allegedly exists in the European Union (EU). Pointing a finger at the supranational institutions of the EU, critics complain about the excessive number of decisions made by civil servants in Brussels' bureaucratic labyrinth, the lack of accountability of the European Commission to elected officials and the ineffectiveness of the European Parliament in overseeing and legitimizing decisions. Most observers thus agree that the EU and the member states face a democratic deficit, which is eroding the tradition of parliamentary democracy in Europe and undermining the sense of representativeness and legitimacy in the political system.

Yet many of the most important and far-reaching decisions are increasingly made within the intergovernmental institutions of the EU: the European Council and the Council of Ministers. It is in these institutions that the prime ministers (or heads of state) and other cabinet ministers gather to stake out their positions and negotiate with their counterparts from other member states. The process of decision-making in the member states preceding these meetings may be subject to scrutiny by the national parliaments.

National parliaments, and the interaction between governing and opposition political parties within these institutions, are central to the system of democratic representation and legitimacy in the member states. But in research on parliamentary–government relations over EU matters, empirical analysis of the main strategic actors within parliament – the political parties – is often lacking. Political parties are the premier mass–elite linkage institutions in parliamentary democracies, connecting the object of voter choice in periodic elections to the decision-making processes of government and ultimately to public policies.

The emergence of multi-level forms of governance in the EU has influenced the national parliaments of the member states in two fundamental ways. First, increasing proportions of sovereign decision-making in important policy areas are being transferred to the EU level, decreasing the independent decision-making capability of the nation-state. Second, to the extent that the authority that has been transferred to the EU resides in the European Council or the Council of Ministers, there has been a transfer of decision-making authority from the parliamentary level to the member states' executives. The power to reach decisions in policy areas that have traditionally been vested in national parliaments now rests in part either in the supranational decision-making institutions of the EU or in national governments when they vote in the intergovernmental decision-making institutions of the EU.

One of the reasons for national parliamentary scrutiny being so important for increasing the legitimacy and participation in the process of European decision-making is that it is the primary institutional source for receiving input from opposition parties. In the Council of Ministers, only governments – elected from governing parties – are represented and participate in setting European policy. Yet traditional democratic structures normally allow some opportunity for opposition parties to discuss and debate laws and policies set by the government. It is important that the voice of opposition parties is heard at the national level, because their voice is non-existent or weak within the EU institutions themselves.

Involvement by parliament in the decision-making processes of national governments contributes to the democratization of the entire multi-level governance system of the EU. It means that a part of the decision-making process moves from the civil servants in the ministries and closed cabinet meetings to a wider circle of representatives of both governing and opposition party groups. Opening the decision-making process may at a minimum bring involvement of members of parliament (MPs) with a specialized interest in a particular topic, a smattering of interest groups and the stakeholder interested in an issue. But at other times it may bring entire party groups, a wide range of competing interest groups and media attention to carry the debate to the wider public for discussion and consideration. These processes reduce the democratic deficit in the EU and the member states, improve representation and increase a sense of democratic legitimacy among the European electorates in the evolving system of governance.

All of the 15 national parliaments of the member states have now adapted their institutional structure by creating some sort of European Affairs Committee (EAC) to scrutinize their executive. But in order to understand how national parliamentary oversight over EU matters actually functions in the member states, one must move beyond a legal and institutional focus to include an analysis of how governing and opposition parties interact in scrutinizing their government. This article will compare the interaction between parties in the governing coalition, and between the governing and opposition parties, in Germany and the Netherlands when they oversee government decision-making on EU matters.

## Theoretical introduction and methodology

Party groups may use the institutional structures of their parliament to assert constitutional, statutory, or procedural powers to scrutinize their government's decision-making over EU matters (see Holzhacker, 2002). The research

presented here focuses on the strategies, goals and methods that party groups use in their attempt to oversee the government. Although it may be expected that parliamentary oversight will vary depending on the type of government (whether majority, coalition, or minority), in this examination two countries with coalition governments are selected. I employ a 'most similar' case design, because I believe that oversight differs not just as a consequence of this institutional factor.

The idea is to analyse the interactions between governing coalition parties and opposition parties, the *Fraktionen* of the German Bundestag and the *Fracties* of the Dutch Tweede Kamer. Comparisons are drawn between the institutional structure of the European Affairs Committees in the two parliaments, the goals and methods of the governing and opposition parties and the differing coalition dynamics that emerge when scrutinizing the government's EU activities.

The prime source of information for this examination comes from in-depth personal interviews with members of the parliaments (MPs) in Germany and the Netherlands serving on their parliament's EAC in late 1999 and early 2000. Additional interviews were carried out with MPs serving on one of two specialized policy committees, the economic and the environmental committees, which may also deal with EU issues at times. If an MP was unavailable, an interview with a senior policy adviser to the MP or party group was conducted.<sup>1</sup>

### Parliamentary scrutiny: goals and methods

Parliamentary scrutiny is the exercise of power by the legislative branch to control, influence, or monitor government decision-making. These three terms refer to varying degrees of influence that parliament may have over the government. Dahl defines the term 'influence' as 'a relation among actors such that the wants, desires, preferences or intentions of one or more actors affect the actions, or predisposition to act, of one or more other actors' (Dahl, 1989: 32). Dahl further states that this influence may be either 'manifest', in which parliament explicitly acts to achieve a given outcome, or 'implicit', in which parliament is successful in achieving a given outcome without taking any overt action because a government may act in anticipation of reactions from parliament.

Governing party groups are concerned with the stability and maintenance of their government during a parliamentary period and the party's re-election at the end of the period. Opposition party groups also have an incentive to attempt to control and monitor their government's decision-making over important issues. These party groups may be successful at

pushing government policy closer to their own preferences, they may destabilize the government and bring about early elections, or they may make points with the electorate that could be beneficial to the party during the next election. Indeed, a government's perceived degree of accountability rests to a great extent on the ability of competing parties publicly to criticize governmental decisions during a parliamentary term and during the election campaign.

Parliaments and party groups have a variety of ways in which they attempt to control and monitor governmental decision-making on EU issues. Parliamentary scrutiny of government decision-making over EU issues may occur publicly within the formal institutions of parliament, or in a process more likely to be away from the public eye, within the party groups.

Parliaments' formal institutional tools to attempt to control, influence, or monitor the government may be grouped into three main types: (1) committee deliberations, (2) parliamentary questioning, (3) plenum debate. These types of discussions and deliberations usually occur in full view of the public. Party groups often have their own informal rules, procedures and conventions for privately controlling and monitoring the government, away from the public eye. These tools may be grouped into four main types: (1) consultation by individual policy experts in a party group with government ministers or officials, (2) party group committees or working group deliberations (organized by policy area, usually parallel to the formal committee structure), (3) full party group deliberations and (4) going public, raising issues for public discussion. Each of these opportunities for raising and discussing issues, either privately within the parliamentary party group or publicly, must be considered to evaluate the full efforts of a parliament and its party groups to control, influence, or monitor government decision-making over EU matters.

Although party groups are organizations with an internal dynamic between ambitious individual MPs, they are treated as unitary actors for the purposes of this research. The party groups are able to maintain cohesion owing to powerful constraints and incentives on the individual MPs that are necessary for the electoral success of the party and the MPs (see Laver and Schofield, 1990; Cox and McCubbins, 1993; Müller and Strøm, 1999).

Existing research has begun to document the differing responses of national parliaments to the evolving system of European governance (Norton, 1996; Rometsch and Wessels, 1996). Norton (1996: 8) states that, by 1994, national parliaments were faced with three challenges: (1) an increasing amount of law-making occurring at the EU level, (2) an explicit invitation to be more involved in the decision-making processes of the EU found in the declarations appended to the Maastricht Treaty and (3) the creation of two

new pillars of the Community – the common foreign and security policy, and justice and home affairs – in which decision-making was to occur at the inter-governmental level. Norton is concerned with how national parliaments adapted to these challenges posed by the move toward greater integration and hypothesizes that they responded by undertaking institutional change to better control the decision-making processes of their own national government.

The Amsterdam Treaty's (1999) Protocol on the role of national parliaments in the EU seems to have provoked a new round of research interest in this area (Katz and Wessels, 1999; Raunio, 1999; Esaiasson and Heidar, 2000; also see Heidar and Koole, 2000). Maurer and Wessels' (2001) edited volume focuses on the constitutionalization and institutional adaptation of national parliaments across the EU.

### Parliamentary–government relations

The research presented here is less focused on institutional response and adaptation and concentrates instead on the strategies pursued by the party groups in using these new powers and institutions. It is important to place parliamentary scrutiny over EU issues into the broader context of relations between parliament and government. The interactions between MPs and government ministers are commonly analysed under the rubric of 'executive–legislative' relations or 'parliamentary–government relations', a term more appropriate for parliamentary democracies. Traditionally, whereas government and parliament are viewed as two different constitutional bodies (a perspective referred to as 'dualism'), governing party groups and the government have been seen as essentially one entity (a perspective referred to as 'monism'). But increasingly scholars have begun to develop a richer view of the variations in interactions between parliament and government (for example, Polsby, 1975; Steffani, 1981; Davidson and Oleszek, 1985). Indeed, a whole range of interactions between individual MPs and governing and opposition party groups and between parliament and government ministers is possible.

Anthony King has created a typology of executive–legislative relations (King, 1976), which others have also applied to specific countries (Germany – Saalfeld, 1990; Netherlands – Andeweg, 1992; Austria – Müller, 1993). Here, a modification of King's typology proposed by Döring (1995) is presented, setting out three basic types of parliament–government relations: a non-party mode, an inter-party mode and a cross-party mode.

- **Non-party mode:** members of 'the' government interact with members of 'the' parliament. This mode conforms to the two-body image, and

relations between the two are viewed in terms of the fulfilment of their constitutional roles.

- **Inter-party mode:** ministers and MPs from one party interact with ministers and MPs from another party group. Here, parliament is seen as the arena in which the ideological competition between political parties occurs. Within this mode, three sub-modes can be distinguished:
  - (a) *Intra-coalition mode:* in cases of multi-party government, ministers and MPs from one governing party interact with ministers and MPs from another governing party group.
  - (b) *Opposition mode:* ministers and MPs belonging to the governing party groups interact with MPs of opposition parliamentary parties.
  - (c) *'Floating coalition' mode:* MPs belonging to a governing party interact with MPs from one or more opposition party groups in order to influence or amend a government proposal.
- **Cross-party mode:** ministers and MPs interact on the basis of cross-party interests. Here, parliament is seen as a marketplace in which sectoral interests, which supersede party boundaries, are traded.

When engaged in parliamentary scrutiny, the goals of party groups vary by the mode of parliamentary–government relations. There are times when parliamentary–government relations involving parliamentary scrutiny over EU matters may function in a non-party mode. Parliaments act as a whole at times to press their right for timely information concerning decision-making over EU matters.<sup>2</sup> In these cases, parliament acts as an institution in a non-party mode to define and defend what it perceives are its rightful constitutional powers within the democratic system of government in the country.

There may also be examples of parliamentary scrutiny over EU matters taking on the character of the cross-party mode. Here, MPs from various party groups unite to press a government minister to consider sectoral or geographical interests of the MPs. However, although such cross-party activity may be successful at influencing government, it usually occurs through channels other than the exercise of the formal powers of parliament. The formal exercise of parliamentary power across party lines poses a severe threat to the cohesiveness of party groups and to the stability of governments in parliamentary systems.

Most of the interactions between parliament and government occur in the inter-party mode. Inter-party issues are those in which the goals of governing and opposition party groups vis-à-vis the government diverge along party lines. Here, distinctions may be drawn between the various party groups' goals in engaging in parliamentary scrutiny on a given issue, whether to protect and defend the government (intra-coalition mode), oppose the



government (opposition mode), or persuade and bargain with other party groups to modify a government proposal ('floating coalition' mode).

### Scrutiny in the German Bundestag

The EAC of the German Bundestag meets each week when the parliament is in session in closed meetings to discuss the agenda of upcoming meetings of the Council of Ministers. The ministry involved presents the position that the government plans to take on the agenda items. Ministries also report back a few weeks after a Council meeting to discuss the outcome of the negotiations. Normally, a representative of the ministry will appear, but perhaps twice a year the minister will personally appear before the committee. During especially busy times in Brussels, there may be five or six different ministries reporting on upcoming or past meetings of the Council of Ministers. The committee also holds public hearings a few times a year.

The behaviour of the German Bundestag is most often consistent with King's inter-party arena mode. There is strong discipline within the party groups, and the interaction of the party groups is clearly either intra-coalition or between the governing coalition and opposition party groups. The kind of 'floating coalition' behaviour that is sometimes attributed to the Dutch parliament does not occur. Such interaction would be seen as a severe crisis within the governing coalition and could lead to a vote of no confidence and the defeat of the government.

At times when the Bundestag is considering institutional changes to the relationship between parliament and government, a non-party mode of interaction between the party groups emerges. In particular, during the discussions surrounding constitutional revisions after reunification and the Maastricht decision (1992) of the Bundesverfassungsgericht (German Constitutional Court) on the proper role of the Bundestag vis-à-vis the government on EU matters, the Bundestag acted as an institution across party lines to increase its role in the government's decision-making process.

### Governing parties

Before the elections of September 2002, the Social Democratic Party (SPD), a large and broad-based *Volkspartei*, was in coalition for the first time with the much smaller Alliance '90/The Greens (Greens). Although frictions in the coalition emerged publicly during the SPD/Greens' first year in office, they lessened considerably after a period of adjustment. The opposition parties were the Christian Democratic Union (CDU) and its sister party the Christian

Social Union (CSU), the Free Democratic Party (FDP) and the Party of Democratic Socialism (PDS).

Members of the Bundestag reported that the process of parliamentary scrutiny over decision-making on EU issues begins very early for the governing party groups. Contacts in the ministries are often asked about positions being developed by the government. Also, officials within the ministries will often consult with key experts among the MPs of the governing parties in the Bundestag. Members of the Green Party group mentioned the existence of especially good contacts in the ministries headed by Green ministers. Thus, even if parties are in coalition together, a quite different relationship exists between ministers of one party or the other. The Green MPs may have specifically mentioned their good relationship with their ministers in order to confound the impression given by the popular press that the reverse is true and that these exchanges are fraught with conflict.

The monitoring of the government by the governing parties occurs primarily in private within each party group. Although particularly controversial topics or issues that cross the jurisdiction of the committees of the Bundestag might be discussed in a meeting of the entire party group, normally the debates are restricted to the party working groups (*Arbeitsgruppe* or *Arbeitskreis*), which are made up of party members who sit on a given committee. The working groups normally meet the day before the full committee meetings. Although the SPD and Green Party groups usually come together in their separate working group meetings, at times the two *Arbeitskreise* jointly hammer out a compromise prior to a committee meeting. Intractable differences between the two governing party groups would have to be solved in a meeting of the leadership of the party groups, with reference made to the original coalition agreement. This means that the committee structure of the Bundestag, the formal institutional structure of the parliament, is not typically used by the governing party groups to control and monitor the government. Instead, the committee meetings are seen as the opportunity of the opposition party groups to raise issues and attempt to scrutinize the government's EU positions.

The governing parties in Germany have four distinct goals when performing parliamentary scrutiny over EU matters: (1) strengthening the negotiating position of the government, (2) protecting the government from making mistakes, (3) protecting the government from the opposition and (4) making sure the government acts in a timely manner. The following analysis takes a closer look at these ambitions.

First, several respondents confirmed that at times the activity of the governing parties is specifically requested by the government in order to strengthen its negotiating position in the Council of Ministers. For example, a member of the Green Party serving on the EAC said:

The Foreign Ministry occasionally comes to us and says this and that is pending and we would like to discuss these matters with you. Sometimes they come with a request: 'Would it perhaps be possible for the [European Affairs] Committee to pass a resolution?' That would strengthen the government in negotiations.

Additionally, MPs from the governing parties may serve as a source of information for the likely position of other EU countries on pending matters, which aids the development of a negotiating position. MPs can often receive 'unofficial', non-governmental information from contacts in the European Parliament (EP) or in other national parliaments about how another country views a problem and possible solutions. This also allows the governing parties in parliament to know, based on the likely position of other countries, if their suggestions to their government concerning a position to be taken in a meeting of the Council of Ministers are likely to be worthwhile or futile. For example, an MP from the SPD serving on the EAC said:

We pay more attention to our contacts with the EP and have other inputs than the government, so that we can know the position of France or Spain . . . Otherwise, we may reach resolutions in the Bundestag, but what will they achieve if we know in advance that nothing will come of it?

Secondly, the governing parties conduct parliamentary scrutiny in order to protect the government from making embarrassing mistakes. Members serving on the EAC are often quite experienced and consider the interplay between national law and EU directives and regulations. One of the ways they do this is to assess the EU dimension of domestic bills that the government submits. For example, the SPD MP pointed out:

the government may overlook something at the EU level, and as a parliamentarian from the *Fraktion*, especially from the EU working group, we are called upon to say 'There may be a problem here, because it may conflict with EU regulations.' To give a concrete example, when the government was in the midst of discussing the Ecology Tax [*Öko-Steuer*] on energy, it somehow overlooked the fact that it needed the approval of the EU Commission.

The governing parties also make sure that there is coordination between ministries to ensure consistency in the government's position. Again, the SPD MP made it clear:

as the governing *Fraktion* we support the government and we must see to it that the government is consistent, so that the Interior Ministry does not do one thing and the Justice Ministry another. In short, we play a coordinating function.

Thirdly, the governing parties conduct parliamentary oversight to protect the government from the opposition. The SPD MP on the EAC said:

The committee has the same governing majority as in the parliament. That means that the committee majority is always the governing majority and that works as a form of protection [*Schutzmechanismus*] for the government. This means we must somehow watch out that the opposition in parliament does not get something passed in parliament that is against the wishes of the government or would bring it into disrepute.

Lastly, the governing parties have made sure that laws transforming directives into German law are submitted in a timely manner to the Bundestag. A Green MP on the EAC said:

We have in the last few years put pressure on the government, because we became aware that Germany either failed or was late in introducing laws to transpose EU directives. Today that happens much faster and we have fewer complaints about delays in transposing directives.

Which methods do the governing parties use to perform parliamentary scrutiny? They avoid using the formal institutional mechanisms of the EAC, and instead raise important matters with the minister or officials in the ministries directly, and then discuss these questions further in the party working group meetings preceding the formal committee meetings. For example, the Green MP on the EAC said:

As a governing party we naturally do not have such a big interest [in using the committee]. We can clarify things informally because we have contacts in the Foreign Ministry. So I think the committee is primarily an instrument that the opposition can use to control the government. So we attempt, as much as possible, to receive information before the process begins, because we have a natural interest in avoiding any possible conflict between the government and the governing *Fraktion*. There should not be too much public controversy in the government.

The SPD MP also stressed that the coalition parties try to avoid the use of the formal committee and instead use

the internal *Fraktion* work preceding this. Naturally we speak with the different ministries and say 'I can't go along with what you are doing right now, or it puts me under pressure – can't you help us, by doing this or that.' That is normal parliamentary work between the *Fraktion* of a government party and the government.

## Opposition parties

Opposition parties express frustration at their lack of access to timely information concerning decisions to be taken on EU issues. The frustrations of scrutinizing the parliament as an opposition party have struck the CDU/CSU

parties especially hard, because they had been in power for 16 years prior to the 1998 election. A CDU MP serving on the environmental committee, and a specialist on EU affairs, stated:

Everything has totally changed [now that we are in opposition]. Previously there was the chance to be informed very early; for example, during the coalition meetings [*Koalitionsrunde*], every political area had its own coalition meeting. We had this every Tuesday morning, members from the CDU, CSU and FDP and representatives from the government. There, critical points for further negotiation would be discussed.

A CDU policy adviser to the economic committee added:

As opposition we hardly have any possibility to influence. . . . When one is not in government, in Germany one does not have the possibility substantially to influence European policy. We could take our formal rights as *Fraktion* in opposition seriously. That means we could introduce a resolution in committee that a particular issue should be discussed in parliament. If we gain a majority, then the resolution is binding on the government. This would dictate that the negotiating line for the government should be such and such. But the reality is that the majority in parliament votes it down, so as not to bind the government.

The opposition also complained about the quality of information provided to them by the national government. A CSU MP serving on the EAC pointed out:

The national government views the parliament in terms of governing *Fraktion* and opposition . . . . As an opposition MP, when I ask for information about a particular Council, I receive from my government its perspective towards the opposition. The information is totally insufficient to understand the situation fully. Ten years ago, most of the European issues were foreign policy questions, and most of these issues were decided independently of party membership. In other words, there was a national consensus on central foreign policy questions at that time. Back then there was not the idea of opposition or governing MPs. But this has qualitatively changed with the development that internal domestic political regulations and laws are increasingly set by the EU. It is the opposition that normally controls the national government.

Opposition parties try to concentrate their parliamentary scrutiny on issues that will resonate with the public. The CDU economic policy adviser said they have their best chances with 'themes that the public is interested in. These are, for example, European regulation of asylum, agriculture subsidies, or the BSE scandal and thus issues that are already in the public's mind.'

The smallest opposition party in the Bundestag, the PDS, but one with considerable support in the eastern part of the country, presents a more positive picture of the role that an opposition party may play in overseeing

the government. In my interviews, a PDS representative presented two reasons for this: first, the tradition of attempting to find consensus on the most fundamental European questions, and, second, the role that the second parliamentary chamber, the Bundesrat, plays in the German system of government.

### Scrutiny in the Dutch Tweede Kamer

The EAC of the Tweede Kamer in the Netherlands meets as a whole two or three times a month in an open meeting with the prime minister, the minister for foreign affairs, or the state secretary for foreign affairs. In the committee, the agenda of upcoming meetings of the European Council, the General Affairs Council and the Justice and Home Affairs Council are discussed. The other configurations of the Council of Ministers, such as economic affairs, transport, finance, or social affairs, are discussed with the relevant minister in a joint committee format. Meetings are held both before the Council meetings to discuss the agenda and also afterwards to judge the outcome of the negotiations. Formally, these meetings are listed on the parliamentary agenda as a joint meeting of the EAC and a given specialized policy committee (for example, economic, environment, agriculture). Typically, however, the meeting is attended by a single MP – the party spokesperson on the issue area – from each of the major parties. In practical terms the meeting may be considered a form of joint subcommittee between the EAC and the policy committee.

The relationship between the governing and opposition party groups in the Netherlands is quite different from the German case. The governing coalition in existence during this research (and which continued until the 2002 parliamentary elections) consisted of the Labour Party (PvdA), the Liberal Party (VVD) and the Democrats '66 (D66). The parties in opposition were the Christian Democratic Appeal (CDA), a party with a long tradition of being in the government coalition, as well as the Green Left (GL), the Socialist Party (SP) and a grouping of small Christian parties. What is rather unusual for a parliamentary democracy is that different coalitions emerged occasionally (although rarely) to offer resolutions as an attempt to influence government policy.

In terms of the three basic types of parliament–government relations, according to King's typology, the Dutch parliament most often behaves as an inter-party arena. Parliamentary party group discipline is strong, so normally the interaction within the parliament can be analysed in terms of the interaction occurring between the party groups, not among individual MPs.

However, the behaviour of the Dutch party groups is unusual in that some activity is seen outside the traditional sub-modes of inter-party bargaining, the intra-coalition and opposition modes.

A limited amount of activity in the Dutch parliament under study here consists of interactions between different combinations of governing and opposition party groups, which are temporarily able to coalesce in order to pass an amendment to a bill offered by the government or to pass a resolution on a particular issue. This is possible without apparently threatening the stability of the coalition in government. Normally, this does not happen when the coalition parties have already reached agreement and compromise on an issue and this appears in the coalition agreement (*regeerakkoord*) entered into by the parties after the election. But on issues not dealt with in this agreement, including many European issues, some of the governing parties feel free at times to form temporary alliances with opposition parties in order to modify the government's proposal. This has happened during the government in question here over environmental issues, when opposition parties on the left successfully moved government policy closer to their own position. In August 2001, opposition parties on the right successfully influenced the government to move a piece of agricultural legislation closer to their own position. This must be considered a separate mode of inter-party behaviour in King's typology, labelled here a 'floating coalition' mode.

Members reported that the biggest clashes between the party groups in parliament occurred not between the governing party groups and those in opposition, but between the VVD and PvdA. This means that the government might consider proposing a policy based upon support from the ministers representing the different governing party groups, but the policy is at times subsequently influenced by a different coalition of party groups. The Left in the Dutch parliament had exactly half the votes (MPs from the SP, GL, PvdA and D66), so that a coalition of party groups on the Left could at times influence government policy or pass a resolution not supported by the government. This of course created tensions within the governing coalition, because in such cases the PvdA in parliament is supporting an issue that had been agreed to with the VVD by the ministers in government.

Once again, this kind of unfaithfulness would not be tolerated in situations where the coalition agreement between the PvdA, VVD and D66 explicitly mentioned the issue. A breach in the voting behaviour of the party groups on these issues would certainly be grounds for the government to lose the confidence and support of the parliament for its continued existence. But measures seen as not explicitly discussed in the coalition agreement are open to new coalitions temporarily forming to support an amendment or parliamentary resolution. EU issues are often not regulated in the coalition

agreement, because it is difficult to foresee these issues before the agreement is signed at the start of the legislative period.

### Governing parties

The goals of the governing parties in the Netherlands in performing parliamentary scrutiny differ from those in Germany. The Dutch party groups are more interested in protecting their party's interest in the government compromise than in protecting the government as a whole. For example, the governing parties in the Tweede Kamer do not normally attempt to find a common position on issues on the agenda of the Council of Ministers. On issues where there is some political controversy, a party spokesperson for a given issue area may have to reach agreement within their own *fractie*, but this is not normally done with the other parties in the coalition. For example, a VVD MP serving on the economics committee said:

I sometimes discuss issues beforehand in my *fractie* when there is a political problem and I am not sure that my colleagues have the same opinion. We have a political debate until we are able to tell the minister that we have agreed on a liberal opinion. It's possible that a minister expresses the opinion of the government in Brussels and some [governing] political parties do not agree with that. Dualism makes it possible that the VVD [in parliament] may say that we do not agree with the minister of economic affairs, who is a member of the VVD. Most of the time we do agree, but sometimes we do not.

Even though the governing parties feel free to scrutinize ministers from their own party in public, they take special care to ensure that government ministers from other governing parties toe the line. For example, a PvdA MP serving on the EAC said:

It is not our first objective to bring down our own party-member ministers, but that does not mean we wouldn't ever refute him. But the tendency is to be more critical towards the ministers of the other coalition partners than towards our own ministers. This is done to preserve the party interest. . . . the heaviest tensions and contradictions exist between the biggest coalition partners, especially between the PvdA and the VVD. This struggle is partly fought in parliament and partly fought in the government.

If a governing party in the coalition is unhappy with a government compromise, the party may try to find partners in the opposition who support their position in order to change government policy. For example, when asked whether D66 occasionally works with the Green Left or other opposition parties to move a government proposal closer to their own point of view, a D66 MP responded:



Sometimes you choose your allies, of course foremost within the government fractions, depending on the subject – on the left side or you look for the support of the CDA. You always try to influence government policy, which is the role of the parliamentary fraction.

When the plenum openly discusses these matters, there are limits to how far this behaviour is acceptable. The D66 MP said the party feels free to speak in the plenum in a variety of situations:

[To express] a critical judgement of the government's position, including the prime minister's in a [European] Council meeting, to make a judgement on what Europe has achieved, when there is bad publicity about the Commission or Council, when there is a feeling that the Council has missed chances, or has not properly addressed pressing issues – I feel free to address the government; of course I am bound by some coalition discipline, I cannot go too far.

On what kinds of issues does the parliament have the most say? A member of one of the governing parties, a VVD MP serving on the EAC, said:

It depends on the political sensitivity of the subject. Thus, on some issues we hardly care. But if you talk about an IGC [Intergovernmental Conference], about changing institutions in Brussels, or very sensitive political issues like BSE . . . then parliament takes a position which makes the government really aware that they cannot go out to Brussels and negotiate something without listening to parliament.

### Opposition parties

The Dutch opposition parties, like the German ones, express frustration about their lack of information on European matters. A CDA policy adviser on European issues said:

They have much more access to information, far earlier in the process; a lot of times we are completely surprised by what they know. We try to have our ways of knowing things.

Opposition parties attempt to use alternative sources of information regarding EU issues because they cannot depend on the government so much. This information may come from interest groups in Brussels or from members of their party in the European Parliament. A policy adviser to the Green Left party responded that he talks to people from the environmental movement and to the speaker for the Greens in the European Parliament.

The Dutch opposition parties also complain that debate and scrutiny are very splintered and diffuse. With so many points of view, the minister may be required to listen; yet they doubt that this has much impact. The policy adviser to the Green Left pointed out that, at committee meetings,

you can speak for maybe 10 minutes and make two or three points. But then the PvdA has three other points, the CDA has three other points, and the VVD . . . anyway. You end up with 10 priorities from the different factions. When the minister has to answer, he just runs through them in the last 10 minutes of the meeting. There is no time to ask a second question, or to interrupt, or to really have a debate. There are just certain answers, and then the meeting is over.

In order to overcome this problem, the policy adviser's strategy is to build up a coalition:

[I] try to contact my colleagues in the PvdA, for example, then maybe we take the same priorities in meetings. Because at these meetings, on those issues, we do not compete for voters, because they do not see it anyway. We try to work together if possible.

When ministers return from a Council meeting in Brussels, they report back to one of the configurations of the EAC and a policy committee on the course of the negotiations and the final outcome. The CDA policy adviser said:

It will come as no surprise that the opposition does this more often than the *fracties* of the government. We try to be critical and follow developments closely. A lot of the subjects are not just dealt with during one Council meeting. There is a margin of influence which the parliament can have; if the government parties will agree with us, then it will be a reason for the government to change their policy a bit. But we can also go to the extreme, of filing for plenary debate.

When asked about an example of opposition parties being able to influence policy developments in this way, the CDA policy adviser pointed out that his party closely works with others on European social policy and on justice and home affairs: 'we have the opportunity to get our views across in certain policy fields.' There are also examples of this 'floating coalition' behaviour occurring more publicly in the plenum. But how often does it get to the point of successfully passing a resolution in the plenum? The CDA policy adviser said that this occurs only once or twice a year. In his view, it is similarly exceptional that a 'floating coalition' is able to pass a resolution in the plenum.

## Comparison

The German Bundestag and the Dutch Tweede Kamer have both established EACs that draw on the expertise and knowledge of their specialized policy committees. However, the institutional structure of the German EAC ensures a more unified parliamentary voice on European issues because it meets as a single committee. The Dutch EAC, in contrast, meets less often as a whole. The Dutch committee fractures the power of a unified group by often meeting

not as a committee of the whole, but formally in a joint meeting with the relevant policy committee. In practice, this meeting consists not of everyone serving on the two committees but of a representative from each party, who serves on both committees. This means that there are very specialized members of the Dutch parliament, usually one member from each of the larger party groups, who deal with European issues in a specific policy area (for example, economics or agriculture). These people, however, have less opportunity to gain an overview of all the EU issues confronting the government. This diminishes the power of the parliament to present a unified voice on European issues to the government.

In Germany the goal of governing party groups on typical inter-party issues is to engage in parliamentary scrutiny over EU matters in order to protect the government. Their method for pursuing this goal is private oversight of government proposals, by individual party group experts appointed to handle certain issues, by party group committee meetings, or by meetings of the entire *Fraktion*. The SPD, in particular, attempts to conduct its scrutiny of government decision-making over EU issues in the privacy of its working groups or in the full *Fraktion*. The Greens also normally try to live up to this task within their own parliamentary party group or behind closed doors with their coalition partner. Opposition party groups, on the other hand, use the opportunity of the formal committee meetings to scrutinize the government and they go public with their criticisms if they believe they can win public support. Opposition party groups in Germany express frustration about their limited role and lack of timely access to information, but they often have influence because of the strength of their party in the *Länder* governments represented in the Bundesrat.

The Dutch governing parties, in contrast, place more emphasis on protecting their own party's interests within the coalition. With three parties in the government under study here, and with no party being clearly dominant in parliament, each party in the coalition scrutinizes a proposal to see if their own party's interest or viewpoint is being sufficiently protected in the compromise that was reached in the cabinet. Because of the occasional unfaithfulness of the party groups in the governing coalition, a 'floating coalition' can emerge in which opposition party groups may be temporarily successful in attracting support for their point of view from one of the governing party groups. They may then be able to pass an amendment or resolution to push government policy towards the party's preferences. They pursue this goal by publicly or privately persuading other party groups to modify the government's proposal.

In short, the German system of European scrutiny is characterized by greater centralization and channelling of the power emanating from its party

groups, which begins in the parties' working groups. There they reach an internal party position, which is then asserted in a single EAC, with clear roles among loyal coalition partners and opposition. The Dutch system is characterized by a diffusion of scrutiny by sub-parts of the EAC, with decisions taken by appointed party spokespersons by issue area, typically without prior consultation with others in the party. There is occasional disloyalty among governing coalition parties in order to amend a government proposal according to parties' own preferences. Thus, the nature of parliamentary scrutiny over EU issues in a given member state is determined not only by the formal institutional structures and powers, but also by the interaction among parties in the governing coalition and the interaction between governing and opposition parties.

## Conclusion

National parliaments in the member states have responded to an erosion of their power within the emerging system of multi-level governance in the EU by adapting their institutional structures and powers vis-à-vis their governments. Greater involvement of national parliaments in overseeing the decision-making of their governments assists in reducing the democratic deficit in the EU.

The need for parliamentary oversight has created new opportunities for competition and cooperation among governing and opposition parties. Using King's typology of executive–legislative relations, I have examined these reactions in two member states. Although parliamentary party groups may at times interact in a non-party mode to strengthen their institutional power vis-à-vis the government, most evidence conforms to the inter-party mode. This means that party interactions during parliamentary scrutiny over EU matters are increasingly similar to those over domestic political issues. Thus, private discussions within a party group precede a process of intra-coalition bargaining. This is followed by interactions with opposition parties in the formal institutional structures of parliament.

The process of parliamentary scrutiny over EU matters in the member states is no longer exclusively about finding a national consensus, but increasingly mirrors the rough and tumble of real politics. Thus, the strategies – the goals and means – pursued by party groups when scrutinizing the national executive influence EU decision-making in the member states and are a fruitful object of further research.

## Notes

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- 1 Samples from the German and Dutch oral interview questionnaires are available on the *EUP* website. Interviews in Germany were conducted in German, and those in the Netherlands in English. Quotes from the German interviews are translations by the author. Persons interviewed are identified by their party and position, but not by name, in order to preserve confidentiality and encourage franker responses. Eight to ten interviews were conducted in each country.
- 2 For example, after the German reunification the German parliament amended the Basic Law (Articles 23 and 45) in order to give parliament and the *Länder* enumerated powers in the country's decision-making process on EU matters. Because the issues involved were mainly seen as procedural ones, and constitutional revision required a two-thirds vote in the Bundestag, the party groups were forced to work together to increase the power of parliament vis-à-vis the government.

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