

Increasing Inter-Parliamentary Cooperation in the European Union: Current Trends and Challenges

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This article analyses the blossoming of the initiatives for inter-parliamentary cooperation currently observable in the European Union from a democratic legitimacy perspective. It shows that there exists numerous forms and settings for the cooperation among national parliaments (NPs) and with the European Parliament (EP) outside of the best-known and formalized inter-parliamentary conferences (Speakers' Conference, Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC), Common Foreign and Security Policy/Common Security and Defense Policy (CSDP) Conference and Article 13 Conference). There is, indeed, a rapidly growing number of formal and informal forums in which not necessarily all Member States parliaments, or the EP, are invited to participate. It is argued on this basis that while an increased participation of NPs especially to the European integration process can be positive and contribute to bringing 'Brussels' closer to the citizens, this evolution is not free of risk. If the number of inter-parliamentary initiatives continues to grow without order or control, their representativeness, legitimacy and in fine their impact is likely to become insignificant. Therefore, a re-centralization and a strong reinforcement of their visibility and their clarity for the public in general are in order so that the benefits of such an increased parliamentary participation can be preserved.

1 INTRODUCTION: INTERPARLIAMENTARY COOPERATION ON THE RISE SINCE LISBON

Since the entry into force of the Lisbon Treaty in 2009, a definition of democracy in the European Union (EU) is anchored in the European treaties. Article 10-2 Treaty of the European Union (TEU) attributes the task of guaranteeing the democratic legitimacy in the Union to the European Parliament (EP) on the one hand, and to national parliaments (NPs) on the other as it states that 'Citizens are

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directly represented at Union level in the European Parliament. Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens.’ Besides, the new Treaty now foresees that the legislatures from both levels shall cooperate as inter-parliamentary cooperation between NPs and the EP is specifically mentioned and promoted by the Treaties¹: Article 12 TEU now prescribes that ‘National Parliaments contribute actively to the good functioning of the Union: [...] by taking part in the inter-parliamentary cooperation between national Parliaments and with the European Parliament, in accordance with the Protocol on the role of national Parliaments in the European Union.’ This provision is an invitation to cooperation between the national and the European legislatures, as opposed to the competition that existed between both levels of legislatures in the past.² Furthermore, cooperation at a horizontal level between NPs alone does not appear to be encompassed by Article 12 and Protocol no 1, Articles 9 and 10,³ although, as illustrated below, it does happen in practice. This, in fact, puts into question the need for a treaty base in order to develop inter-parliamentary cooperation. In reality, even the oldest forums created with such a purpose, the Speakers’ Conference and COSAC – which is the French acronym of the Conference of Parliamentary Committees for European Affairs of Parliaments of the European Union – were launched in 1963 and 1989 respectively with no treaty base and formalized only in 1997 in the Treaty of Amsterdam for the latter. These two examples of successful cooperation with no treaty base actually speak in favour of inter-parliamentary cooperation being possible solely among NPs even if, formally, the treaties only mention inter-parliamentary cooperation between NPs and the EP.

On the other hand, Article 12 TEU is not the only reference to inter-parliamentary cooperation contained in the European treaties: Articles 9 and 10 of Protocol no 1 also address this issue. Article 9 is more of a declaration of

¹ From 1979, when the EP ceased to be composed of delegated MPs only, some initiatives for inter-parliamentary cooperation had existed. However, the participation of national parliamentarians in the European arena was still qualified as bleak before 2009. Andreas Maurer & Wolfgang Wessels, National parliaments after Amsterdam: from slow adapters to National players? in Andreas Maurer & Wolfgang Wessels (eds) *National Parliaments on Their Ways to Europe: Losers or Latecomers?* 453–454 (Nomos 2001).

² See, for instance, on the initial reluctant attitude shown by the EP and the fact that it still ‘considered itself as the leader of interparliamentary cooperation in Europe’ after the approval of the Single European Act: Pier Giorgio Casanella, Nicola Lupo & Cristina Fasone, *Commentary on the Protocol No 1 Annexed to the Treaty of Lisbon*, in *Commentary to the Treaty of Lisbon 1593* (Hermann-Josef Blanke & Stelio Mangiamelli eds., Springer 2013). On this relationship and how it has evolved also: Karlheinz Neunreither, *The European Parliament and National Parliaments: Conflict or Cooperation?*, 11 J. Legis. Stud. 466–489 (2005).

³ Antonio Esposito, *La cooperazione interparlamentare Principi, strumenti e prospettive*, in *Il sistema parlamentare euro-nazionale* 138 (Andrea Manzella & Nicola Lupo eds., Giuppichelli 2014).

intention – in which the participation of both the EP and NPs is referred to – as it foresees that ‘The European Parliament and national Parliaments shall together determine the organization and promotion of effective and regular inter-parliamentary cooperation within the Union’, whereas Article 10 implicitly refers to COSAC and its activities.

These provisions have formed the basis for the development of numerous initiatives for the reinforcement of inter-parliamentary cooperation. In recent years for instance, two new inter-parliamentary conferences among NPs and the EP emerged in the EU: the Common Foreign and Security Policy (CFSP) Conference and the Article 13 Conference.⁴ Together with COSAC and the EU Speakers’ Conference (EUSC), these represent the four inter-parliamentary conferences currently in existence in the EU. Because COSAC has been long established and is, even now, the most formal and popular forum for inter-parliamentary cooperation,⁵ and because the two newer conferences continue to be the objects of important debate with regard for instance to their rules of procedure, all three have recently been subject to much academic attention.⁶ This is less true of the EUSC however whose role is more to define the main orientations of the efforts for inter-parliamentary cooperation than to permit the establishment of a regular dialogue among MPs at committee level as is the case of the other conferences.⁷

In contrast, other forms of inter-parliamentary cooperation have been developing during the recent decades and, even more so, over the last few years. Outside of these four conferences, there exist, on the one hand, forums of inter-parliamentary cooperation equally formalized but organized on the EP’s initiative alone together with the NP of the Member State holding the rotating EU Council

⁴ Note that a specific basis for the establishment of the Art. 13 Conference is contained in Art. 13 Treaty on Stability, Coordination and Governance (TSCG). Additionally, this Conference is now officially named the ‘Interparliamentary Conference on Stability, Economic Coordination and Governance in the European Union’ but it will be designated here by its shorter nickname of Art. 13 Conference in reference to Art. 13 TSCG.

⁵ For instance, because it is – indirectly – recognized in the Treaties and has its own permanent secretariat. See further on this point the part devoted to COSAC in *Interparliamentary Cooperation in the Composite European Constitution* (Cristina Fasone & Nicola Lupo eds., Hart forthcoming 2016).

⁶ See, among others, on the Art. 13 Conference: Ian Cooper, *Parliamentary Oversight of the EU After the Crisis: On the Creation of the ‘Article 13’ Interparliamentary Conference*, LUISS Working Paper no 21 (2014), Valentin Kreilinger, *La nouvelle conférence interparlementaire pour la gouvernance économique et financière*, Notre Europe Policy Paper (2013) and Nicola Lupo, *La Conferenza interparlamentare sulla governance economica e finanziaria: la deludente attuazione dell’art. 13 del Fiscal Compact*, Quaderni costituzionali 113 (2014); on the CFSP Conference Anna Herranz-Surrallés, *The EU’s Multilevel Parliamentary (Battle)Field: Inter-Parliamentary Cooperation and Conflict in Foreign and Security Policy*, West Eur. Politics 1 (2014) and Jan Wouters & Kolja Raube, *Europe’s Common Security and Defence Policy: The Case for Inter-Parliamentary Scrutiny*, Leuven Centre for Global Governance Studies Working Paper no 90, 1–22 (2012).

⁷ See on this Conference: Cristina Fasone, *Ruling the (Dis-)Order of Interparliamentary Cooperation? The EU Speakers’ Conference in Interparliamentary Cooperation in the Composite European Constitution* (Cristina Fasone & Nicola Lupo eds., Hart, 269–289 2016).

presidency (presidency parliament) – or on the presidency parliament’s one alone – and, on the other, consolidated groups of NPs that commonly cooperate and are, in some cases, also geographically close.⁸ These last initiatives amount a sort of ‘enhanced cooperation’ among NPs.⁹ Additionally, in the last few years, NPs (alone or with the EP) have also sought to cooperate on an ad hoc basis.

In this context, the present article aims at looking at these recent developments from a democratic legitimacy perspective. Indeed, at a time when the EU’s actions and the European integration process itself are each time more contested by the European citizens, this issue appears to be particularly crucial as, *in fine*, the more NPs especially can be involved in the EU decision-making process – understood in a broad sense – the more chances there are that the decisions made will efficiently mirror the citizens’ preferences hence diminishing the gap between them and ‘Brussels’.¹⁰

This article argues that while this increased communication and cooperation between legislatures in a horizontal and a vertical dynamic is surely positive and inevitable in an always more diverse Union, it is not without risks, especially in terms of representativeness and legitimacy and, *in fine*, in terms of impact, if the proliferation of such forums continues without order. It therefore suggests a re-centralization and a reinforcement of the visibility and the clarity for the public in general.

To this end, the present article first recalls which are the existing forums for inter-parliamentary cooperation with a special emphasis on the more informal and less analysed ones (section 2). Second, positive aspects of this cooperation are highlighted (section 3) before the dangers inherent to the current blossoming of initiatives are evidenced (section 4). Last, a proposal as to the way forward is made (concluding remarks).

2 RECENT MULTIPLICATION OF THE EXISTING FORUMS FOR INTER-PARLIAMENTARY COOPERATION

As underlined in the introduction, the number of forums for inter-parliamentary cooperation has been increasing sharply during the last years and, even among the pre-existing forums, some changes in their number and frequency can be observed.

⁸ Despite the importance it may have in practice, this contribution does not encompass the inter-parliamentary cooperation taking place at political parties or at the administrative levels. See, for instance on the EP’s political groups’ incentive to cooperate: Katjana Gattermann, *Opportunities, Strategies and Ideologies: The Incentives of European Parliament Political Groups for Inter-parliamentary Cooperation*, OPAL Online papers 16 (2014).

⁹ Esposito, *supra* n. 3, at 174.

¹⁰ The involvement of NPs especially is particularly important as some claim that they are still the primary organs in charge of guaranteeing democratic legitimacy in the EU. This is for instance the view of the German Federal Constitutional Court. Lisbon Decision, 2 BvE 2/08.

Indeed, after COSAC had been the only inter-parliamentary conference at committee level for more than twenty years, two new conferences were created in 2012 and 2013 (2.1). Additionally, the number of informal forums has literally exploded in the past years (2.3) whereas the meetings organized by the EP alone or with the parliament of the Member State holding the presidency of the Council have evolved towards a diminishment of the meetings organized jointly now supplanted by those that are fruit of the EP's initiative only (2.2).

2.1. CONFERENCES AS FORUMS FOR INTERPARLIAMENTARY COOPERATION

There are four conferences currently existing in the European Union. As mentioned, especially the two most recent ones – the CFSP Conference and the Article 13 Conference – have been the object of intensive scholarly attention lately. For the purpose of this article, it suffices to consider them from the angle of them being the most formalized forums for inter-parliamentary cooperation with treaty base.

This formality is visible in the regular meetings organized in their framework and in the existence of a COSAC secretariat: Their meetings are convened four times per year for the COSAC, twice a year for the CFSP Conference and the Article 13 Conference whereas the Speakers' Conference only meets once a year. This difference is however justified by the fact that the Speakers' Conference's task lies, among others, in 'oversee[ing] the coordination of interparliamentary EU activities' (Articles 2–3 of the Stockholm Guidelines for the Conference of Speakers of EU Parliaments). These meetings at the highest level allow for the definition of the evolution of the inter-parliamentary cooperation but exchanges take place on a more regular basis within the three other conferences. Of these three COSAC is (still) the most formalized one with a permanent secretariat and the possibility, guaranteed in the Treaty, to submit 'any contribution it deems appropriate for the attention of the European Parliament, the Council and the Commission [... although] [c]ontributions from the conference shall not bind national Parliaments and shall not prejudice their positions' (Article 10 Protocol no 1). Additionally, these contributions are adopted by qualified majority when no consensus can be reached. In contrast, the CFSP conference was established on the basis of Article 9 Protocol 1 which states, in more general terms, that 'the European Parliament and national Parliaments shall together determine the organisation and promotion of effective and regular interparliamentary cooperation within the Union' and does not contain any reference to a possibility opened to it to submit contributions. Still, its rules of procedure do establish that 'The Inter-Parliamentary Conference may by consensus adopt non-binding conclusions on

CFSP and CSDP matters related to the agenda of the Inter-Parliamentary Conference,' but nothing further. As regards the Article 13 Conference, the situation is more critical. In spite of this conference having been launched in 2013, it only came to an agreement regarding its rules of procedure after two years of intensive discussions and negotiations. Therefore, up until recently, the only basis for its functioning was the Article 13 of the Treaty on Stability, Coordination and Governance which defines that 'As provided for in Title II of Protocol (No 1) on the role of national Parliaments in the European Union annexed to the European Union Treaties, the European Parliament and the national Parliaments of the Contracting Parties will together determine the organisation and promotion of a conference of representatives of the relevant committees of the European Parliament and representatives of the relevant committees of national Parliaments in order to discuss budgetary policies and other issues covered by this Treaty.' Yet, formal rules of procedure could eventually be adopted in autumn 2015 on the basis of the principles formulated and approved by NPs' Speakers earlier that year. Despite this, no agreement regarding the size of the delegations could be found so that this decision was eventually left to each of the individual parliaments according to the principles the Speakers approved. The CFSP Conference is not fully consolidated either: the working group in charge of reviewing its rules of procedure presented conclusions that were subsequently acknowledged by the Speakers in April 2015. Hence, these modifications were only approved recently. But beyond these issues related to the functioning of this inter-parliamentary conference, its format itself is still a matter for discussion too: The CFSP Conference was actually created in order to fill the vacuum the dissolution of the Western European Union parliamentary assembly in 2011 had left and some were long in favour of the creation of a parliamentary assembly and not of that of an inter-parliamentary conference,¹¹ while others wished for the COSAC model to be adopted, which may be considered to be a middle solution between the assembly and the conference. Therefore, the CFSP Conference can be said to be still in a consolidation phase at present. On the other hand, COSAC is not exempt from any functioning problems either and, in fact, it has been

¹¹ European Parliament, *Report on 'Interparliamentary Relations Between the European Parliament and National Parliaments Under the Treaty of Lisbon' 2009–2014. Annual Report 2013/2014* 10. As Anna Herranz Surrallés puts it, 'The new mechanism, the Interparliamentary Conference on the CFSP, follows the model of the Conference of Parliamentary Committees for Union Affairs (COSAC). This means that NPs have lost a permanent assembly for the exchange of views and dialogue with EU officials, organized into transnational parliamentary groups and specialized committees, and gained a parliamentary conference organized into national delegations, with no specialized secretariat and little interaction with EU decision-makers.' Herranz-Surrallés, *The EU's Multilevel Parliamentary (Battle) Field: Inter-Parliamentary Cooperation and Conflict in Foreign and Security Policy* 959.

suffering from an ‘identity crisis’ almost continuously since its creation, and its future is very regularly the object of debates and reports.¹²

In spite of these numerous and not less important flaws, these forums are the only established ones for the sake of inter-parliamentary cooperation both in a horizontal and in a vertical dynamic. The regularity of their meetings, together with the adoption of resolutions and conclusions, and the production of bi-annual reports in the case of COSAC, do ensure the exchange of information and best practices which can be seen as a first step towards a more democratic Union, less detached from its citizens as the information gained can then be used by NPs to control their executives and more generally contribute to improve their own knowledge in EU affairs. However, these formalized forums do not appear to suffice as there is currently an explosion of the number and type of informal inter-parliamentary meetings and as other forms of cooperation in a vertical dimension only, i.e. between the EP and NPs, exist.

2.2. THE EP AS A (CO-) CONVENER

As mentioned in the introduction, inter-parliamentary cooperation also takes place in a vertical dynamic with the EP in the past two decades. In this framework, committees develop bilateral relationships with the European legislature, either collectively when they are jointly invited to Brussels, or individually when they either attend EP committee sessions or visit the EP.¹³

The EP regularly organizes, at the initiative of one or more of its committees, Interparliamentary committee meetings (ICMs). In contrast, the number of parliamentary and committee meetings set up jointly by the EP and the presidency parliament (Joint parliamentary meetings [JPMs] and Joint committee meetings [JCMs] respectively) has been decreasing. No Joint parliamentary meeting has been organized since 2012, but this might be explained by the fact that ‘they have limited direct impact on the on-going parliamentary activity and are suited for more general discussions’; in fact, they were introduced after the Constitutional Treaty was rejected to ‘invigorate the debate on European integration’.¹⁴

¹² This issue was discussed, among others, during the VII meeting organized in Copenhagen on 3–4 May 1993, the XV meeting organized on 15–16 Oct. 1996 in Dublin or in the 21st bi-annual report adopted in June 2014.

¹³ MEPs also visit national parliaments although, and perhaps regrettably, they usually almost exclusively cooperate with the national parliament of their country of nationality.

¹⁴ European Parliament, *supra* n. 11, at 19–20.

This reduction of the number of meetings organized jointly by the EP and the presidency parliament does not amount necessarily to a reduction of the number of inter-parliamentary meetings in general though since the presidency parliament also organizes meetings alone.

On the contrary, the number of Interparliamentary committee meetings – which are the responsibility of the EP alone – has been growing steadily, which could account for a demand by Members of Parliament (MPs) and Members of the European Parliament (MEPs) of more frequent exchanges among specialists.¹⁵ The EP also seems to be willing to gain input from NPs at the time of elaborating new legislative proposals but differences in the engagement exist among the several parliamentary committees.¹⁶ In 2012, ten meetings were organized¹⁷ whereas they were seventeen in 2013.¹⁸ They are now also planned longer in advance and, hence, advertised with more anticipation. The activities of the presidency parliament too are included in the EP's calendar which could render the participation of MPs especially easier.¹⁹ Still, there appears to be some need for reflection as to their format and purpose²⁰ and it will be necessary to observe how this tendency evolves, particularly during the current legislature (2014–2019). In any event, as remarked by K. Neunreither, these forums offer far more possibilities than COSAC meetings organized only twice a year with the limited participation of six MPs per Member State,²¹ although the fact that they take place with a different purpose in the case of the always more frequent and numerous meetings organized by the EP alone should not be overseen. Indeed, while when a NP and the EP set up a meeting together, they do so being on an equal footing and with the aim of exchanging, when the EP is the only convener it is in a position of dominance in the sense that it will receive input from NPs which it can then decide to take on board – or not – and it can choose to refer to the NPs' opinions in the final document it adopts – or not – without any constraints. This difference in the spirit and aim of the exchanges among national and European legislatures in the framework of the ICMs and in that of the JPMs or the JCMs may also account for the important decrease in the frequency of JPMs and JCMs for whose success the presidency parliament and the EP need to cooperate and agree necessarily.

¹⁵ Claudia Heffler & Katjana Gattermann, *Interparliamentary Cooperation in the European Union: Patterns, Problems and Potential*, in *Palgrave Handbook of National Parliaments and the European Union* 98 (Claudia Heffler et al., eds., Palgrave Macmillan 2015).

¹⁶ The list of the meetings organized can be consulted on the website of the EP's directorate for the relations with national parliaments. <http://www.europarl.europa.eu/relnatparl/en/news/news.html>. The difference in the engagement of the different parliamentary committees may be linked, for instance, to their policy area and the distribution of competences between the EU and Member States but the interest of the single MEPs in the cooperation with national Parliaments also plays a role in this phenomenon.

¹⁷ European Parliament, *Report on 'Interparliamentary Relations Between the European Parliament and National Parliaments Under the Treaty of Lisbon' 2012* (2013) 9.

¹⁸ European Parliament, *supra* n. 11, at 13.

¹⁹ *Ibid.*, at 21.

²⁰ *Ibid.*

²¹ Neunreither, *The European Parliament and National Parliaments: Conflict or Cooperation?* 471.

Finally, another form of inter-parliamentary cooperation with the EP exists in the form of visits: NPs regularly meet with the European legislature in Brussels on a bilateral basis. Unfortunately the corresponding data is only available in a minority of cases²² and it is therefore impossible to know who participates in them. Nevertheless this form of inter-parliamentary cooperation appears to be highly appreciated by parliamentarians as their reduced format and limited requirements in terms of organization allow for both a deeper dialogue and more flexibility.²³ In 2012, forty-two visits were organized²⁴ and in 2013 forty-three took place.²⁵ Note however that this format of inter-parliamentary cooperation presents the limitation of including only a few parliamentary chambers – 19 out of a total of 40 in 2013.²⁶ The EP remarks in this sense that ‘This is all the more surprising since in this type of meeting national Parliamentarians have the opportunity to set their own agenda and conduct discussions with key players in the European Parliament over matters which are of interest to them.’²⁷ The absence of participation of the other Chambers could be explained by budgetary constraints or maybe even more so by a lack of parliamentary interest given the fact that the possibility to hold videoconferences exists and that it would therefore be possible to organize meetings at reduced costs.²⁸ In sum, this may also be the consequence of the EP’s attitude towards NPs in general as it is particularly illustrated in the context of the inter-parliamentary conferences²⁹ or as it was visible at certain committee meetings where only a few MEPs participated whereas many MPs had made the effort to travel from their capitals to Brussels.

2.3 THE BLOSSOMING OF INFORMAL INTER-PARLIAMENTARY MEETINGS

While it could have been expected that the creation of new, sectoral, conferences for inter-parliamentary cooperation – whose organization and participation require

²² The European Parliament started producing reports on its relationship with national parliaments in 2010 and only the two latest reports contain detailed information on this topic.

²³ European Parliament, *Report on ‘Interparliamentary Relations Between the European Parliament and National Parliaments Under the Treaty of Lisbon’ 2010-2011* 12–13 (2012).

²⁴ European Parliament, *Report on ‘Interparliamentary Relations Between the European Parliament and National Parliaments Under the Treaty of Lisbon’ 2012* 18–19.

²⁵ European Parliament, *supra* n. 11, at 15.

²⁶ *Ibid.*, at 14.

²⁷ *Ibid.*

²⁸ Only the EP and the Bundestag currently have the technical facilities to hold large videoconferences with all NPs and with all the required language channels for simultaneous translation. Nevertheless this cannot be the reason why meetings via videoconference are not more frequent between single NPs and the EP.

²⁹ Indeed, it appears that the EP is much more willing to cooperate with national parliaments when its own institutional position is secured. For more details, see Diane Fromage, *Parlamento Europeo y Parlamentos nacionales después del Tratado de Lisboa y en un contexto de crisis: ¿Un acercamiento de grado diverso según el ámbito?* in *El Parlamento europeo: ¿esta vez es diferente?* (Paz Andrés Sáenz de Santamaría & Juan Ignacio Ugartemendía eds., IVAP 2015).

a further mobilization of (already scarce) parliamentary resources – and the increase in the number of meetings organized by the EP would have led to a concentration of parliamentary efforts, there instead is, at present, an explosion of new initiatives, possibly motivated by the growing diversity and number of parliaments involved following the latest EU enlargements. A further incentive could also lie in the perceived lack of efficiency of forums such as COSAC where true debates are non-existent, among other things because MPs read prepared contributions³⁰ or have very little time to express their opinions. More generally, as underlined by the EU Select Committee of the House of Lords in its report on the role of NPs in the EU, this may also be because ‘As national parliaments increasingly engage with key EU policies, it is likely that there will be informal conferences to discuss major policy issues.’³¹ Also, it appears that in this framework, the cleavages are less between the EP on the one hand, and NPs on the other, and more among NPs themselves, though admittedly the EP is in a marginal position in this framework.

All these initiatives are nonetheless not organized with the same purpose and following similar patterns. Some of them were designed for NPs to join forces in the EU framework and, more specifically, in preparation of and around COSAC and EUSC meetings (2.3[a]), others are ad hoc and more thematic, and they result from external dynamics (2.3[b]) whereas a third category of meetings only have an incidental role in EU affairs (2.3c)).

2.3[a] *A Multiplication of Inter-Parliamentary Forums Oriented Towards COSAC and EUSC Meetings*

A first category of informal meetings are those organized in preparation and around COSAC and EUSC meetings. Yet, within this first category, some forums are more consolidated than others. For instance, the Visegrád group composed of the Czech, Slovak, Hungarian and Polish parliaments usually meets prior to all COSAC meetings.³² Meetings at EU committee level have existed almost since these countries became members of the EU in 2004³³: They started in 2005 and

³⁰ These aspects were recently underlined by the Danish Parliament. Danish Parliament, *Twenty-Three Recommendations to Strengthen the Role of National Parliaments in a Changing European Governance* (2014).

³¹ House of Lords European Union Committee, *The Role of National Parliaments in the European Union* Par. 132 ff. (2014).

³² Adam Lazowski, *The Polish Parliament and EU Affairs. An Effective Actor or an Accidental Hero?*, in *National Parliaments Within the Enlarged European Union* 211 (John O’Brennan & Tapio Raunio eds., Routledge 2007).

³³ We can note that, although the Visegrád group has long existed – since 1991 when the Visegrád Declaration was adopted – its parliamentary dimension at the level of president was agreed only in 2007 with the adoption of the Agreement of the presidents of parliament of V4 member countries on the institutionalization of cooperation on parliamentary level. Available at http://oide.sejm.gov.pl/oide/en/images/files/international/porozumienie_wyszehrad_en.pdf (last accessed 21 Feb. 2015).

are currently organized on an ad hoc basis once or twice a year. According to the Polish Sejm, this and other meetings taking place among sectoral committees 'provide a forum for exchanging best practices in matters connected with membership in the European Union as well as give an opportunity to exchange views on current issues, to coordinate positions and to take common initiatives'.³⁴

Others of these meetings take place on a more informal basis than within the Visegrád group since they are not set up by a pre-existing group of countries. For instance, according to a consolidated practice, committees on European affairs of the parliaments of Estonia, Latvia, Lithuania and Poland usually come together before COSAC meetings to 'work out statements for the COSAC meetings and to take common initiatives'.³⁵

More recently, a new initiative has been taken in order to enable an important dialogue between affected parliaments on the issues connected to the Mediterranean dimension of European policies: this is the case of the meeting of chairpersons of the South European Parliaments. This new forum was created in Nicosia in January 2014 and is composed of Croatia, Cyprus, France, Greece, Italy, Malta, Portugal, Romania, Slovenia and Spain – the parliaments of two candidate countries, Serbia and Montenegro, have attended some meetings in their capacity as candidate countries. Whereas these meetings have been organized so far in parallel with the COSAC chairpersons' meetings, they serve as a preparation for the upcoming COSAC plenary meetings as illustrated by the programme of the second meeting held in Rome in July 2014 and by the declaration adopted in Riga in February 2015.

In addition to these recurrent initiatives, NPs sometimes also seek an exchange with their European counterparts on an ad hoc basis. Before some examples are provided, the difficulty to find information regarding these actions – and more generally regarding all informal initiatives – must be underlined as it makes it particularly hazardous to draw any final conclusions at this stage.

One of the recent examples of this type of initiatives is provided by the meeting organized by the Dutch Tweede Kamer on 19 January 2015 in order to improve interparliamentary cooperation.³⁶ This session brought together fourteen NPs – whose identity was not disclosed – and the EP in Brussels and permitted an exchange of views in preparation for the COSAC Chair meeting scheduled at the beginning of February 2015. This initiative is particularly interesting as it indicates that the opposition between NPs and the EP, which had long existed, in reality is

³⁴ http://oide.sejm.gov.pl/oide/en/index.php?option=com_content&view=article&id=300&Itemid=30 (last accessed 21 Feb. 2015).

³⁵ Polish Sejm, http://oide.sejm.gov.pl/oide/en/index.php?option=com_content&view=article&id=14737:meetings-of-the-of-the-committees-on-european-affairs-of-the-parliaments-of-estonia-latvia-lithuania-and-poland-&catid=39&Itemid=746 (last accessed 21 Feb. 2015).

³⁶ Background paper by René Leegte, Tweede Kamer der Staten-Generaal.

not as clear-cut as it is sometimes depicted. Additionally, while it clearly highlights the limits of the COSAC plenary meetings organized twice a year for two days only, it also shows their importance as a forum for inter-parliamentary cooperation – reinforced, of course, by the possibility of interacting directly with the European Commission that the same COSAC meetings offer.

Prior to this Dutch action, some groups of NPs had already sought a first consensus at the time of negotiating the establishment of the Article 13 Conference.³⁷ For instance, the six Founding Member States met, with the EP, in Luxemburg on 11 January 2013 ‘for an exchange of views on interparliamentary cooperation and democratic oversight in the field of Economic and Monetary Union’.³⁸ Other Member States’ parliaments gathered, with the purpose of ‘discuss[ing] how national parliaments could become proactive players in a more integrated financial, budgetary and economic union’, in Copenhagen on 11 March 2013.³⁹ This was not the first initiative of the Danish Parliament with this purpose, given the fact that eleven NPs had already attended a meeting with a similar objective on 26 November 2012.⁴⁰ The EP did not participate in either of these two gatherings, illustrating the division existing between the European and the national legislatures in this domain,⁴¹ whereas the EP was involved in the latest initiative for the improvement of interparliamentary participation and in the meeting of the Founding Member States. This notwithstanding, the aim of these meetings was identical and consisted in joining forces in order to influence the upcoming Speakers’ conference meetings; by the same token, they might as well be considered to have actually dealt with subject matters belonging to the competence of the Speakers’ Conference.⁴² Additionally, although the letters resulting from both of

³⁷ It should be noted that the Visegrád group was also active in this framework. See, on these groups and their proposals: Ian Cooper, *Parliamentary Oversight of the EU After the Crisis: On the Creation of the ‘Article 13’ Interparliamentary Conference*, LUISS Working Paper no 21 (2014).

³⁸ Letter from the President of the Chamber of Deputies of Luxemburg addressed to the Speaker of the Cypriot Parliament on 18 Jan. 2013.

³⁹ Letter from the President of the EU affairs committee of the Danish Parliament, the UK House of Lords, the Estonian Parliament, the Luxemburg Parliament, the Czech Chamber, the Irish Houses of Oireachtas, the Slovak Parliament, the Romanian Parliament, the Hungarian Parliament, the Slovenian Parliament, the Lithuanian Parliament, the Latvian Parliament, the Finnish Parliament, the Belgian Parliament, the Czech Senate and the Swedish Parliament addressed to the Speaker of the Cypriot Parliament on 8 Apr.

⁴⁰ Letter of these 11 NPs to the President of the European Council H. van Rompuy of 7 Dec. 2012, available at: <http://www.ft.dk/samling/20121/almdel/euu/bilag/134/1196311.pdf>. Interestingly, not all NPs were invited to participate.

⁴¹ This opposition, which relates to the role the EP should assume in this inter-parliamentary conference, was also visible in the negotiations of the rules of procedure of the CFSP Conference. Both initiatives for inter-parliamentary cooperation have provoked the resurgence of the EP’s and NPs’ dissenting views.

⁴² The Italian Chamber of Deputies considered it unnecessary, for instance, ‘to participate in a meeting organized outside of the institutional framework for interparliamentary cooperation, in the absence of the European Parliament and dealing with decisions whose competence belong to the Speakers’ Conference’. Esposito, *supra* n. 3, at 175, fn. 113.

these meetings – second Danish and Founding States’ ones – made contradictory proposals as to the form that inter-parliamentary cooperation in economic governance should take, they were signed both by the Chamber of Deputies of Luxemburg and the Belgian Senate. On this basis, it can be assumed that the actual importance (some) MPs grant to these documents stemming from informal and sometimes untransparent initiatives is rather limited or else they would not have adhered to contradictory documents adopted only a few months away from each other.

The analysis of these initiatives leads to a somewhat unexpected conclusion. Indeed, the fact that NPs would seek to unite and reach a common position in preparation of Speakers’ Conference meetings could have been expected given its leading role in the definition of the dynamics of inter-parliamentary cooperation and taking into account that it only comes together once a year for two days. This is all the more true as the Speakers’ Conference recently decided the creation of the two new interparliamentary conferences. But what is more surprising perhaps is the fact that some NPs feel the need to join forces in preparation of COSAC meetings provided that COSAC has been severely criticized and, *in fine*, has such circumscribed powers and allows for so limited debates. In terms of contribution to the reduction of the democratic deficit, these actions can nonetheless be considered a positive attempt as they have the potential to make COSAC a more efficient forum of cooperation among EU specialists. Noteworthy is also the fact that no meeting have so far been organized in preparation of the two other inter-parliamentary conferences (CFSP and Article 13 Conferences), perhaps because as shown earlier they are still in a consolidation phase.

2.3[b] *Thematic Inter-Parliamentary Meetings and Clusters of Interest*

Other initiatives have also been organized with a more thematic focus; NPs sought to form ‘clusters of interest’.⁴³ For instance, the French National Assembly hosted an inter-parliamentary meeting in June 2015 on the EU’s commercial policy. This meeting was preceded by another initiative on the European Public Prosecutor’s Office (EPPO) and on personal data protection in September 2014, as a consequence of a Franco-German initiative, with the aim to influence the EU Commission, and the National Assembly had previously hosted a similar inter-parliamentary gathering on the financing of European cinema in June 2013. Before that, the German Bundestag organized an inter-parliamentary meeting on the European sale of goods law in November 2012 and, in fact, this first initiative and a videoconference organized between the French National Assembly, the EP and the EU Commission served as

⁴³ A proposal to include these clusters of interest in the framework of COSAC, with the possibility to organize extraordinary COSAC meetings with this purpose, was discussed in Vilnius in Oct. 2013. *Esposito*, *supra* n. 3, at 176.

sources of inspiration to the National Assembly at the time of preparing its meeting on the EPPO. The Danish Folketing has also been active in this field by organizing a meeting on the free movement of workers in 2013.

In these cases, the hosting parliament sometimes pre-circulates a discussion paper and the participating NPs can – but, of course, must not – adopt a common declaration or a common position. It is then transmitted to the EU institutions in an attempt by NPs to make their voice heard. This format seems to be particularly interesting as it allows for flexibility and it permits that NPs individually become protagonists and invite their European counterparts. In these forums, NPs can seek, in fact, to play an active and positive role in the European integration process and to become ‘agenda setters’ instead of remaining mere ‘veto players’ as foreseen in the Treaties.⁴⁴

2.3[c] *Inter-parliamentary Cooperation with Other Purposes Incidentally Dealing with EU Affairs*

In parallel to these ad hoc ‘clusters of interest’ and to permanent inter-parliamentary forums acting in preparation of larger inter-parliamentary meetings, some regional associations of parliaments also deal with EU affairs, although this is not necessarily their main purpose or topic of discussion.

In this category belongs the Baltic assembly, created in 1991 by the three Member States from the Baltic region – Estonia, Latvia and Lithuania.⁴⁵ Composed of parliamentary delegations from these three Member States, it meets once a year. After its members became part of the EU,⁴⁶ it underwent an important process of reforms and redefinition of its goals and, since, its focus is rather broad and aiming at inter-regional cooperation, with the Benelux assembly for instance, rather than aimed at creating an alliance within the EU though.⁴⁷ EU affairs committees of the parliaments of the Weimar triangle – composed, since 1991, of France, Germany and Poland – also meet once to twice a year to discuss European matters⁴⁸ and although this practice was abandoned in 2004, it was resumed in 2008.

⁴⁴ This is one initiative among others. The recent idea of a ‘green card’ for NPs also goes in the same direction of a more proactive role and of a direct implication. See on this change of national parliaments’ role in the EU: Cristina Fasone & Diane Fromage *National Parliaments and the EU Commission’s Agenda: Limits and Recent Developments of a Difficult Partnership* (2015) Special issue edited by C. Fasone, D. Fromage & Z. Lefkofridi, *Parliaments, Public Opinion and Parliamentary Elections in Europe*, MWP-EUI Working Papers 18, 31–43 (2015).

⁴⁵ However, the cooperation between these three States dates back to the 1980s. Marco Lunardelli, *Estonia Amid Cooperation in the Baltic Sea Region and EU Membership*, 2 *Nomos. Le attualità nel diritto* 9 (2014).

⁴⁶ Website of the Baltic Assembly, History: <http://baltasam.org/en/history/institutional-reforms> (last accessed 21 Feb. 2015).

⁴⁷ Objectives as defined at <http://baltasam.org/en/history/renaissance> (last accessed 21 Feb. 2015).

⁴⁸ For instance, the meeting organized in Nov. 2014 contained a discussion on the Energetic Union in the EU and employment in the EU. http://oide.sejm.gov.pl/oide/en/index.php?option=com_content&view=article&id=14881:spotkanie2014&catid=11&Itemid=292 (last accessed 21 Feb. 2015).

Additionally, some other inter-parliamentary forums, although they have a clear link to the EU, are composed of both EU and non-EU parliamentary delegations. This is for example the case of the Nordic Council. This assembly, formed in 1952, is composed of eighty-seven elected members from Denmark, Finland, Iceland, Norway, Sweden, the Faroe Islands, Greenland and Åland and it regularly interacts with the EP, having visited the European institution twice in 2013 for instance.⁴⁹ In that same region, the Baltic Sea Parliamentary Conference, founded in 1991, brings together, on a yearly basis, eleven NPs, eleven regional parliaments and five parliamentary organizations from both EU and non-EU countries. It is peculiar in that it not only includes the participation of the EP but also that of the Baltic Assembly, the Nordic Council, the Parliamentary Assembly of the Council of Europe and the Parliamentary Assembly of the Organization for Security and Co-operation in Europe. Another parliamentary assembly gathering EU and non-EU MPs is the parliamentary assembly of the Union for the Mediterranean, composed of delegates from the twenty-eight Member States, the EP and fifteen Mediterranean countries; representatives from the Arab League also participate.

Finally, in addition to these forums, in which several Member States' parliaments come together, some bi-lateral initiatives, for instance between the French and the German parliaments, can be mentioned.⁵⁰

These numerous actions can be seen as a sign of the growing interest for inter-parliamentary cooperation in relation to the European integration process existing in the EU and beyond. Additionally, although the actual impact of these meetings on EU policies would certainly be difficult to measure as it takes the form of political exchanges or personal contacts, their existence in such variable configurations deserves, at least, attention.

3 THE BLOSSOMING OF FORUMS FOR INTERPARLIAMENTARY COOPERATION AS A POSITIVE STEP TOWARDS MORE DEMOCRACY IN THE EU

NPs were long seen as the 'losers' or the 'latecomers' in the European integration process.⁵¹ For sure, their participation at national level in this domain was, at least in some Member States, long limited or even inexistent. This is also true of inter-parliamentary cooperation itself. Although the EU Speakers' Conference started bringing together the Speakers of the parliaments of the EU regularly since

⁴⁹ European Parliament, *supra* n. 11, at 28–29.

⁵⁰ Franco-German initiatives have existed for long and were underlined during the 50th anniversary of the Elysée Treaty in 2013. Declaration adopted on 22 Jan. 2013 by the German Bundestag and the French National Assembly.

⁵¹ *National Parliaments on Their Ways to Europe. Losers or Latecomers?* (Andreas Maurer & Wolfgang Wessels eds., Nomos 2001).

1981,⁵² that is a few years after the first direct elections to the EP, the first conference for inter-parliamentary cooperation at committee level, the COSAC, was established eight years later in 1989. The EP did express its wish to develop its relationship with NPs shortly thereafter though, in 1991, when it suggested that the presidents of the committees of the NPs be permanently invited to the meetings of the corresponding committee of the EP.⁵³ Nevertheless, the blossoming of initiatives for tighter relationships between NPs and the EP is only more recent as highlighted in Part 2. This appears to be a positive development for several reasons.

First of all, since the entry into force of the Lisbon Treaty, NPs and the EP are the guarantors of the democracy in the EU. NPs have however, so far,⁵⁴ been mainly granted negative prerogatives in the Treaties, in the framework of the Early Warning System or in form of a veto to the use of passerelle clauses. In the framework of the Early Warning System, NPs can only control the respect of the principle of subsidiarity of certain legislative proposals but they cannot, formally at least, make any suggestions related to any other aspect of the proposal, such as the content for instance. In addition to this, NPs have been given the possibility to oppose their veto to a proposal to change the majority rules on the basis of Articles 48-6 TEU and 81-3 TFEU. Nothing further has been granted to them in the Treaties, although informal initiatives, such as the Political Dialogue within which they can express their opinion on any aspect of all legislative proposals at any point in time, exist but with no guarantee whatsoever for NPs since the European Commission is totally free to take these remarks into account or to simply disregard them. In contrast, the EP has become a co-legislator in almost all domains and can invite the Commission to propose legislation under certain conditions (Article 225 TFEU). Therefore, in reinforcing the cooperation between the two levels of legislatures, the citizens' preferences defended by NPs at national level are more likely to be taken into account and, *in fine*, better reflected in EU legislation than if NPs try to act alone⁵⁵; This is particularly true as the rules

⁵² The History of the EU Speakers Conference available at <http://www.ipex.eu/IPEXL-WEB/euspeakers/getspeakers.do> (last accessed 17 Apr. 2015).

⁵³ Morgan Larhant, *La coopération interparlementaire dans l'UE. l'heure d'un nouveau départ?* Notre Europe Policy paper 8 (2005).

⁵⁴ An initiative for the (informal) introduction of a 'green card' in the form of an 'enhanced political dialogue' is currently under discussion. The UK House of Lords was actually successful in launching the first 'green card' with the support of fifteen (and later seventeen) other chambers in July 2015 even before any form of agreement on this new procedure was reached. Similar initiatives were subsequently launched by the French National assembly and the Latvian parliament.

⁵⁵ Some in fact argue that in the light of the important decrease in the number of legislative proposals made by the Commission the European Parliament will use its right more frequently than it has thus far. Such an evolution would indeed speak in favour of an even closer cooperation between NPs and EP. Karolina Borońska-Hryniewiecka, How national parliaments could gain EU influence without treaty change, Euractiv, 8 Sept. 2015.

of functioning of the Council ‘render individual parliamentary efforts to hold “their” executive officials accountable deficient’⁵⁶ as most decisions are now taken by qualified majority and as, in any event, even if one NP manages to legitimize the action of its national representative, it will not legitimize the whole Council. By contrast, exchanges among national and EPs can be useful to this end.

Besides, NPs – especially the weaker ones – and the EP can learn from each other. They can exchange information which in turn will help them to hold their executives to account and to participate effectively in EU affairs in general. This type of exchanges of information through inter-parliamentary cooperation in fact has two advantages: NPs can gain information independently from their governments – i.e. they have access to more diverse information – and, by the same token, this can contribute to compensate the shortcomings in the information transmitted by their governments – i.e. they can gain more complete information. They can hence be aware of different viewpoints and of their counterparts’ priorities and concerns, and, subsequently, form a more independent opinion for themselves. More inter-parliamentary cooperation additionally amounts to more mutual control among NPs over their respective actions as ‘the [inter-parliamentary cooperation] field [has been deemed to] represent[] an external check on each parliament in the system [... which can] provid[e] an additional structure of justification where parliaments must increasingly justify their actions to one another’.⁵⁷ NPs especially can also gain through the exchange of best practices as they already did in the past in inspiring themselves from each other at the time of adapting their institutional arrangements to participate in EU affairs.⁵⁸

Furthermore, the numerous inter-parliamentary meetings also lead (in theory at least – see below section 4) to the involvement of an ever increasing number of MPs which contributes to the Europeanization of NPs: a larger number of parliamentarians members of sectoral (and not of EU affairs) committees are now involved and grasp the growing European dimension of their tasks. It is therefore not only the members of the European Affairs Committees who are confronted to EU matters and their implications for the Member States. This last effect is particularly welcome in my view as, during several decades and arguably up until today in certain parliamentary chambers, only a limited number of MPs are interested and properly informed on the EU, its actions and their consequences for the Member States. Additionally, given the fact that the meetings of the inter

⁵⁶ Ben Crum & John Erik Fossum, *Conclusion: Towards a Democratic Multilevel Parliamentary Field?* in *Practices of Inter-Parliamentary Coordination in International Politics* 252–253 (Ben Crum & John Erik Fossum eds., ECPR Press 2013).

⁵⁷ *Ibid.*, at 264.

⁵⁸ Aron Buzogány, *Learning From the Best? Interparliamentary Networks and the Parliamentary Scrutiny of EU Decision-Making in Practices of Inter-Parliamentary Coordination in International Politics* (ECPR Press 2013).

parliamentary conferences at least are public⁵⁹ and can be video recorded and broadcasted as was the case during the Italian Council presidency in 2014,⁶⁰ they participate to the visibility of EU affairs towards the general public.

The creation of smaller and more specialized forums further contributes to compensate the shortcomings of COSAC – and of the other larger conferences to a certain extent – as it is deemed to be too general, too large and too formalistic. As highlighted by the Danish Parliament, ‘The number of inter-parliamentary conferences and meetings in the EU has increased significantly over the past few years. In particular new large scale Parliamentary Conferences have recently been established in the field of foreign and security policy and in economic and financial matters. But it is time to stop creating new large scale inter-parliamentary meetings with too many participants, too many pre-prepared speeches while lacking in substantial political debate. Instead we must become more operational, innovative and solution-oriented.’⁶¹ In fact, the Danish Parliament suggests that ‘To this end, national parliaments should consider organizing more small scale meetings and informal contacts between members of parliaments and examine how existing large scale inter-parliamentary bodies such as COSAC, the CFSP-Conference and the Article 13 conference on budgetary policies could be reformed. A code of conduct on good inter-parliamentary meetings could lay down minimum standards for the organization of good inter-parliamentary meetings.’ For this reason, it invited the Speakers’ Conference to adopt such a code of conduct and, like the House of Lords, advocated the establishment of clusters of interest within whose framework: ‘Parliaments [would] organize small scale informal meetings along shared interests between groups of national parliaments on topical EU policy issues. Such meetings should have a clear purpose and common understanding of what their outcome should be. They could serve the purpose of either coordination, exchange of views or simply mutual inspiration on issues of particular interest to clusters of parliaments.’⁶² These questions are a topic of concern for certain NPs that call for a deeper debate on these issues at European level.

The creation of clusters of interest may also allow MPs to play an active part and, in this way, trigger their interest for EU affairs. Indeed, such initiatives may be motivated by a determined political will to affirm a position and find allies among the other NPs, as was the case of the French National Assembly in September 2014:

⁵⁹ In contrast, not all the other inter-parliamentary meetings are video recorded or transcribed.

⁶⁰ All materials are available on the website on the parliamentary dimension of the presidency: <http://ue2014.parlamento.it/home> (last accessed 17 Apr. 2015).

⁶¹ Danish Parliament, *Twenty-Three Recommendations to Strengthen the Role of National Parliaments in a Changing European Governance*.

⁶² Note that the proposals made by the Danish Parliament were particularly far-reaching as they called for an important reform of COSAC as well as a change in COSAC’s role in relation to the CFSP and the Art. 13 Conferences.

being clearly in favour of the establishment of the European Public Prosecutor's Office, it sought to unite with like-minded counterparts. This additional incentive for MPs to be involved in EU affairs is valuable because, as mentioned above, only a few of them feel genuinely attracted to these often technical questions which do not bring them votes. Moreover, in spite of the limited political value of a declaration adopted at the occasion of such meetings, it will undoubtedly be superior to a mere contribution submitted by one NP alone to the EU Commission in the framework of the Political Dialogue or even to its national government alone in that it shows that a consensus exists among different parliaments representing a European common good. In this sense, the recent proposal for a 'green card' for NPs – currently gaining importance – has been used in combination with the 'cluster of interest' format: The EU affairs committee of the Latvian parliament first held a meeting on 'Audiovisual Media Services Directive: strengthening the internal market or creating vulnerabilities' with nine NPs on 16 November 2015 before it launched its 'green card' on the same topic one week later.⁶³

Finally, the organization of these informal meetings in forms of clusters of interest may contribute to compensate the shortcomings of the national institutional designs for parliamentary involvement in EU affairs. Before the French initiatives existed Antonio Esposito noted that 'it is significant that the organization of clusters was promoted by parliaments which, like the Danish one, exercise systematic control and influence on their respective government (also through a system based on negotiating mandates)'.⁶⁴ This councillor of the Italian Chamber of Deputies added further that these assemblies may be interested in reinforcing their relationship with the EU Commission because their relationship with their government is mostly circumscribed in relation to single legislative proposals put on the EU Council's agenda, and is hence rather ill-suited if it is to have some influence on the pre-legislative phase or, more in general, on the definition of the political and strategic choices of European institutions. According to this author, additionally another motivation would potentially lie in the extending use of trilogues, which threaten the influence of those parliaments acting on the basis of a mandating system. However, the fact that the French National Assembly has been active in organizing thematic meetings indicates rather that what is common to the parliaments seeking to form 'clusters of interest' is their weakness in EU affairs, be it derived from the actual institutional framework, as is the case in France,⁶⁵ or be it due to changes that have occurred in the EU legislative process,

⁶³ Letter by the Chairwoman of the European Affairs Committee of the Latvian Saeima, 23 Nov. 2015.

⁶⁴ Esposito, *supra* n. 3, at 176.

⁶⁵ See on this point: Diane Fromage *Les parlements dans l'Union Européenne après le Traité de Lisbonne. La participation des parlements allemands, britanniques, espagnols, français et italiens*. Ch. 2, Part I (L'Harmattan 2015).

as in Denmark. The House of Lords, on the other hand, simply justifies this thirst for informal interparliamentary meetings by the fact that NPs increasingly engage with key EU policies.⁶⁶

Be it as it may, the increased closeness among NPs and between them and the EP can be seen, in general, as a positive development for the democracy in the EU, as they are the two pillars in charge of its guarantee, and as Euroskepticism rises, and for the fulfilment of their duty to contribute to the good functioning of the EU as prescribed by Article 12 TEU.

4 WHY THIS DEVELOPMENT MAY NOT BE SO POSITIVE AFTER ALL

These positive effects notwithstanding, the recent proliferation of inter-parliamentary forums invites a reflection as regards the dangers it may present for their sustainability. Over recent years, and following Valentin Kreiling's analysis, the interest shown by NPs for the bi-annual COSAC meetings has been variable, ranging from Italy, Austria and Portugal, which have systematically been represented by six MPs, while Malta, Latvia and Hungary sent, on average, only two representatives.⁶⁷ Similar conclusions can also be drawn for the CFSP Conference. In these cases too, the attendance rate has been diminishing, or at least varying, and it is not rare that the delegations are also in fact composed of administrators, who come as replacements or alone, instead of MPs, which some chambers perceive to be highly problematic.⁶⁸ While the factor of interest surely plays a role, other elements, such as the cost of these meetings, the fact that they exist alongside numerous other parliamentary forums as has been highlighted in this article, and the perception of their efficiency – or lack thereof – surely have an influence too. This issue of representativeness is also particularly salient for another reason linked to the language skills required to take part in these informal initiatives. In most cases, no translation is available and debates take place in English. This means, in practice, that only the MPs who are fluent in English can participate: the composition of the NPs' delegations therefore tends to be defined on the basis of language abilities and not on that of the political representativeness as it should be.

⁶⁶ House of Lords European Union Committee, *supra* n. 31, at para. 132.

⁶⁷ Valentin Kreiling, *The New Inter-Parliamentary Conference for Economic and Financial Governance* Notre Europe Policy Paper 5 (2013). Other factors related for instance to the size of the parliament or the existence of a previous informal agreement on a unitary position in their parliaments before the delegates travel to the COSAC meetings may, however, also explain these variations.

⁶⁸ On the varying attendance by MPs and possible explanations, see: Jan Wouters & Kolja Raube, *The Interparliamentary Conference on Common Foreign and Security Policy: A Quest for Democratic Accountability in EU Security Governance*, in *Interparliamentary Cooperation in the Composite European Constitution* (Hart 2016).

The question could be asked, additionally, as to the efficiency of the ad hoc initiatives for inter-parliamentary cooperation. Indeed, the debate that took place during the event hosted in Paris in September 2014 highlighted what can be considered, to a certain extent, the limit of this type of cooperation: some representatives could not commit to the joint declaration because of recent elections and subscribers to it signed only in their own names, a fact which was underlined several times as well as in the common declaration itself.⁶⁹ This phenomenon was visible again when the House of Lords launched its ‘green card’ initiative: some NPs, though supporting it, could not adhere to it due to national institutional constraints.⁷⁰ Therefore, these initiatives potentially also create further complications at parliamentary internal level and for the good cooperation among all NPs (and the EP). Moreover, the EP was invited to the meeting in Paris on the EPPO but did not take up the invitation⁷¹ and, as already mentioned, the members of some NPs subscribed to two contradictory declarations in the past which undoubtedly diminishes their political value. In contrast, when NPs and the EP adopt conclusions in the framework of COSAC they do so in the name of the conference as a whole, although as recalled in Protocol no 1 ‘Contributions from the conference [COSAC] shall not bind national Parliaments and shall not prejudice their positions’. Therefore, COSAC conclusions will have more legitimacy – and, hence, potentially more impact – than the contributions adopted in the framework of these inter-parliamentary meetings in which, additionally, only a minority of NPs participate, with the presence or the absence of the EP. The conclusions adopted as the result of an informal meeting will then typically be published on the Commission’s website dedicated to its Political dialogue with NPs under the heading ‘own initiative opinions’. This nevertheless results in these outcomes being particularly difficult to find and little visible to the ordinary citizens.

Besides, the growing number of forums for inter-parliamentary cooperation, and especially informal ones, poses questions of visibility, sustainability and practicability in relation to the meetings themselves. The proliferation of initiatives, together with the fact that the information regarding the EP’s initiatives is not always easily accessible, makes it difficult to guarantee transparency towards the citizenry although parliaments have to be open, deliberative, forums. Admittedly, a

⁶⁹ Minutes of the interparliamentary meeting. http://www.assemblee-nationale.fr/14/europe/declaration/c0154_en.pdf (last accessed on 21 Feb. 2015).

⁷⁰ Minutes of the meeting of Chairpersons of COSAC, Luxembourg, Grand Duchy of Luxembourg, 10 (13 July 2015).

⁷¹ This is particularly interesting given the fact that the EP suggested some amendments to the proposal for the establishment of an EPPO, which seemed to be strongly inspired by the arguments NPs had raised in their reasoned opinions. However, it did not acknowledge this source of inspiration clearly and later refused to attend the meeting in Paris.

certain degree of secrecy is needed for MPs and MEPs to be able to negotiate and agree on a common position but citizens should not have any difficulty to find information such as the number of meetings organized, their agenda and the identity of the participants. This is not the case as of today which reinforces the opinion citizens often have that EU matters are complex and non-transparent.

Furthermore, this multiplication poses problems of sustainability. Some delegations are already shrinking in the established conferences, what will happen if the number of meetings continues to grow as steadily as it has in the past years? MPs are first and foremost national actors in charge of approving national legislation and controlling their national governments. Admittedly, inter-parliamentary cooperation also contributes to setting them in a better position to control their governments. But the number of initiatives in this domain has to remain sustainable. MPs cannot spend much of their time and resources for this purpose, especially given the fact that their horizon is the next election and their re-election. The same goes for NPs themselves whose capacity of financing attendance to numerous inter-parliamentary meetings is limited. Beyond this, there exists a question of representativeness too if the number of involved parliaments is low, especially in the framework of the formalized conferences. The bottom line is therefore a question of practicability in the long term that these numerous informal initiatives pose.

5 WHAT NEXT? CONCLUDING REMARKS

Given this context, this last section is devoted to providing remedy to the difficulties identified in order to guarantee that the initiatives for inter-parliamentary cooperation indeed contribute to the enhancement of democratic legitimacy in the EU. In trying to tackle the logistics problems, the House of Lords Select Committee suggested that 'It may be appropriate for an expanded COSAC secretariat to give a measure of logistical support to these informal conferences, subject to some simple baselines set down by COSAC.' This proposal would surely require a significant reinforcement of the COSAC secretariat – which is currently managed by a few administrators only – in the first place and the question remains as to which of the NPs would be ready to bear the cost such an expansion would generate. However, a centralized logistical management of the initiatives – hence unrelated to the more politicized aspects of the contents and the goal – would prove useful in terms of transparency towards the citizenry, since currently the proliferation of inter-parliamentary forums and their sometimes punctual basis make it difficult for citizens to be fully informed of what is happening as highlighted. Besides, if these initiatives were managed by one single organ, it could be possible to organize their schedule in the best possible way in order to allow the interested parliaments to choose to be involved (or not) while being fully

informed. This could prove useful for them to manage their – sometimes scarce – resources in an efficient way. The custom according to which South European Parliaments take advantage of COSAC meetings to meet themselves too seems, in this sense, to be an initiative worth examining further, although arguably NPs seeking to form a ‘cluster of interest’ may either precisely be willing to come to a previous agreement in the view of a future COSAC meeting, or to act as protagonists in organizing their meeting in their own premises.

Further to the question of the organization of these meetings, the question of the identity of the participants, or rather, of the invited and participating national – and European – parliaments to the informal meetings needs to be asked as well. The examples of informal meetings observed in preparation of the establishment of the Article 13 Conference by the Speakers’ conference show that one of these meetings was reserved for the Founding Member States and the EP. The two meetings organized by the Danish Parliament were open only to some of the forty chambers for the first of these events, whereas the second was indeed open to all of them – and neither of them were open to the EP. The French National Assembly had invited the EP to its informal meeting on the EPPO in September 2014 but the EP did not show up. Regarding this matter, the House of Lords held that ‘One important principle might be that (unless the meeting is for a specific geographical grouping) invitations should be extended to all parliaments equally.’⁷² This proposal is attractive in the sense that it would allow for all NPs to attend, be they in favour or not of the position defended by the hosting parliament, as happened in the meeting organized on the EPPO by the French National Assembly in September 2014. However, while this formula should probably be favoured in most cases, some leeway should be left to the initiator of the informal meeting who might pursue a precise political goal justifying the choice of certain Member States only – that is, those that might be seeking to create a real ‘cluster of interest’, or those that might wish to select the participants on a precise criterion, such as their experience with the European integration process. In fact, these ‘clusters of interest’ could contribute to the emergence of a public debate in the Member States involved or at the European level.⁷³ However, Antonio Esposito warns against the counterproductive effect their use as means to create “‘trade unions’ of national parliaments with antagonistic functions with regard to the EU activities’ would have.⁷⁴ According to this councillor of the Italian Chamber who referred to the Danish initiatives, the EP’s systematic exclusion by the Danish Parliament is the sign of an evolution in this direction, even though the EP could provide a

⁷² House of Lords European Union Committee, *supra* n. 31.

⁷³ Esposito, *supra* n. 3, at 177.

⁷⁴ *Ibid.*

contribution important to the knowledge and the assessment of a complex question. While a systematic exclusion of the European legislature based solely on its not being a NP is certainly not desirable, there may indeed be a need for NPs to be able sometimes to have exchanges solely among legislatures that are on the same institutional level,⁷⁵ and there may also be a lack of interest from the EP in being involved as its absence of participation to the French meeting indicates.⁷⁶

In sum, in spite of the potential the introduction of a 'secretariat for inter-parliamentary relationships' entails, a balance needs to be struck between the need to create 'variable geometry' forums for inter-parliamentary cooperation – which, arguably, are inevitable in the context of an always larger and more diverse European Union in which not all Member States participate in all policy areas equally – and the need to control this increase so that these forums remain useful and, most importantly, so that NPs can continue to be active participants in them. They are certainly also useful in securing some interest for the EU integration process itself on the part of MPs who, traditionally, have been neither keen on being involved in this process – or interested in it – nor very successful in cooperating with other legislatures. However, some transparency should be guaranteed, and these initiatives should not compete with the more formalized conferences or, even worse, should not replace them de facto as platforms of exchange. Rather, efforts of coordination and rationalization should be made so that all forms of inter-parliamentary cooperation co-exist in the most rational manner and allow for the establishment of an efficient dialogue between all legislatures leading eventually to an improvement of the democratic character of the Union.

⁷⁵ The problem arising from the fact that the EP is both a participant and an addressee among COSAC has been reminded numerous times; for instance: European Parliament, *supra* n. 11, at 11–12. See on the potential need for National parliaments to have their own forum for cooperation in general: Fromage, *supra* n. 29.

⁷⁶ Combining the agendas of the different legislatures can also prove difficult and explain some NPs' or the EP's lack of participation.