

Introduction

Parliaments in the Composite European Constitution

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I. THE HARD TASK OF BEING A PARLIAMENT IN THE EUROPEAN UNION TODAY ...

THE FACT THAT since the end of the Second World War in Europe and elsewhere legislatures have undergone a series of deep transformations as far as concerns their way of functioning and the exercise of their powers, is something repeatedly asserted by scholars.¹ The rise of the rule-making powers of the executives, the increasing globalisation and internationalisation of politics and policies, the Information and Communications Technology revolution and the launching of new forms of citizen participation in political decisions are only a few factors underlying a trend that challenges the main assumption of what a legislature is and how it is deemed to perform its tasks.

The European Union (EU) constitutes an interesting laboratory in which to see how a significant number of parliaments—according to the theories proposing a distinction between parliaments and congresses, depending on whether they are placed within parliamentary or presidential systems²—deal with their evolving role in contemporary times.³

¹ P Norton, 'Parliaments in the 21st century: The representative challenge', *Lectio magistralis at the Italian Chamber of Deputies* (2012), available at: www.amministrazioneincammino.it, and J Pollak, 'Compounded representation in the EU. No country for old parliaments?' in Sandra Kröger (ed), *Political Representation in the European Union. Still democratic in times of crisis?* (Abingdon, Routledge, 2014) 19.

² On this point, see A Kreppel, 'Typologies and Classifications' in Shane Martin, Thomas Saalfeld, and Kaare W Strøm (eds), *The Oxford Handbook of Legislative Studies* (Oxford, Oxford University Press, 2014).

³ T Raunio, 'National Parliaments and European Integration: What We Know and Agenda for Future Research' (2009) 15 *Journal of Legislative Studies* 317.

On the one hand, the impressive transfer of legislative and budgetary powers to the European institutions has pushed parliaments of the EU Member States⁴—called ‘national parliaments’ (NPs) by the European Treaties—to adapt their functions and organisation in a rather unique way compared to what happens in the rest of the world. Initially represented also in the European Parliament (although originally called European Parliamentary Assembly) through their members, since 1979, when this institution was directly elected for the first time, they have not enjoyed any direct representation at European level.

On the other hand, the European Parliament, one of the very few cases of a supranational parliament directly elected by the people,⁵ has seen its own powers dramatically increase in the last 30 years, acquiring at first budgetary functions and later on legislative functions (now on an almost symmetric basis with the Council),⁶ together with a progressively greater influence on the appointment of the European Commission (even ‘electing’ its president, according to article 17 TEU).⁷

The Treaty of Lisbon, sometimes enthusiastically defined as the ‘Treaty of parliaments’,⁸ has aimed at strengthening the role of parliaments, both in terms of the law-making powers of the European Parliament and the participation and information rights for national parliaments. Parliaments were seen in their traditional representative function, as essential—although not exclusive—channels of communication between national public opinions and the European institutions, in order not to leave it uniquely to Member States’ executives, decisively reinforced thanks to the European integration process.

The referendums of 2005 in France and the Netherlands on the constitutional treaty has undoubtedly showed—among other things—the negative effects that can derive from a detachment of EU policies from public opinions, although limited to some of its Member States. One of the reactions therefore was to insist, in the aftermath of the failure of the constitutional treaty, on the mainly representative nature of the European Union democracy, founded both on the European Parliament and the national parliaments. The need for the good functioning of both representative channels has been clearly highlighted by the Treaties (Articles 10 and 12 TEU) and recognised through the formation of constitutional

⁴ It is remarkable that the term ‘national’ re-appears, in the European treaties, precisely in the very discipline addressed to those who, with more neutral terms, could have been called the ‘Parliaments of the Member States’: see N Lupo, ‘National and Regional Parliaments in the EU decision-making process, after the Treaty of Lisbon and the Euro-crisis’ (2013) 5 *Perspectives on Federalism* E-1–28, E-9.

⁵ The Mercosur Parliament and the Parliament of the Andean Community are equally elected, although by no means do they have a set of functions and powers comparable to those of the EP. cf O Costa, C Dri and S Stavridis (eds), *Parliamentary Dimensions of Regionalization and Globalization. The Role of Inter-parliamentary Institutions* (New York, Palgrave MacMillan, 2013).

⁶ For the first steps along this path see O Costa, *Le Parlement européen, assemblée délibérante* (Bruxelles, Éditions de l’Université de Bruxelles, 2001); P Settembri and C Neuhold, ‘Achieving Consensus Through Committees: Does the European Parliament Manage?’ (2009) 47 *Journal of Common Market Studies* 127.

⁷ On the debate regarding the correctness of the referral to an ‘election’, given the absence of more than one alternative choice, see S Fabbrini, *Which European Union? Europe after the Euro-crisis* (Cambridge, Cambridge University Press, 2015) 155–56, and A Manzella, ‘Il parlamentarismo europeo al tempo della globalizzazione’ (2015) 4 *Federalismi.it*: www.federalismi.it p 3 ff.

⁸ Dutch *Tweede Kamer*, ‘Ahead in Europe. On the role of the Dutch House of Representatives and national parliaments in the European Union’ *Final Report on Democratic Legitimacy*, 9 May 2014, p 8.

conventions, like the so-called ‘political dialogue’ between national parliaments and the European Commission, introduced in 2006.⁹

Notwithstanding the generous provisions of the Treaty of Lisbon regarding parliaments, new threats loomed up on the horizon of the parliaments of Europe. Assessed as a whole, the developments that have taken place in the EU since 2009 have challenged their role. In particular, the impairment of the democratic credentials of the European Parliament and the Eurozone crisis have contributed to making their lives particularly complicated in their respective domestic contexts.¹⁰

Indeed, when the ratification of the Treaty of Lisbon was still ongoing, the European Parliament was subject to a harsh attack on the part of the German Constitutional Court against its very nature as a democratic parliamentary body. The empowerment of the European Parliament, coupled with the application of the principle of degressive proportionality (Article 14 TEU) to its composition, which in the view of the German Court would alter the principle of ‘one man, one vote’ in particular to the detriment of German citizens, the most under-represented in this legislature, makes the ‘Assembly for Europe’ not fully democratic.¹¹ This is why the German Bundestag, which in contrast to the European Parliament could truly represent the German people, and Bundesrat, in their domains, must retain control over any explicit or implicit competence conferral to the European Union in the cases listed by the Court and even regardless of formal treaty revisions.

Likewise, the Eurozone crisis has hit both the European Parliament and national parliaments’ democratic legitimacy. The former, because of the limited competence it has in the field of economic governance, has certainly not been a prominent player during the crisis and, even less so, in some crucial activities, like the creation of rescue funds and the negotiation of bailout programmes (whereas in the definition of the Euro-national budgetary procedures through the European Semester and the Banking Union it has been actively involved).¹² The lack of responses provided to the citizens of Europe by this institution, in particular against the grip of austerity, in addition to the weaknesses of a truly transnational electoral campaign, despite the experiment of the Spitzenkandidaten, and the rise of populist and Eurosceptic movements in 2014, led to the lowest electoral turnout ever in the history of the European elections (42.61 per cent).¹³

⁹ See D Chalmers, G Davies and G Monti, *European Union Law*, 3rd edn (Cambridge, Cambridge University Press, 2014) 129, and, more specifically, D Jančić, ‘The Barroso Initiative: Window Dressing or Democracy Boost?’ (2012) 8 *Utrecht Law Review* 78. Although unilaterally granted by means of a letter from the then Commission President Barroso, the procedure was agreed with COSAC. And maybe following the same procedure, the political dialogue is going to be updated and extended by the Juncker Commission. See the chapter by M Goldoni, ‘The Instrumental Value of Horizontal Parliamentary Cooperation: Subsidiarity Review and the Political Dialogue’, Chapter 9 in this volume.

¹⁰ For the European Parliament the domestic context can be identified with the institutional system of the European Union as well as with the relationship with the European voters.

¹¹ See the decision on the Treaty of Lisbon by the German Constitutional Court, Second Senate, 2 *BvE* 2/08, 30 June 2009.

¹² C Fasone, ‘European Economic Governance and Parliamentary Representation. What Place for the European Parliament?’ (2014) 20 *European Law Journal* 164.

¹³ Although the percentage has dropped by less than 0.3% from 2009 to 2014. Source: statistics available on the website of the European Parliament, at: www.europarl.europa.eu/elections2014-results/en/turnout.html. On the Spitzenkandidaten experience, see N Peñalver García and J Priestley, *The Making of a European President* (Palgrave, Abingdon, 2015).

Moreover with few exceptions and although potentially enabled to oversee their executive,¹⁴ national parliaments have found themselves unable to deal properly, in terms of parliamentary debate, with careful scrutiny and well-informed deliberation on the intergovernmental agreements negotiated during the crisis: the European Financial Stability Facility, the Treaty on the European Stability Mechanism (ESM), the Fiscal Compact and the agreement on the Bank Resolution Fund.¹⁵ The pressure put on them by the governments, individually and collectively through the Eurogroup, the European Council and the Euro Summit, and on some occasions also by the European Central Bank and the International Monetary Fund, has not left much choice to national legislatures that often have jointly discussed these measures or passively voted for them. The parliaments of the Member States that have benefited from financial assistance and support within (Cyprus, Greece, Ireland, Italy, Portugal and Spain) or outside the Eurozone (Hungary, Latvia¹⁶ and Romania) were even more constrained in the autonomy of their budgetary decisions and in the adoption of structural reforms. The only counter-weight to this (forced) parliamentary passivity has been represented either by Constitutional and Supreme Courts, for example in Germany, Portugal and Estonia,¹⁷ or by Eurosceptic parties, which tended to move the debate outside and sometimes even against parliamentary assemblies.

Perhaps the most acute challenge to representative democracy entrenched in parliamentary institutions has been launched in the case of the 2015 Greek—last minute—referendum. The bypassing of the Greek Parliament was determined by many factors: first, its inability to elect a President of the Republic, which led to new parliamentary elections in January 2015; second, the electoral success of the Eurosceptic party SYRIZA, which made the adoption of the required austerity measures extremely difficult; third, the illusion, created by the government in office, of letting the Greek people directly decide on their own future through a referendum, called in 10 days, and held on 5 July 2015.¹⁸ When a third bailout programme was finally agreed upon by the Euro Summit on 12 July 2015—the choice being between bankruptcy and potential exit from the Eurozone, on the one hand, and staying within the Eurozone, re-opening banks and receiving financial assistance, on the other—the Parliament was again requested to vote on, to our knowledge, the most comprehensive package of reforms negotiated with the Troika in the shortest period of time: just ... one week.¹⁹ While the Greek Parliament ‘approved’ these reforms, which were

¹⁴ E Griglio and N Lupo, ‘Parliamentary Democracy and the Eurozone Crisis’ (2012) 1 *Law and Economics Yearly Review* 314.

¹⁵ See A Maatsch, ‘Limited and asymmetrical: approval of anti-crisis measures (EFSF, ESM, and TSCG) by national parliaments in the Eurozone’ in C Fasone, D Fromage and Z Lefkofridi (eds), *Parliaments, public opinion, and parliamentary elections in Europe*, (2015) 18 *EUI Max Weber Working Paper Series*, and C Fasone, ‘Eurozone, non-Eurozone and “troubled asymmetries” among national parliaments in the EU. Why and to what extent this is of concern’ (2014) 6 *Perspectives on Federalism*, in R Castaldi and G Martinico (eds), Special Issue on ‘The Never-Ending Reform of the EU: Another Chain in the Semi Permanent Treaty Revision Process?’, p 1.

¹⁶ Latvia joined the Eurozone afterwards, only on 1 January 2014.

¹⁷ C Fasone, ‘Taking budgetary powers away from national parliaments? On parliamentary prerogatives in the Eurozone crisis’ (2015) 37 *EUI Law Working Paper Series*, cadmus.eui.eu/handle/1814/36658.

¹⁸ See X Contiades and A Fotiadou, ‘The Greek Referendum: Unconstitutional and Undemocratic’, *Constitutional Change Through Euro Crisis Law*, European University Institute, Law Department, 7 July 2015: eurocrisislaw.eui.eu/news/the-greek-referendum-unconstitutional-and-undemocratic-by-xenophon-contiades-and-alkmene-fotiadou/.

¹⁹ See the detailed lists in the Euro Summit Statement of 12 July 2015: eurocrisislaw.eui.eu/wp-content/uploads/2015/07/20150712-eurosummit-statement-greece.pdf. They include, for instance, the reform of the pension and fiscal systems and the adoption of the Code of Civil Procedure.

a pre-condition for the rescue programme to be in operation, other parliaments of some of the creditor countries, such as the Austrian, Estonian, Finnish and German Parliaments, were voting to authorise their governments to start the negotiations on granting financial assistance to Greece, according to their national constitutional requirements.²⁰

II. ... AND A WAY FORWARD: THE DEVELOPMENT OF INTERPARLIAMENTARY COOPERATION

What do all these developments tell us in terms of the role of the European and national parliaments in the European Union? Interestingly enough and precisely when the role of the European Council and the Council has grown substantially in deciding the strategies as well as the concrete measures to face the financial crisis in Europe²¹ and when the margins of manoeuvre of many parliaments were restrained in their own domestic context, there has been a blossoming of interparliamentary meetings, forums and conferences on different topics and purposes and with a variable-asymmetric participation.

While in the domestic arenas, although to a different degree depending on the Member State, national parliaments have tried to strengthen their scrutiny of the executives in the field of EU affairs and to set up new committees or administrative structures that could support a gradual shift from (sole) law-making to a greater oversight function especially on European policies, they have devoted their attention to the external dimension of their activities, in an incremental way.

In spite of the traditional competition between the European Parliament and national legislatures and the different degrees of commitment they show towards their cooperation, at least every week the parliaments of Europe meet all together or in smaller formations (by policy interest or by region) in Brussels, in other European capitals as well as virtually on the Internet.²² They exchange information, necessary to better oversee the many executives existing in the European Union, and try to coordinate their positions on the most salient issues wherever possible.

²⁰ A first comparative picture is offered by V Kreiling, 'Asymmetric parliamentary powers: the case of the third rescue package for Greece', 19 August 2015, available at: www.delorsinstitut.de/en/allgemein-en/asymmetric-parliamentary-powers-the-case-of-the-third-rescue-package-for-greece/. On the French case, where the government just involved the Assemblée Nationale to approve a general political declaration, ie even a negative vote would not have hampered the government from continuing the negotiations with Greece, see D Fromage, 'The ESM and National Parliaments: France', *Constitutional Change Through Euro-Crisis Law*, 28 July 2015: eurocrislaw.eui.eu/news/the-esm-and-national-parliaments-france-by-diane-fromage/.

²¹ See U Puetter, *The European Council and the Council. New intergovernmentalism and institutional change* (Oxford, Oxford University Press, 2014); J White, 'Politicizing Europe: The Challenge of Executive Discretion' in SB Hobolt and O Cramme (eds), *Democratic Politics in a European Union under Stress* (Oxford, Oxford University Press, 2014) 87 ff; S Fabbrini, above n 7, 45ff; D Howarth and L Quaglia, 'The New Intergovernmentalism in Financial Regulation and the European Banking Union' in CJ Bickerton, D Hodson and U Puetter (eds), *The new intergovernmentalism. States and Supranational Actors in the Post-Maastricht Era* (Oxford, Oxford University Press, 2015) 146–62.

²² See D Fromage, 'A mapping of recent trends in interparliamentary cooperation within the EU' in C Fasone, D Fromage and Z Lefkofridi (eds), *Parliaments, public opinion and parliamentary elections in Europe*, (2015) 18 *EUI Max Weber Working Paper Series*, <http://cadmus.eui.eu/handle/1814/37462>.

While the multiplication of interparliamentary meetings raises concerns as to their effectiveness and the cost for their organisation, it also shows that parliaments are re-inventing their role through interparliamentary cooperation—that now also has legal bases in the European Treaties (article 12 TEU, articles 9–10 Protocol No 1, Protocol No 2 and the Fiscal Compact)—in between the domestic and the supranational arenas. Given the variety of the formats that interparliamentary cooperation can take on, ie, permanent or ad hoc-temporary, asymmetric or ‘all inclusive’, generalist or policy-oriented, etc, and its direct link with the issue of democratic legitimation of the European Union, the phenomenon of interparliamentary cooperation deserves a more careful academic analysis, which this book aims to provide.

To this end, the following research questions are dealt with in the chapters that follow in the volume, each of them addressing one or more of these questions according to their focus: 1) What are the instruments and aims of interparliamentary cooperation and are they achieved? 2) To what extent do parliaments contribute to the development of the composite European Constitution through interparliamentary cooperation? 3) Is interparliamentary cooperation helping in reconciling European and national democratic systems? 4) Is interparliamentary cooperation increasing the executives’ accountability and political responsibility in a Euro-national parliamentary system?²³

III. THE CONCEPTUAL FRAMEWORK

A. The Ongoing Debate on the Role of Parliaments in the Composite European Constitution

The book aims to cover a topical debate in EU constitutional law,²⁴ which originates from the present difficulty in finding new patterns of parliamentary interaction at European level now that national parliaments have been provided with powers of direct intervention in the EU, in particular through the scrutiny of the principle of subsidiarity, ie, the early warning system (EWS).

Such difficulty has also been highlighted by the political, institutional and technical discussions concerning interparliamentary cooperation, which was deemed to have a marginal institutional impact in the past, but today, as said, is expressly acknowledged as a permanent feature of EU democracy by EU Treaties and the Fiscal Compact.

The volume does not focus on interparliamentary cooperation in itself. It aims first and foremost at analysing the effects of interparliamentary cooperation on the institutional actors directly and indirectly involved, at national as well as at European level—namely, on national parliaments and the European Parliament, in terms of organisation and procedures, but also on the fragmented executive of the EU, composed of national

²³ For a more detailed definition of the Euro-national parliamentary system, see Section II.B below and the Conclusion in this volume.

²⁴ A Von Bogdandy and J Bast, *Principles of European Constitutional Law*, 2nd edn (Oxford and München, Hart Publishing and Verlag CH Beck, 2011); R Schütze, *European Constitutional Law* (Cambridge, Cambridge University Press, 2012); R Bin, P Caretti and G Pitruzzella, *Profili costituzionali dell’Unione europea* (Bologna, Il mulino, 2015); K Tuori, *European Constitutionalism* (Cambridge, Cambridge University Press, 2015).

governments, with their different ministries by policy area, the European Commission, the Council, the European Council and, to some extent, also the independent agencies and authorities.²⁵

Indeed, the fragmented executive is a very important institutional feature of the EU, which interparliamentary cooperation is requested to deal with. The fragmented nature of the executive of the EU often induces national and European governments to share, but also to escape from and dissolve their political responsibility, in relation to their own parliament as well as to citizens.²⁶ It weakens the traditional instruments of parliamentary scrutiny and oversight, as the responsibility for the policies carried out is not clearly traceable to a single executive body.

In particular, intergovernmental institutions and bodies, like the European Council and the Euro Summit, cannot be effectively controlled either by the European Parliament or by national parliaments: the first is substantially devoid of powers to directly oversee these bodies, while at best the latter are able to check whether national government members actually pursue their national interests in those forums.

In this context, interparliamentary cooperation is one of the ways whereby a form of political responsibility and/or democratic accountability can be revived: building connections among different parliaments has often helped in reconstructing how decisions have been taken far away from the national scene and has unveiled some documents/positions that a single national executive did not want to disclose to its parliament and citizens.

This complex set of relationships is investigated by looking at the EU as a composite Constitution,²⁷ grounded at the same time on the Constitutions of the Member States and on the European Treaties (by which we refer to TEU, TFEU, Charter of fundamental rights, and EU-related treaties like the Fiscal Compact and the Treaty on the European Stability Mechanism), as the framework of analysis. National Constitutions and European Treaties recognise each other—in the European clauses of national Constitutions and in several Treaties' references to national constitutional law, respectively—therefore self-restraining their original sovereign power and giving rise to a composite Constitution.

Given this interpretation of the EU as a composite constitutional order, the roles of parliamentary institutions placed at different levels of government also become strongly intertwined. Thus, in order to fully grasp the reality of a Euro-national parliamentary dimension, we must look dynamically at the horizontal relationship between national parliaments, at each of them embedded in a specific form of government (and consequently with their executive branch), as well as at their relationship with the European Parliament and the EU institutions exercising the executive power.

So far scholarly articles and books dealing with parliaments in the EU have looked at them from the viewpoint of the problem of the democratic deficit,²⁸ the theory of

²⁵ D Curtin, 'Challenging Executive Dominance in European Democracy' (2014) 77 *Modern Law Review* 1.

²⁶ B Crum and D Curtin, 'The Challenge of Making European Union Executive Power Accountable' in S Piattoni (ed), *The European Union. Democratic Principles and Institutional Architectures in Times of Crisis* (Oxford, Oxford University Press, 2015) 63.

²⁷ LFM Besselink, *A Composite European Constitution* (Groningen, Europa Law Publishing, 2007).

²⁸ A Føllesdal and S Hix, 'Why There is a Democratic Deficit in the EU: A Response to Majone and Moravcsik' (2006) 44 *Journal of Common Market Studies* 533.

delegation,²⁹ the theory of representation,³⁰ and the theory of legal and political constitutionalism,³¹ especially when an attempt was made to look at parliaments from the perspective of political theory or philosophy.

In the case of national parliaments, by far the most studied procedure since the entry into force of the Treaty of Lisbon has been the EWS, although different conclusions have been reached about its suitability and effectiveness and the scope of the scrutiny of the principle of subsidiarity.³² There are also books on how national parliaments have been affected by the process of European integration, in terms of procedures and organisation and in terms of the relationship with the executive, in a comparative perspective.³³ Finally, there are contributions on interparliamentary cooperation in international politics, which look at the phenomenon from the point of view of international relations, in Europe and beyond.³⁴

However, there is not much scholarship aiming to see whether interparliamentary cooperation is able to reconcile the European and the national dimensions of parliamentary democracy in the EU and to analyse it in relation to the role that the executives play in the composite European Constitution. By contrast, the starting point of this volume is that a reconciliation between the national and the European dimensions of parliamentary democracy is required in order to preserve the democratic legitimacy and accountability of the current decision-making processes in the EU. These processes take place partly within the Member States and partly within EU institutions (also composed of members pertaining to domestic institutions, in the cases of the Council and the European Council). Thus, individually taken, each national parliament and the European Parliament hold only a portion of the relevant information and powers that enable them to oversee the fragmented executive of the EU.

Given the wording of the Treaties and the developing institutional practice, interparliamentary cooperation can even be detected as a new parliamentary function, jointly exercised by national parliaments and the European Parliament. However, it does not constitute an autonomous channel of parliamentary legitimation and representation of the EU, but

²⁹ G Majone, 'Europe's "Democratic Deficit": A Question of Standards' (1998) 4 *European Law Journal* 5; B Rittberger, *Building Europe's Parliament: Democratic Representation Beyond the Nation State* (Oxford, Oxford University Press, 2005).

³⁰ D Friedrich and S Kröger (eds), *The Challenge of Democratic Representation in the European Union* (New York, Palgrave MacMillan, 2012).

³¹ M Goldoni, 'The Early Warning System and the Monti II Regulation: The Case for a Political Interpretation' (2014) 10 *European Constitutional Law Review* 90, based on the account of political and legal constitutionalism provided by R Bellamy, *Political Constitutionalism: A Republican Defence of the Constitutionality of Democracy* (Cambridge, Cambridge University Press, 2007).

³² I Cooper, 'A "Virtual Third Chamber" for the European Union? National Parliaments after the Treaty of Lisbon' (2012) 35 *West European Politics* 441; P De Wilde, 'Why the Early Warning Mechanism does not Alleviate the Democratic Deficit' (2012) 6 *OPAL Online Paper*; P Kiiver, *The Early Warning System for the Principle of Subsidiarity: Constitutional Theory and Empirical Reality* (London, Routledge, 2012); F Fabbri and K Granat, '"Yellow card, but no foul": The role of the national parliaments under the Subsidiarity Protocol and the Commission proposal for an EU regulation on the right to strike' (2013) 50 *Common Market Law Review* 115.

³³ A Maurer and W Wessels (eds), *National Parliaments on their Ways to Europe. Losers or Latecomers?* (Baden Baden, Nomos Verlag, 2001); K Auel and A Benz, 'The politics of adaptation: The Europeanisation of national parliamentary systems' (2005) 11 *The Journal of Legislative Studies* 372; S Brouard, O Costa and T König (eds), *The Europeanization of Domestic Legislatures: The Empirical Implications of the Delors' Myth in Nine Countries* (New York, Springer, 2012).

³⁴ B Crum and JE Fossum (eds), *Practices of Inter-parliamentary Coordination in International Politics: The European Union and Beyond* (Colchester, ECPR Press, 2013).

rather an instrument which could help the two ordinary channels for parliamentary representation to find better ways to exercise their functions and to design more coordinated strategies of parliamentary oversight.³⁵

B. A Euro-national Parliamentary System

The often inconsistent evaluations of the EWS and the harsh debates characterising, in particular, the setting up of the new interparliamentary conferences on foreign, security and defence policy and economic and financial governance, derive—it is argued in this book—from the co-existence of very different ideas and theoretical frameworks concerning the role of parliaments in the EU. Which are and which should be the respective roles of national parliaments and the European Parliament are still matters of concern in the EU institutional debate, both at academic and political levels.

As for the political debate, recipes for the strengthening of European democracy differ very much. Some require a further increase of the powers of the European Parliament. Others ask for the introduction of a veto power (often called ‘red card’) upon a certain number of national parliaments (or even a single one).³⁶ Further opinions argue in favour of a revival of an old proposal: that is, the setting up of a new parliamentary assembly, composed of representatives of national parliaments, limited to the Eurozone Member States.³⁷

As for academic debate, as is well known, the federalist approach is very much in favour of strengthening the authority and powers of the European Parliament as the supranational democratic institution par excellence, but usually overlooks the democratic contribution of the national parliamentary dimension to the EU integration process.³⁸ For the rest, at the national level, each government is accountable to its respective parliament, also on EU matters and, according to the federalists, no direct role should be exercised by national parliaments at European level.

According to other scholars, by contrast, the main channel for the democratic legitimacy of the EU still relies on national parliaments, as the nation state and its bodies are to be deemed the main locus of constitutional and democratic accountability of the EU regulatory powers.³⁹ This approach moves to proposals aimed at increasing the national parliaments’ role in EU decision-making, either through Treaty amendments, or else through the introduction of new constitutional conventions (called ‘green card’ or ‘enhanced political

³⁵ E Griglio and N Lupo, *Strengths, Weaknesses, Opportunities and Threats of Interparliamentary Cooperation in the EU*, paper presented at the 13ème Congrès national—Association française de Science politique, 22–24 June 2015, Aix-en-Provence.

³⁶ Cf D Cameron, UK Prime Minister, *A New Settlement for the United Kingdom in a reformed European Union*, Letter to Donald Tusk, President of the European Council, 10 November 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/475679/Donald_Tusk_letter.pdf.

³⁷ E Griglio and N Lupo, ‘Towards an asymmetric European Union, without an asymmetric European Parliament’ (2014) 20 *LUISS SOG Working Papers*; D Curtin and C Fasone, ‘Differentiated Representation: Is a Flexible European Parliament Desirable?’ in B de Witte, E Vos and A Ott (eds), *Between Flexibility and Disintegration: The State of EU law today* (Cheltenham, Edward Elgar Publishing, 2016), forthcoming.

³⁸ D Marquand, *Parliament for Europe* (London, Jonathan Cape, 1979).

³⁹ PL Lindseth, *Power and Legitimacy: Reconciling Europe and the Nation-State* (Oxford, Oxford University Press, 2010); D Chalmers, ‘Democratic Self-Government in Europe. Domestic Solutions to the EU Legitimacy Crisis’, *Policy Network Paper*, 15 May 2013, 5 ff; R Bellamy and S Kröger, ‘Domestic the Democratic Deficit? The Role of National Parliaments and Parties in the EU’s System of Governance’ (2014) 67 *Parliamentary Affairs* 437.

dialogue’) encouraging, in the wake of the experience of the ‘political dialogue’, a more proactive role for them.⁴⁰

Recently Ben Crum and Erik Fossum have proposed a new paradigm for understanding parliamentary democracy in the EU, its strengths and weaknesses, according to the idea of a ‘multilevel parliamentary field’.⁴¹ They argue that parliamentarism in the EU has to be put in context: since the EU develops as a multilevel system of government, it is exactly within this framework that the contributions of national parliaments and the European Parliament to EU democracy have to be assessed. Both dimensions of parliamentarism are important, and even more so their mutual relationship. Although the idea of a ‘multilevel parliamentary field’ appraises the significance of interparliamentary cooperation, it does not include in this dynamic the interplay with the EU fragmented executive, which nevertheless in our view is a crucial feature for understanding the role of parliaments in the composite European Constitution.⁴²

Indeed, the legitimacy of the European constitutional order, particularly after the Treaty of Lisbon and the new economic governance, depends on the nature and functioning of a more complex set of parliamentary and interinstitutional relationships that can be divided up for explanatory purposes as follows: the relationship between each national parliament and its government; the relationship between national parliaments that parallels the relationship between national executives; the relationship between the European Parliament and the EU executive; the relationship between the European Parliament and the national parliaments.

This arrangement is what this book defines as the ‘Euro-national parliamentary system’, where each set of relationships listed above has to take into account all the others as inherent to the composite nature of the EU constitutional order. This very idea of a ‘Euro-national parliamentary system’, of which interparliamentary cooperation is a crucial component and which considers the role of the executive as the first point of reference for parliamentary action, is the approach followed by the editors and is the starting point of this volume.⁴³

In other words, the concept of the ‘Euro-national parliamentary system’ moves from the model of the ‘multilevel parliamentary field’ coined by Crum and Fossum, but goes further. It is composed of both European and national procedures and based upon the idea that the functions of representation, policy-setting and oversight—traditionally attributed to every legislature—are now necessarily networked and shared among the different parliaments in the EU.⁴⁴

Differently from the previous model, which relied on the concept of the ‘field’, in which every parliament is called upon to play rather freely its own game,⁴⁵ the model proposed

⁴⁰ C Fasone and D Fromage, ‘National parliaments and the EU Commission’s agenda: limits and recent developments of a difficult partnership’ in C Fasone, D Fromage and Z Lefkofridi (eds), *Parliaments, public opinion and parliamentary elections in Europe*, (2015) EUI Max Weber Working Paper Series; N Lupo, ‘Iniziativa legislativa e ruolo dei parlamenti nazionali nel sistema istituzionale dell’Unione europea’ in R Mastroianni and A Maffeo (ed), *L’iniziativa dei cittadini europei* (Napoli, Editoriale scientifica, 2015) 13ff.

⁴¹ B Crum and JE Fossum, ‘The Multilevel Parliamentary Field: a framework for theorizing representative democracy in the EU’ (2009) 1 *European Political Science Review* 249.

⁴² See section II.A above.

⁴³ Cf A Manzella and N Lupo (eds), *Il sistema parlamentare euro-nazionale. Lezioni* (Torino, Giappichelli, 2014).

⁴⁴ A Manzella, ‘La cooperazione interparlamentare nel “Trattato internazionale” europeo’ *Astrid-online.it*, 22 February 2012.

⁴⁵ And even to fight one against one another within what has been named ‘the multi-level parliamentary battlefield’: see A Herranz Surálles, ‘The EU’s Multilevel Parliamentary (Battle)Field: Explaining Inter-parliamentary Cooperation and Conflict in the Area of Foreign and Security Policy’ (2014) 37 *West European Politics* 957.

here uses the concept of the ‘system’—intended, according to the general system theory, as a set of elements standing in interrelation to one another and with the environment⁴⁶—and refers to more structured inter-institutional relationships, not exclusively concerning parliaments. The fulfillment of this idea calls for the development of parliamentary and inter-institutional procedures, both bilateral and multilateral, which are not only able to structure the relationships among parliaments into a real and effective ‘system’, but also between each parliament and its own executive at national level (whose relevance for EU democracy is acknowledged by article 10 TEU).

One of the factual elements on which this model is founded is, in fact, that in the Constitutions of all the EU Member States, with the only exception of Cyprus, the government is held responsible before the parliament (or at least a chamber thereof).⁴⁷ This means that most of the EU chambers are called upon to exercise a function of scrutiny and direction of their own government, including on EU affairs.⁴⁸ Far from being external to the EU institutional system, these relationships are an essential part of the composite European Constitution. Furthermore, alongside interparliamentary cooperation and the relationships that the European Parliament entertains with the EU as well as national institutions, they build the structure on which the Euro-national parliamentary system is founded.

C. The Increasing Legalisation of Interparliamentary Cooperation and its Effects on the Composite European Constitution

Interparliamentary cooperation is therefore not just a marginal element of the activity of every national parliament of the EU, but a vital dimension of the Euro-national parliamentary system. The constitutional role of each legislature in the EU is defined not only by its national Constitution, but also by the ‘European powers’ attributed to it by the Treaties or other sources of EU law and international law.⁴⁹

⁴⁶ See L von Bertalanffy, *General System Theory* (New York, George Braziller Inc, 2003 [1968]).

⁴⁷ M Olivetti, ‘Parlamenti nazionali nell’Unione europea’ in *Digesto discipline pubblicistiche*, Aggiornamento V (Torino, Utet, 2012) 498. More specifically, cf A Emilianides, O Chrostou and C Ioannou, ‘The Cypriot Parliament and EU Affairs’ in C Heffler et al (eds), *The Palgrave Handbook of National Parliaments and the European Union* (Basingstoke, Palgrave MacMillan, 2015) 479–93.

⁴⁸ For an accurate comparative analysis, from which a very diversified picture emerges, see Heffler et al (eds) *ibid* n 47 and especially K Auel, O Rozenberg and A Tacea, ‘Fighting Back? And, If So, How? Measuring Parliamentary Strength and Activity in EU Affairs’, *ibid*, 60–93.

⁴⁹ N Lupo, ‘I poteri europei dei Parlamenti nazionali: questioni terminologiche, classificazioni e primi effetti’ in A Manzella and N Lupo (eds), *Il sistema parlamentare euro-nazionale. Lezioni* (n 43 above) 108–13. M Olivetti, above n 47, 523 ff, speaks, instead, of ‘functions of national parliaments in the European Union’ (own translation from Italian), following the Treaty of Lisbon. Most likely, behind this nominal distinction lies a different understanding of the way national legislatures are deemed to exercise these functions or powers. Indeed, according to Nicola Lupo, each national parliament, individually, is able to determine its level of commitment and the degree of involvement in the EWS, the political dialogue, the Treaty revisions and even in interparliamentary cooperation. In other words, national parliaments can have different views on what concerns the objectives and the *finalité* of the European powers outlined in the Treaties and protocols, and this is considered perfectly plausible and legitimate. By contrast, Marco Olivetti tends to see the ‘European functions’ of national parliaments and their active exercise as being both instrumental to the ‘good functioning of the EU’ (article 12 TEU). Hence, the use of these functions and procedures cannot be left entirely to the discretion of national parliaments when and how to exercise them. Their *finalité* is embedded in the Treaty and its fulfillment requests the active pro-EU involvement of all parliaments.

Yet, the role of interparliamentary cooperation in theory and in practice is often overlooked. This is not a new phenomenon, but only recently is it gaining more attention from scholarship. Indeed, the rise of interparliamentary cooperation happened rather gradually but its legalisation has intensified only recently.

The EU Speakers' Conference started meeting on a regular basis every two years in 1975 and then, from 1999, in the aftermath of the entry into force of the Treaty of Amsterdam, every year. By the same token, the Conference of parliamentary committees dealing with European affairs (COSAC) was established in 1989 at a crucial juncture for the evolution of the process of European integration, in between the fall of the Berlin Wall and the gradual reunification of Germany and the 'revolution' put forward by the Treaty of Maastricht.⁵⁰

Since then, after the unique experience of the Assises in 1990—praised by the European Parliament while having been rejected by national parliaments⁵¹—and the two Conventions (1999–2000 and 2001–03), national parliaments have taken on a new lease of life in Europe, at least if we look at legal documents. They have been empowered by the Treaty of Lisbon to be informed and to directly participate in the European policy-making and 'higher law making'⁵² (ie, through treaty revisions), up to the point of delaying, vetoing, or even proposing legislation, as the recent 'green card' initiative by the House of Lords, joined by other 17 parliamentary chambers, shows.⁵³

In other words, there has been an increasing legalisation of this phenomenon by means of EU primary law, EU legislation, national law and parliamentary rules of procedure that signals the importance of its development. Yet it is not easy to analyse interparliamentary cooperation or even to classify its different legal manifestations.

First, most interparliamentary forums and conferences lack transparency and receive almost no media coverage. Thus, there is not enough awareness by the public or scholars that every week bilateral or multilateral meetings among parliaments take place in the EU, both at national and European level.

Secondly, it remains unclear what legal effects interparliamentary cooperation is entitled to produce. In principle, this cooperation is not able to lead to the adoption of resolutions that are binding, especially for non-parliamentary actors. To some extent, depending on the parliament, parliamentary delegations lack the power to bind their own assembly or to make commitments on their behalf.

⁵⁰ See JHH Weiler, first, in 'The Transformation of Europe', (1991) 100 *Yale Law Journal* 2403, 2474–83, and, then, Weiler, 'Europe After Maastricht—Do the New Clothes have an Emperor?' (1995) *NYU Jean Monnet Center for International and Regional Economic Law and Justice*.

⁵¹ E Barón Crespo, 'Parliamentary democracy and the Treaty of Lisbon' (2012) 1 *OPAL Online Paper* 7–10.

⁵² B Ackerman, *We the People, Volume 1: Foundations* (Cambridge MA, Harvard University Press, 1991).

⁵³ See UK House of Lords, European Union Committee, and co-signatories, 'Letter to the European Commission', *Food waste: a proposal by national parliaments to the European Commission*, 22 July 2015, available at: www.parliament.uk/documents/lords-committees/eu-select/green-card/green-card-on-food-waste.pdf. The co-signatories of the 'green card' are: the Bulgarian National Assembly, the Croatian Parliament, the Cypriot House of Representatives, the Czech Chamber of Deputies and Senate, the Danish Parliament, the French National Assembly and Senate, the Hungarian National Assembly, the Italian Senate, the Latvian Saeima, Lithuanian Seimas, Luxembourgish Chamber of Deputies, the Maltese House of Representatives, the Dutch Tweede Kamer, the Portuguese Assembleia da República, the Slovakian National Council, and the UK House of Lords. The Czech Senate and the Danish Parliament confirmed their support to the 'green card' only afterwards, on 27 August and on 10 September respectively. See also, UK House of Lords, European Union Committee, 'The referendum on UK membership of the EU: assessing the reform process', *3rd Report of Session 2015–16*, 28 July 2015, available at: www.parliament.uk/pa/ld201516/ldselect/lducom/30/30.pdf, 21–23, regarding the support the House of Lords asks of the Government for the 'green card' initiative.

However, the debates taking place in the framework of interparliamentary cooperation, the constant exchange of views and best practices among parliaments, the informal coordination that is achieved by means of the EWS have deeply affected the organisation and the procedures of the parliaments concerned, the positions and the ideas of some MPs, as well as, in a few cases, policy outcomes.

The limitations of interparliamentary cooperation in general, in the EU and beyond, have been pointed out at length by the few publications on the topic.⁵⁴ These limits are the proliferation of interparliamentary forums without a clear design, and the lack of both an ordered development and a process of institutionalisation, whereby the objectives to be achieved and the tasks assigned are anything but clear.

A second type of limit consists in the lack of political willingness on the part of MPs, coming from very different political backgrounds and parties, to be actively involved in interparliamentary cooperation, as there is no incentive here for the success of their political career and re-election.⁵⁵ Hence, very often, not only the management of but also political inputs to interparliamentary cooperation are provided by parliamentary officials, thus leading to a sort of bureaucratisation of the instrument.⁵⁶ By the same token, interparliamentary cooperation is often accused of encompassing high costs against a substantial lack of effectiveness.

Nevertheless, both criticisms need to be specifically assessed in the light of the actual practice, which is examined in this volume. At present, as far as concerns the unbalanced cost-benefit relationship affecting interparliamentary cooperation, one can just highlight that parliaments are ineffective and inefficient only to a certain extent, since the fulfillment of their representative function nonetheless requires time and resources to be used for the sake of organising and engaging with debates and exchanges of opinions regarding issues of public interest. Regarding the second limit referred to, ie, the lack of political willingness and administrative activism, it can be observed that the 'European powers' are attributed not to MPs themselves, but to national parliaments as institutions, therefore including their parliamentary administrations, which indeed play an important intermediation function, between politics and technical expertise. The extent to which MPs ask for the assistance of and delegate tasks to parliamentary officials on documents and draft legislation almost always with a high level of complexity is nonetheless very variable, and depends also on the degree of Europeanisation of these officials and on the qualitative and quantitative features of parliamentary administrations.

⁵⁴ C Decaro and N Lupo (eds), *Il 'dialogo' tra parlamenti: obiettivi e risultati* (Rome, LUISS University Press, 2009); C Fasone, 'Interparliamentary Cooperation and Democratic Representation in the European Union' in S Kröger and D Friedrich (eds), above n 30; O Costa, C Dri and S Stavridis (eds), above n 5; C Lord, 'The European Union: Parliamentary Wasteland or Parliamentary Field?' in B Crum and JE Fossum (eds), above n 34, 235–49.

⁵⁵ See K Auel and T Christiansen, 'After Lisbon: National Parliaments in the European Union' (2015) 38 *West European Politics* 261 and the emphasis they put on political motivation besides institutional capacities to explain the use by national parliaments of their new powers under the Treaty of Lisbon.

⁵⁶ N Lupo, 'Il ruolo delle burocrazie parlamentari alla luce dei mutamenti dell'assetto istituzionale nazionale e sovranazionale' (2012) 54 *Rassegna parlamentare* 51, 88–89; T Christiansen, A-L Högenauer and C Neuhold, 'National Parliaments in the Post-Lisbon European Union: Bureaucratization rather than Democratization?' (2014) 12 *Comparative European Politics* 121; A-L Högenauer and C Neuhold, 'National Parliaments after Lisbon: Administrations on the Rise?' (2015) 38 *West European Politics* 335.

However, as has been highlighted, parliaments of the twenty-first century are very different institutions from their predecessors in the nineteenth and early-twentieth century. Most importantly, parliaments are placed in a different institutional landscape, which is not only and sometimes not primarily national. Now set within multiple and variable relationships, with their governments, subnational actors, other parliaments, supranational and international organisations, parliaments—it has been argued—have been called upon to develop an international networking function, in addition to the classic parliamentary functions.⁵⁷

This picture is even clearer within the composite European Constitution, where parliaments, at every level of government, are asked to contribute to the good functioning of the EU.⁵⁸ As national and European policies become more and more intertwined, only a coordinated and cooperative control of the Euro-national decision-making, between national parliaments and the European Parliament, can ensure effective democratic oversight of the fragmented EU executive. Thus, the national and European parliamentary dimensions are today incomplete if standing alone—each focused either on the purely national or European side of the story—unless they are reconciled, mainly through interparliamentary cooperation.

The book intends to highlight the potential that interparliamentary cooperation has for the development of a composite European Constitution, where—it is supported—the legitimacy of institutional arrangements and procedures depends primarily on the quality of the relationship developed among institutional actors placed at different levels of government. Moreover, the approach taken into account in the volume, that of the Euro-national parliamentary system, challenges the usual understanding of interparliamentary cooperation as something that is for parliaments only; rather it is also very much affected by the executive–legislative relationship and thus by the forms of government, at both EU and national level.

IV. STRUCTURE AND RATIONALE OF THE VOLUME

This collective volume analyses the place and functioning of interparliamentary cooperation in the composite European Constitution. It discusses the developments in interparliamentary cooperation, before and after the Treaty of Lisbon, and its implications for the organisation and procedures of national parliaments and the European Parliament, for the fragmented executive of the EU, and the democratic legitimacy of the overall EU institutional system.

The volume aims to provide a bridge between scholars (of different origins and backgrounds) and practitioners focused on parliamentary studies in the European context. It relies largely on a series of seminars and lectures organised in the framework of the LUISS Guido Carli University School of Government's Summer School on Parliamentary Democracy in Europe, in Rome, a Jean Monnet Module generously funded by the European Commission (2013–15), and in the context of the LUISS Center for Parliamentary Studies.

⁵⁷ T Raunio, 'The Gatekeepers of European Integration? The Functions of National Parliaments in the EU Political System' (2011) 33 *Journal of European Integration* 303, who adds the networking function to those original five parliamentary functions described by Walter Bagehot [1867], *The English constitution* (Oxford, Oxford University Press, 2009).

⁵⁸ This is clearly spelled out for national parliaments in Art 12 TEU, after the Treaty of Lisbon.

The choice of the authors of the chapters responds to the aim to ensure a threefold overall balance: first, between academics and practitioners, with the latter focusing in particular on the most institutionalised forum of interparliamentary cooperation in the EU, the Conference of parliamentary committees dealing with EU affairs (COSAC); secondly, between young scholars and senior academics; and thirdly, between the different methodological approaches of constitutional law, EU law, international law, legal theory, political science and international relations, which are complementary to each other when studying legislatures. The predominant approach followed, nevertheless, is legal, ie, based on the analysis of written and unwritten rules and on a normative assessment of their application.

The chapters included in this volume cover a variety of different and crucial developments occurring after the Treaty of Lisbon, although most of them make use of a diachronic comparison with the pre-Lisbon arrangements in order to describe, explain and elaborate on the changes.

These issues are examined in the context of the European decision-making processes, namely the legislative process and the European Semester, on the one hand, and the Treaty revisions, on the other, by looking at the effects of interparliamentary cooperation on the internal structure of parliaments and at the models of interparliamentary cooperation that can be detected, on the basis of the EU Treaty provisions and protocols.

The book consists of six parts. The first part investigates the role of parliaments, ie, the European and national Parliaments, in the EU understood as a composite European constitutional order and in comparison with an inherent feature of the EU legal architecture, namely interjudicial cooperation, which has received much more attention from scholars. Leonard Besselink highlights that national parliaments do not always behave according to the ideal place assigned to them in a composite Constitution and investigates some of the causes for such a mismatch. He focuses in particular on a traditional institutional account of democratic legitimation, which is deemed unsatisfactory and not able to explain the current developments of parliamentary democracy in Europe. Rather, we should move beyond the usual (national) ‘democratic legitimation chain’ and emphasise the significance in terms of transparency and accountability of parliamentary scrutiny and mandating systems by national parliaments as well as their involvement in implementing EU law, besides the interplay with democratically legitimated EU institutions. In his chapter Giuseppe Martinico provides an overview of the different paths of interaction among institutional actors at national and supranational level by looking first at the relationship between conflicts and cooperation among judges and then exploring the category of ‘dialogue’. He then applies the metaphor of the ‘dialogue’ to parliaments in the EU and develops a comparison between the informal and more formalised relationships established among judges with the rise of interparliamentary cooperation in the EU. Not only can similarities be found in the relatively stable, interdependent and non-hierarchical relationships and in the organisational arrangements, but also in the functions performed through this cooperation and in the detection of a sort of political control of constitutionality of EU legislative proposals by national parliaments through the EWS. Although clear differences between the two phenomena can equally be noticed—starting from the background of the actors, their nature and discretion—according to Martinico, interparliamentary cooperation and inter-judicial dialogue ‘work in tandem’ to protect national and transnational goods.

The second part of the book deals with interparliamentary cooperation in the EU Treaty revisions, considering here the role of parliaments in the past ‘constitutional’ Conventions

of 1999–2000 and 2002–03 and in those which might be convened in future according to Article 48 TEU: within the ordinary revision procedure, when Treaty amendments are agreed just within an intergovernmental conference; and in the framework of the new simplified revision procedures. Cesare Pinelli's chapter analyses the two cases of European Conventions held up to now—the Convention that drafted the Charter of fundamental rights of the EU and the Convention on the future of Europe—as examples of interparliamentary cooperation. Although the Conventions were also composed of representatives of national governments, the Commission and other European institutions and bodies—which were crucial to shaping the results of the collective work—the greatest part of their members were national MPs or MEPs. In the light of the achievements of the Convention on the Future of Europe concerning the role of national parliaments and the European Parliament in the EU, Pinelli considers whether and to what extent the format of the Convention, now briefly depicted in the EU Treaties, can become a model for interparliamentary conferences. In her chapter Katarzyna Granat deals with the role of national parliaments in the simplified Treaty revision procedures of Article 48.6 and 48.7 TEU, in particular on whether interparliamentary cooperation has been developed or can be developed in this framework. Indeed, according to the simplified revision procedures each national parliament is entitled to exercise a veto power on such Treaty revisions for up to six months from when the amendment was proposed. After an overview of the national rules implementing the Treaty provisions of the simplified revision procedures, the chapter focuses on the amendment to article 136 TFEU as a case study to test the implications for interparliamentary cooperation and for the overall contribution of national parliaments to the good functioning of the EU.

The third part of the volume analyses interparliamentary cooperation in the ordinary life of the EU, eg within the EU legislative process, from the standpoint of the impact this cooperation has on the organisation of parliaments. Antonia Baraggia's chapter deals with different challenges deriving from the European powers conferred by EU Treaty provisions on bicameral legislatures, which represent almost half of the national parliaments in the EU. It considers a series of questions posed by the participation of bicameral legislatures in interparliamentary cooperation—for instance the composition and the size of national parliamentary delegations and the weight the second chambers should have in the delegation—because of their structure and powers, primarily in relation to the national executive. Likewise, in the EWS in bicameral legislatures each chamber is assigned one vote by Protocol No 2 annexed to the Treaty of Lisbon, although their internal balance and democratic credentials can vary a lot from one Member State to another. These issues are analysed by Baraggia, taking into account the increasing activism second chambers show in EU affairs compared to lower chambers. Diane Fromage then considers how interparliamentary cooperation, in particular after the Treaty of Lisbon, has influenced a particular aspect of the internal organisation of national parliaments, ie, their standing committees. It is argued that, after the setting up of the European Affairs Committees (EACs) in 1989, when COSAC was established, with different structures, sizes and powers depending on the national legislature, the current phase has been characterised by a change in the balance between these committees and the sectoral committees competent by policy so far as concerns their involvement on EU issues. The increasing number of specialised interparliamentary meetings alongside the creation of sectoral interparliamentary conferences without any hierarchy or order of precedence nevertheless pose questions as to whether a (re)concentration of interparliamentary activities in the hands of EACs is needed. Then, in

the chapter by Nathalie Brack and Thibaud Deruelle the attention is devoted to other crucial bodies for parliamentary organisation and activities, political groups, and the role they play in interparliamentary cooperation. The chapter focuses in particular on the European Parliament's groups, analysing their degree of involvement and the constraints faced when they (informally) coordinate their action at European level and between the national and the supranational levels. The case study of political groups in the European Parliamentary Week is examined and, on this basis, it is concluded that, at least in this forum, interparliamentary cooperation has been increasingly politicised and turned towards more technical issues. By the same token, interests, resources and political opportunity appear to be the main factors explaining the asymmetric involvement of political groups in the interparliamentary cooperation. In the final chapter of this section, Andreja Pegan and Anna-Lena Högenauer analyse administrative interparliamentary cooperation, understood as the support that parliamentary administrators provide to members of parliament in interparliamentary cooperation but also including the contacts between parliamentary bureaucracies. Since the Treaty of Lisbon, this cooperation has acquired a permanent or semi-permanent organisation, as in the case of national parliamentary representatives, the COSAC's Secretariat and the European Parliament's Directorate for Relations with National Parliaments, while at the same time exchanges have occurred also on an ad hoc basis, for example in the framework of the EWS, and have been no less significant in terms of support provided to MPs and MEPs and coordination of parliaments' positions.

The fourth part of this volume, which is closely linked to the third one, examines the procedural dimension of interparliamentary cooperation, in particular in the context of the EWS for the control of compliance with the principle of subsidiarity and in the procedures stemming from the new economic governance. Marco Goldoni's chapter deals with the EWS and the political dialogue as potential tools for interparliamentary cooperation. Indeed, while the EWS assigns a power to each national parliament individually, only when a certain number of parliaments issue reasoned opinions is the Commission forced to re-examine the proposal. This tension between the individual and collective exercise of the power is coupled by the tension between the cooperative or veto use of the subsidiarity review that, by contrast, is lacking in the political dialogue. After having examined the two yellow cards issued by national parliaments and the different readings of them put forward by scholars regarding interparliamentary cooperation, the chapter looks at ongoing developments in the use of political dialogue up to the proposal for a 'green card', and in the conclusion makes an argument against the unlimited and unconstrained rise of asymmetric interparliamentary cooperation in the EU. Davor Jančić's chapter, instead, analyses the involvement of national parliaments in the procedures surrounding the Economy and Monetary Union (EMU). It first considers the position of national parliaments in the aftermath of the adoption of the Six-pack, the Fiscal Compact and the Two-pack and then elaborates on the actual use of the parliamentary channels of participation in the EMU and the European Semester. According to Jančić, from an overall evaluation of the composite EU fiscal law-making process it can be concluded that national parliaments have been able to counter the restriction of their autonomy during the Euro crisis by exploiting a variety of different constitutional tools, and one of them is interparliamentary cooperation itself.

The fifth part focuses on (old and new) interparliamentary conferences, which are the predominant structural format of interparliamentary cooperation. The first chapter in this part, by Adam Cygan, is devoted to COSAC; by far the most institutionalised forum

of interparliamentary cooperation in the EU, although its positions and functions have changed over time. For example, while the ratification process for the Constitutional Treaty was still ongoing, COSAC fostered a collective exercise among parliaments of the EWS on an experimental basis, but later on the Treaty of Lisbon excluded any competence regarding the principle of subsidiarity from the COSAC's mandate. This chapter assesses what the results of COSAC's activities have been so far, its current 'existential crisis', also due to the setting up of other interparliamentary conferences, and its prospective developments (also taking into account the analyses and proposals advanced in the last part of the volume). Chronologically the second EU interparliamentary conference to be set up, in 2012, was the Interparliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy. The chapter by Jan Wouters and Kolja Raube deals with the cooperation between national parliaments and the European Parliament in the context of European security governance. In spite of its peculiar status and given the decidedly intergovernmental domain covered, the Interparliamentary Conference has been seen as a test case for further interparliamentary settings in EU governance. Based on the first two years of its existence, the chapter puts forward the thesis that the work of this Conference, as it stands, is mainly about mutual information exchange and network building. Cooperation in respect of the latter is undermined by unresolved status questions and the lack of a common understanding on what accountability of the EU executives exactly entails. Nevertheless, information exchanges with executives in an interparliamentary context, for example with the High Representative of the European Union for Foreign Affairs and Security Policy, are seen by the authors as added value to the overall parliamentary dimension of the EU's foreign and security policy. Ian Cooper sheds light on the newest interparliamentary conference, established in 2013, the Interparliamentary Conference on Stability, Economic Coordination and Governance in the European Union (also called the 'Article 13 Conference'), which so far has been at the centre of controversy regarding its composition, size, objectives and powers. The chapter runs through the short but intense history of this Conference until November 2015, when its Rules of procedure were eventually adopted. It examines the role of the EU Speakers' Conference in this process and compares the opinions of different national parliaments and the European Parliament on the shape this body should take. It concludes that, while many crucial issues regarding the Conference have been gradually addressed, the exact 'mandate' of the Conference, ie, whether it is supposed to be just a discussion forum or is expected to perform an oversight function, is yet to be defined. At the end of this series of chapters on interparliamentary conferences, is the one on the EU Speakers' Conference. Indeed, although it is the oldest, as this Conference was created shortly before the European Parliament became a directly elected assembly, it was only a few years ago, while the ratification process for the Treaty of Lisbon was ongoing, that the EU Speakers' Conference started to play a new and only partially unexpected role, ruling the (dis-)order of interparliamentary cooperation. After a brief description of the historical evolution of this Conference, the chapter by Cristina Fasone considers the developments concerning the Conference from two points of view. The first looks at the Conference as a representative body. The second deals with its role of 'leader' of interparliamentary cooperation in the EU, to provide guidelines for interparliamentary cooperation and to coordinate the multiplicity of interparliamentary activities. The third perspective regards the role of the EU Speakers' Conference in providing an input to set up new interparliamentary conferences, and even in determining some of their rules of procedure. The chapter discusses whether the present developments are deemed to endure and if this is desirable.

Finally, the sixth part of the book collects the contributions of parliamentary officials of the European and national parliaments on the evolution of the role of COSAC, especially in the development of interparliamentary cooperation and in the Europeanisation of national parliaments. This part is seen as a necessary complement to the academic studies presented in the other five parts of the volume, given the rather peculiar place of this Conference in interparliamentary cooperation. COSAC, which has been in operation for 25 years and has witnessed the most lively period of the European integration process, definitely looks very different from the small conference it was in 1989. It is now the only interparliamentary conference to be provided for by the European Treaties, has ‘Europeanised’ and ‘trained’ national parliaments to practise the EWS and the political dialogue with the European Commission, as pointed out by Davide Alberto Capuano, and has adapted to a new reality in which the number of parliaments involved, due to the eastward enlargement, and their powers at the different levels of government have changed dramatically, as observed by Francisco Gómez Martos regarding the European Parliament. This evolution has required structural transformations, like the creation of a permanent COSAC Secretariat, as highlighted by Christiana Fryda, but has also led to the setting up of new and more specialised interparliamentary conferences—analysed in the fifth part of the volume—which have inevitably constrained the role of COSAC. It is not by chance that in their contributions both Bruno Dias Pinheiro and Antonio Esposito refer to a COSAC identity crisis, and Mendeltje Van Keulen supports the idea to reshape this conference as a more dynamic venue. Looking at the case of COSAC through the lens of actors, like parliamentary officials, who have been involved in its developments and put forward important proposals for its reform, is thus a way to review the overall evolution of interparliamentary cooperation in the last quarter of a century after its setting up.

As anticipated, the choice of a combination of theoretical analysis and studies based on the development of parliamentary institutional practice, on which only parliamentary officials can shed some light, is one of the methodological keys of this book. Indeed, the phenomenon under investigation, interparliamentary cooperation, in its procedures and decision-making, is not very well known by the public and usually parliamentary officials remain the main keepers of the memory of interparliamentary activities and meetings. The insights presented by the officials enrich the academic discussions and can be highly valued by the scholarly community.

Given the intensification and multiplication of interparliamentary activities, there is also a need to conceptualise this phenomenon, so as to detect its implications and effects on EU and national constitutional law. Interparliamentary cooperation is usually labelled either as a form of parliamentary ‘tourism’ or as an exercise in diplomatic attitudes with more or less no policy-making effects or legally binding outcomes, and thus, according to some scholars and politicians, it does not deserve much consideration. However, as this volume sets out to demonstrate, there is strong evidence from the legal point of view and from the current practice that this is no longer the case, in particular after the experience of the two Conventions, the Treaty of Lisbon and the reform of European economic governance. As we seek to argue in the concluding chapter, using the model of the Euro-national parliamentary system, if taken seriously and developed consistently with the principles of the composite European Constitution, the procedures and the structures linking the many parliaments of the EU can play a decisive role in European democracy.