



From EMU to DEMU: The Democratic Legitimacy of the EU and the European Parliament

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Abstract

Given the EU's legal and institutional structure, the European Parliament (EP) is in a weak position to fully participate in the governance of the Economic and Monetary Union (EMU). The Eurozone crisis did not alter this situation. Instead, the European Council and the Eurogroup gained many new, discretionary powers without being bound by any kind of uniform, coordinated or reliable control mechanism of the European Parliament. Overall, the parliamentary dimension of the EU's democracy deficit has been intensified. This paper explores ways to bring the European Parliament back into the reformed EMU governance framework.

Keywords: *European Union / Legitimacy / Democratic governance / European Parliament / Interparliamentary cooperation / Multi-level parliamentarism*

From EMU to DEMU: The Democratic Legitimacy of the EU and the European Parliament

by Andreas Maurer*

Introduction

Considered as one of the main beneficiaries of the institutional changes brought about by the Lisbon Treaty, the European Parliament (EP) has seen its role decreased as a result of the Eurozone crisis. In fact, while its legislative and budgetary powers have been clearly strengthened after Lisbon, its scrutiny role vis-à-vis the European Council has been negligible. Indeed, the European Council has become a key actor in managing the crisis, while other measures, like the European Semester, have strengthened the Commission, but this reinforcement of the executive bodies has not been counterbalanced by a corresponding power for the parliamentary bodies. In particular, the European Parliament appears to have been systematically sidelined throughout the crisis: In fact, most of the measures and instruments that have been adopted in the context of the Eurozone crisis rely on the legal bases of the Treaty on the Functioning of the EU (TFEU) which do not provide for a strong role of the EP. Instead, the instruments of EMU's economic and fiscal policies are decided by the Council and the European Council under special legislative and non-legislative procedures. In addition, intergovernmental instruments such as the Fiscal Compact (Treaty on Stability, Coordination and Governance in the Economic and Monetary Union - TSCG) escape the EU's institutional and procedural system of checks and balances, because they have been adopted outside the EU treaties' framework. While they confirm the Council and the European Council's roles in the Eurozone, they do not call for analogous rights of the EP to co-decide with or control these governmental bodies. Finally, fiscal policy and financial assistance instruments such as the European Stability Mechanism are not dependent on the EU's budget. Accordingly, the EP as the parliamentary arm of the EU's budget authority is excluded from the decision-making and control of these instruments. Instead, the Council's Eurogroup decisions on loans, guarantees and financial assistance are subject to national parliamentary scrutiny. Can this situation be reversed? Which reforms (Treaty-based and not Treaty-based) might be implemented to ensure a more effective control by the European Parliament? How can its powers be redefined, especially *vis-à-vis* the European Council and the European Commission?

Paper prepared within the framework of the IAI project "The Political Future of the Union", April 2013. The project aims to examine the multifaceted responses given by the EU to the eurozone debt's crisis and the political and institutional issues linked to that, like the democratic control of the new governance of the Economic and Monetary Union. The project also aims to explore the options for the future of European integration and the transnational debates on this topic.

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The recent developments in reforming the Economic and Monetary Union (EMU) are problematic for three reasons. Firstly, the reforms strengthen cooperation among the governments of the Euro-17, while widely ignoring the parliamentary component and the more general issue of democratic legitimacy of the deepened EMU (DEMU). Neither the European Parliament nor the national parliaments are provided with a uniform or coordinated, reliable control mechanism whereby parliamentary oversight is combined with the possibility of political and legal sanctions against the decision-makers of the European Council, its President and the Eurogroup. And although the Lisbon Treaty explicitly holds that the European Council “shall not exercise legislative functions”, the heads of state and government increasingly step in to mandate the Commission with rather fixed sets of reform proposals for further policy-initiation and to ask their President to present proposals with a view to reform the EMU. The European Parliament is only informed of the results of the European Council meetings and Eurogroup summits, its President participates in the beginning of the meetings, and some of its Members of European Parliament (MEPs) get informal access to the negotiation table. But the Parliament at large remains a passive observer. The resulting democratic deficit is not compensated through national parliaments, since only a few of them are able to force their governments into both ex-ante and ex-post scrutiny.¹

1. Principles for democratizing the EMU

The process towards reforming the EMU should be in conformity with the respect of the principle of democracy as it is defined under Articles 9 to 12 Treaty on the Functioning of the European Union (TFEU). This fundamental principle of the formation of a representative, parliamentary system is characterized through specific means for ensuring legislative-executive checks and balances: Those appointed with executive functions should be based on directly elected legislatures. Parliaments should be in a position to effectively use their elective and control functions *vis-à-vis* the executive bodies. Indeed, the evolving DEMU system clearly takes binding decisions, which influence citizens’ ways of living and constrains their individual freedom. This subsystem of the EU system directly affects national legislatures and the linkage between citizens and the governing bodies of the member states. Therefore, the DEMU’s institutional design faces a multitude of questions as to how representative this system of multi-level governance is, in which way its quasi-executive branches - the Eurogroup, its President, the European Council, the Council and the Commission - are accountable to citizens via a directly legitimated body and how democratic the decision-making procedures between the DEMU’s legislative authorities are. In this respect, it is safe to assume a continuous “renaissance” of the German Constitutional Court’s 1993 Maastricht ruling, which led to a general critique of the EU’s parliamentary model. The basic assumption of the Court remains that a polity presupposes a *demos* in ethno-national or ethno-cultural terms (the national “*Volk*” (People) instead of the denationalized or post-national “*Gesellschaft*” (Society) or “*Gemeinschaft*” (Community or Citizenry). Without a single European people sharing heritage, language, culture and

¹ Wolfgang Wessels et.al., *Democratic Control in the Member States of the European Council and the Euro zone summits*, Brussels, European Parliament-Directorate General for Internal Policies-Policy Department C: Citizens’ Rights and Constitutional Affairs, January 2013, <http://www.europarl.europa.eu/committees/en/studiesdownload.html?languageDocument=EN&file=90910>.

ethnic background, and without a European public space of communication that could shape the wills and opinion of the population, no European statehood could be founded. While the argument has been developed for the overall EU, it is also valid for any of its sub-systems. Building on this view, one can simply deny the pre-constitutional conditions for a DEMU and therefore conclude that in the absence of a single European or DEMU-related *demos* there cannot be real democracy at the European level. Assume that a socio-political entity, which is willing to produce democratic forms of governance, cannot simply dictate structural prerequisites and pre-constitutional elements of the future polity. One could then develop the argument further and conclude that any attempt of institutional and procedural reform is unreasonable unless the different EU-28 or Euro-17 *Demos* are identifying themselves as part of an emerging European *Demos*. Consequently, if one adopts this perspective, the European Parliament always remains an artifact of elitist integration and cannot be considered as a “*Vollparlament*” (a fully-fledged parliament). Strengthening the EP by means of institutional and procedural reforms in the DEMU area would not lead to any kind of a democratic system. Instead, one should concentrate on the legitimizing functions of national assemblies.

Against this line of analysis, I argue that the EU’s story is not only about territory and identity or - in the language of the German Constitutional Court - about culture, shared heritage, language and ethnic belonging. I assume that any kind of a supra- or super-national governance structure without a directly elected parliamentary backbone beyond national assemblies would pervert the Union, the DEMU or any other sub-system of the EU into an executive oligarchy: a system that would be apt to allocate and deliver common goods (i.e. to provide output-legitimacy), but not subject to any kind of continuous control (throughput-legitimacy) and never able to guarantee that the ways decisions are taken respect the rule of law (input-legitimacy).² Therefore, I conceive the re-parliamentarization of the DEMU’s decision-making system through both the European and the national parliaments as only one tool, but an essential one, for building a legitimate European order. The missing *demos* is not a prerequisite, but an ideal product of successful integration and institutional design.³ The “*demos* is constructed via democratic ‘praxis’. [...] Instead of ‘no EU democracy with a European *demos*’, we have ‘no European *demos* without EU democracy’”.⁴ Taking this perspective seriously, I consider the very process of DEMU within the overall EU integration process as an ongoing search for opportunity structures, which allow the institutions of the EU’s multi-level system to combine several demands for democracy-building beyond, but still with the nation state.⁵

² Fritz W. Scharpf, “Legitimationskonzepte jenseits des Nationalstaats”, in *MPIfG Working Papers*, No. 04/6 (November 2004), <http://www.mpifg.de/pu/workpap/wp04-6/wp04-6.html>; Armin Schäfer, “Die demokratische Grenze output-orientierter Legitimation”, in *Integration*, Jg. 29, H. 3 (Juli 2006), p. 187-200, http://www.iep-berlin.de/fileadmin/website/09_Publikationen/integration_2006/schaefer.pdf; Vivien A. Schmidt, “Democracy and Legitimacy in the European Union Revisited: Input, Output and ‘Throughput’”, in *Political Studies*, Vol. 61, No. 1 (March 2013), p. 2-22, <http://dx.doi.org/10.1111/j.1467-9248.2012.00962.x>.

³ Andreas Maurer, *Parlamente in der EU*, Wien, Facultas.wuv, 2012.

⁴ Simon Hix, “The Study of the European Union II: The ‘New Governance’ Agenda and its Rival”, in *Journal of European Public Policy*, Vol. 5, No. 1 (1998), p. 65, available at http://www.palgrave.com/politics/pdfs/14039_41041_21_Ch13.pdf.

⁵ Andreas Maurer, *Parlamentarische Demokratie in der Europäischen Union. Der Beitrag des europäischen Parlaments und der nationalen Parlamente*, Baden-Baden, Nomos, 2002.

2. Democratic imbalances

From a democratic point of view, the existing imbalance of EMU - coined by a fully supranationalized Monetary Union against a purely intergovernmental Economic [coordinating] Union - is characterized by its executive dominance at the expense of the EP and, consequently by a procedural segmentation and institutional atomization of political accountability in EU member states. Under EMU, the European Council, the Council of Ministers - let alone the Eurogroup - face no democratically elected institutions that are equipped with control or co-decision powers similar to those of the EP in areas such as the internal market or justice and home affairs. Within the treaty based requirements of EMU, the EP can rely on the ordinary legislative procedure (OLP) only under Article 121(6) TFEU on the procedural aspects of the multilateral surveillance procedure⁶, Article 129(3) TFEU, for amending certain provisions of the European System of Central Banks (ESCB) and the European Central Bank (ECB) Statute, and Article 133 TFEU regarding the currency law⁷. In all other EMU areas, however, the EP's rights are limited to simple consultation or information. Moreover, whenever treaty provisions deal with the exclusive powers of the Eurozone, the EP is neither consulted nor informed.

The widespread failure of the EP as the democratic and supervisory authority in EMU is not compensated for by the role of national parliaments. Indeed, according to the two protocols on the role of national parliaments (PNP) and on the application of the principles of subsidiarity and proportionality (PSP) annexed to the Lisbon Treaty, the national parliaments are to be fully informed and involved in the EU decision-making. But due to the treaty's hierarchy of norms set out in Articles 288-292 TFEU,⁸ the Union is under no obligation to inform and consult national parliaments in case of the following actions and decisions of the institutions:

- within the framework of multilateral surveillance of economic policies:
 - Prior to the adoption of the broad economic guidelines of the EU Member States and by the Council (Article 121 TFEU), and
 - Prior to the adoption of the Council's recommendations to the Member States (Article 121 (4) TFEU);

⁶ In fact, the legal basis of Article 126 TFEU was used for the so-called Six-Pack of September 2012 to adopt the regulation on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies, the regulation on the effective enforcement of budgetary surveillance in the euro area, the regulation on enforcement measures to correct excessive macroeconomic imbalances in the euro area, the regulation on the prevention and correction of macroeconomic imbalances, as well as for the so-called Two-Pack of March 2013 to adopt the regulation on the strengthening of economic and budgetary surveillance of member states experiencing or threatened with serious difficulties with respect to their financial stability in the euro area, and the regulation on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the member states in the euro area.

⁷ The legal basis of Article 133 TFEU is used to adopt the regulations on the issuance of euro coins.

⁸ Paolo Stancaelli, "Le système décisionnel de l'Union", in Giuliano Amato, Hervé Bribosia, Bruno De Witte (eds.), *Genèse et destinée de la Constitution européenne / Genesis and Destiny of the European Constitution. Commentaire du traité établissant une Constitution pour l'Europe à la lumière des travaux préparatoires et perspectives d'avenir*, Bruxelles, Bruylant, 2007, p. 485-543; Bruno De Witte, "Legal Instruments and Law-Making in the Lisbon Treaty", in Stefan Griller and Jacques Ziller (eds.), *The Lisbon Treaty. EU Constitutionalism without a Constitutional Treaty?*, Wien, Springer, 2008, p. 79-108.

- within the framework of budgetary surveillance in the Member States with a view to maintaining budgetary discipline (Article 126 TFEU)
- within the framework of the annual review of the employment situation (Luxembourg process), before issuing employment policy recommendations to the Member States (Article 148 TFEU), and
- within the framework of the Council and the European Council for decisions in relation to the operational committees for EMU, employment policy and social protection policies.

Any approach to reform the EMU should therefore support the principle of democracy and aim to remedy the democracy deficit of this specific policy area. Consequently, the process towards DEMU should include both the transfer of the EP's weak decision-making procedures into the OLP, increased scrutiny capacities of the EP vis-à-vis the DEMU's core institutions as well as the strengthening of national parliamentary scrutiny rights vis-à-vis their governments. Moreover, the process towards DEMU should be guided by the principles of the inter-institutional relations of the EU system. Rights and obligations arising from the treaty set tasks and functional attributions: Thus, under Article 10(2) TEU, the European Parliament represents the citizens directly and as a whole at EU level. Since it does not represent the member states, since it organizes itself and operates along the lines of denationalized political groups, and since Article 20 TFEU provides for the active and passive voting rights of EU citizens to the EP elections on the basis of their country of residency, Parliament is called to act as a unitary, uniting and integrating body. Special, functional or sector-specific parliamentary "spin- or split-offs" that would correspond to the differentiated logic of the Council are therefore contrary to this principle. In fact, while the Treaties' legal basis on the establishment and operation of enhanced cooperation explicitly provide for a formal differentiation of voting rights in the Council between the "Ins" and "Outs" (Article 20(3) TEU, Article 330 TFEU), they do not call for any corresponding discrimination inside the European Parliament. Similarly, Articles 136, 138(3), 139(4) and 140(2) TFEU provide for specific Council voting rights for those EU members whose currency is the Euro without establishing a parallel discriminatory regime within the EP.

Due to the dual legitimacy of the EU, a union of peoples represented by the EP and a union of states represented by the Council,⁹ the process towards DEMU should incorporate opportunity structures for parliamentary involvement, which would allow both parliamentary levels of the EU's system to democratize its governance structures, while improving the internal and external capability of the Union to perform efficiently, and to implement decisions in a traceable way for the citizens in their capacity as "recipients" and "end users" of European law. The reformed system of DEMU and its subsystems - the Eurozone, the fiscal compact (FC), and the ESM are thus faced with a triple challenge:

- Firstly, DEMU reforms should address the existing EU structure. The process towards DEMU should remain in accordance with the principles outlined above. We should therefore assume lengthy parliamentary procedures, national referendums

⁹ European Parliament, *Resolution on the preparation of the reform of the Treaties and the next Intergovernmental Conference* (C5-0143/1999 - 1999/2135(COS)) (A5-0058/1999), 18 November 1999, http://www.europarl.europa.eu/enlargement/positionep/resolutions/a50058_en.htm.

on staying in or leaving the Eurozone and lawsuits before constitutional courts with corresponding impacts on the ratification process.

- Second, new governance structures of the EU or of any modulated subsystem should be configured in a way that their application meets the democratic principles of the EU.
- And third, governance structures of the DEMU should be effective and enforceable without depending on discretionary “goodwill” of individual Member States.

3. Reform proposals under review

3.1. Equalization of the European Parliament with the Council

The bulk of the views expressed in the debate about solutions to remedy the EMU's democracy deficit aims at transferring the EP's weak participation procedures into the ordinary legislative procedure (OLP) and at strengthening the scrutiny powers of national parliaments.¹⁰ To date, the implementation of the envisaged integrated financial framework and the integrated economic policy framework would be based on special legislative procedures or Council decisions without any involvement of the EP. Against this background, the resulting democracy and parliamentary deficit could be reduced in three ways:

1) By referring to the simplified treaty amendment procedure of Article 48(7) subpara. 2 TEU, the European Council could, after obtaining the consent of the EP, decide to replace the special legislative procedures by the OLP. Before taking this decision, all national parliaments would be informed. If the proposed treaty amendment would be rejected by one national parliament, this reform option would fail. This procedure could be applied to Articles 113 and 115 TFEU on tax harmonization, Article 127(6) TFEU for the transfer of banking supervision to the ECB and Article 129(4) TFEU to amend the statutes of the ESCB and the ECB. Moreover, the conversion of the special legislative procedure to the OLP could be organized in the same way for the excessive deficit procedure and for amending the reference values (Article 126(14) TFEU).

2) Alternatively, the transition to the OLP would be possible by referring to the framework of enhanced cooperation on the basis of Article 333(2) TFEU. However, enhanced cooperation cannot be established on matters of exclusive EU competence, such as the monetary union. Here, the participating Member States would decide unanimously to adopt legal acts under enhanced cooperation by the OLP. This model would be applied to the reform of Article 113 and Article 115 TFEU. Other provisions

¹⁰ European Parliament, *Resolution on the report 'Towards a genuine Economic and Monetary Union'* (2012/2151(INI)), 20 November 2012, <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2012-43>; European Parliament Committee on Constitutional Affairs, *Working document on constitutional problems of a multi-tier governance in the European Union* (PE500.496v01-00), 19 December 2012, <http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&reference=PE-500.496&language=EN&secondRef=01>; Finnish Parliament, *Banking Union and the Future of EMU*, Helsinki, 13 December 2012 (Contribution to the ECON session at the Parliamentary Week on the European Semester for Economic Policy Coordination, Brussels, 28-30 January 2013), http://www.europarl.europa.eu/meetdocs/2009_2014/documents/econ/dv/finland_/finland_en.pdf.

for DEMU would be excluded (Article 126(14) TFEU on the excessive deficit procedure and amending the reference values, Article 127(6) TFEU for the transfer of banking supervision to the ECB, and Article 129(4) TFEU to amend the ESCB and ECB Statute), because they are subject to unanimity of all EU Member States.

3) The third alternative would seek to amend the EP's rights through a systematic revision of existent secondary legislation. Hence, nothing would prevent the Council from inviting the EP to participate more closely in decision-making. If the Council wants to share its powers with Parliament in order to extend (or diffuse) the responsibility a particular legal act, it could refer to Article 241 TFEU, and invite the Commission to forward a proposal for reviewing existing secondary laws.

In return for strengthening the EP, many politicians and observers focus on restricting the status of the EP in DEMU and on establishing an effective split within the EP by qualifying voting rights of its members or by creating a parliamentary body that would differentiate between MEPs according to their country of origin's participation in the Eurozone. Proposals vary between the creation of a Euro-Chamber with delegations of national parliaments and the establishment of a Euro-Parliament, which would be composed by an equal number of MEPs and MPs. These proposals raise the fundamental question whether the EP or any other parliamentary body should co-legislate and control instruments that only affect only the Eurozone countries.

3.2. A Euro-Chamber

Former Foreign Minister Joschka Fischer proposed the creation of a Euro-Chamber as a body composed by MPs, to scrutinize the new (proposed) "government of the euro area", that would consist of the governments of the Eurozone.¹¹ This chamber should be provided with initially advising functions (while keeping the decision-making authority within national parliaments), and later, on the basis of an intergovernmental agreement, exerting effective parliamentary control. Such a Chamber would be a step backwards to the dual mandate at national and EP level, MEPs had experienced until the first direct elections in 1979. Today, the MEPs face considerable difficulties to ensure their presence at three locations (Brussels, Strasbourg and in the home constituency) satisfactorily. Assuming a corresponding role for Euro-Chamber MPs which would still have to fulfill their national mandate, the proposal seems to go beyond the limits of feasibility. Moreover, even with a clear limitation of the functions and powers, the Euro-Chamber would overlap and risk to duplicate in subject areas linked to the Eurozone with other parliamentary institutions of the EU. After all, the Chamber would be required to redefine its tasks in relation to the EP and the national parliaments, in relation to the timing, the frequency and the inter-institutional setting of scrutiny. Should national parliaments forgo an independent review of the EU/Eurozone templates? Or should they be called to give "their" representatives in the Chamber binding voting instructions? In short, the Euro-Chamber might practically evolve into a parliamentary assembly that could parliamentarize the existing institutional and decision-making structures of the Council of Ministers. However, regarding substance and voting behavior, the Chamber's composition and rationale would result in a

¹¹ Joschka Fischer, "Vergesst diese EU", in *Die Zeit*, No. 46/2011 (10 November 2011), <http://www.zeit.de/2011/46/Interview-Fischer>.

duplication of the Council. The Chamber would therefore not be in a position to balance the Council and to compensate for the EMU's democracy deficits.

3.3. A Euro-Parliament

The alternative proposal put forward by German MP Michael Roth to create a Euro-Parliament¹² instead is not completely thought through either: Roth calls for the creation of a secessionist, parliamentary body to be composed of both MEP and MP from those EU member states that participate in the Eurozone. But how could a 150-strong cohort of MPs legitimize their decisions within the Euro-Parliament? If the Euro-Parliament would be qualitatively different from the Council of Ministers, it should clearly reflect the political party diversity in the Member States and the national parliamentary cohort should be in a position to act in partisan political groups. But if one should simultaneously take into account the criterion of the population size of the Member States, as referred to in the German Constitutional Court's reasoning on the principle of democracy - a Euro-Parliament with 150 MPs would surely be too small. Overall, the Euro-Parliament would establish the parliamentary core for a secession of the Eurozone and run against the TEU's principles of democracy.

3.4. Limiting the EP's voting rights to Eurozone MEPs

The President of the European Council, representatives of the German government and the so-called Future of Europe Group suggested limiting the EP's voting rights to MEPs from the Eurozone.¹³ The concept falls short of the TEU's requirements, since the EP represents the citizens and not the Member States of the Union (Article 14 TEU). Another, important objection is that according to Article 20 TFEU a citizen from a non-eurozone country may be elected as an MEP in a Eurozone country and vice-versa. Within Parliament, MEPs act - since 1952 - according to denationalized, political groups and not according to nationality! As a result, they conduct their deliberations not based on member state interests, but according to the voters' mandate in the Union's interest. The idea of carving out a Eurozone Parliament within the EP also runs against the design of the currency union itself. Indeed, the Euro is the currency of the Union and not of the Eurozone. With the exception of the United Kingdom, Denmark, and Sweden, all EU member states are legally bound to participate in the third stage of EMU. Accordingly, any form of legislation aimed at the Eurozone should always be taken in the interest of the Union. Besides these legal reasons, the realization of the "limitation" proposal would have a huge impact on the internal cohesion of the EP. Qualifying voting rights on the basis of the member states' positions in EMU would affect MEPs regardless of whether they belong to a group that is in favour of or against the participation of "their" member state in EMU: The UK Liberal Democrats, the Swedish Moderates or the Danish Social Democrats would be sanctioned for a position which they would like to change. The designed discrimination of deputies would

¹² Michael Roth, *Der Euro braucht ein Parlament*, 17 November 2011, <http://michaelroth.eu/de/detail.php?rubric=EUROPA&nr=2135>.

¹³ Future of Europe Group, *Final Report of the Future of Europe Group of the Foreign Ministers of Austria, Belgium, Denmark, France, Italy, Germany, Luxembourg, the Netherlands, Poland, Portugal and Spain*, 17 September 2012, <http://www.auswaertiges-amt.de/cae/servlet/contentblob/626338/publicationFile/171838/120918-Abschlussbericht-Zukunftsgruppe.pdf>.

probably induce sanctions and offsets within the parliamentary factions, which would have a major impact on the decision preferences to policy areas beyond the EMU. Especially the German protagonists of the “limitation” or “spin-off” proposal should therefore clearly address whether and how they want to maintain the “integrative” function of the EP, which the German Constitutional Court defined in 1979 (sic!), or if and why they deliberately set out to push a lever to the Parliament in order to split a wedge into the EU, which amounts to the secession of the Eurozone from the EU.

3.5. Give the European Parliament’s self-determination a chance

German MP Manuel Sarrazin put forward the idea that the EP should authorize one of its committees to take decisions on Eurozone issues on behalf of the EP’s Plenary and that this Committee should then act as the EP’s interlocutor with special information and consultation rights in Council proceedings, where fast and confidential cooperation is required.¹⁴ Instead of discrimination on grounds of the MEPs nationality, he suggests that the EP ensure an adequate presence of members of the Euro-states by amending its Rules of Procedure and on the basis of its autonomy for self-organization. The Commission seems to sympathize with the idea, since its Communication of 28 November 2012¹⁵ recognizes the special role and integrative function of the EP as the interface for the EU, any self-declared “center of gravity” and countries that do not participate in specific kinds of differentiated integration. The proposal by Sarrazin appears however to ignore the parliamentary democracy deficit at the level of national parliaments.

3.6. The Conference of European and National Parliament committees

It is the Fiscal Compact (FC) that tries to address this specific problem of creating an umbrella for multi-level parliamentary scrutiny in the evolving DEMU. Article 13 FC calls on both parliamentary levels to set up the structure, organizational rules and implementing mechanisms for a “conference of representatives of the relevant committees of the European Parliament and representatives of the relevant committees of national Parliaments” (COCOP-FC). French National Assembly’s MP Christophe Caresche synthesized the first ideas for implementing Article 13 FC in September 2012.¹⁶ In his view, the COCOP-FC should be enabled to carry out an effective monitoring of the FC, its executive bodies and its implementation measures. It should meet at least twice a year: in early summer all sector specific reform programmes

¹⁴ Manuel Sarrazin, *Für eine demokratische Wirtschaftsregierung für die EU der 27*, 23 October 2012, <http://www.manuelsarrazin.de/meinung/23-10-2012/f%C3%BCr-eine-demokratische-wirtschaftsregierung-f%C3%BCr-die-eu-der-27>.

¹⁵ European Commission, *A blueprint for a deep and genuine economic and monetary union Launching a European Debate* (COM(2012) 777 final), Brussels, 28 November 2012, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52012DC0777:EN:NOT>.

¹⁶ Christophe Caresche, “Rapport d’information déposé par la Commission des Affaires européennes portant observations sur le projet de loi de ratification du Traité sur la stabilité, la coordination et la gouvernance au sein de l’Union économique et monétaire”, in *Documents d’information de l’Assemblée nationale. Rapport d’information*, No. 202 (25 September 2012), <http://www.assemblee-nationale.fr/14/europe/rap-info/i0202.asp>. See also Czech Senate Committee on EU Affairs, *44th Resolution on the Resolution of the National Assembly of the French Republic on the democratic anchoring of the European economic governance* (Resolution on the Fiscal Compact), 6 February 2013, <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc53d6d6937013d8c60d6c4139c.do>.

submitted by April should be discussed, while the fall meeting should debate the national budget proposals that have been submitted to the Commission by October (see scheme). Both meetings should serve at a primarily mutual information exchange and joint discussion of all fiscal, economic and socio-political aspects of the Member States' budgets.

The ideal outcome would be to jointly adopt resolutions which could serve as key reference for both the EP and national parliaments when formulating their positions or amendments *vis-à-vis* the European Council and the member states' governments respectively. In January 2013, the Speakers of Parliament of the founding member states of the EU and the European Parliament widely confirmed Caresche's ideas. Accordingly, the COCOP-FC could discuss the Commission's assessment of the budgetary orientations of the participating EU member states and "make a collective contribution on the evolution of the Economic and Monetary Union by discussing in particular the Annual Growth Survey [AGS] to be presented by the European Commission as well as the assessment of the National Reform Programmes (NRPs) and Stability and Convergence Programmes (SCPs) and the recommendations issued in this context".¹⁷

Caresche further recommends creating from within the COCOP-FC a Joint Conference Committee (JCC) composed of MEPs and MPs from states that have adopted the Euro as their currency. The JCC should discuss "all specific questions in relation to the governance of the Eurozone, from fiscal harmonization to any kind of reinforced correction of excessive deficits".¹⁸ In addition, the JCC would be the competent body to discuss ESM-related issues, since it would deal with exclusive financial contributions and commitments of the Euro countries. More specifically, "it would be consistent for the special committee to be informed before the adoption of a proposal for creating financial assistance programmes as well as before amending the protocols of the respective agreements. By the same token, the special committee could also be addressed on decisions of the Eurogroup on the authorization of financial assistance within the framework of these programmes".¹⁹ The JCC should be composed according to the distribution of seats for the recent Interparliamentary Conference for the CFSP and the CSDP.²⁰ Here, the EP and national parliaments agreed at the end of April 2012 on the structure and rules of procedure. Regarding the composition, the Speakers of Parliaments agreed that national parliaments send six and the EP 16 delegates to the conference. Parliaments of other NATO countries and third countries with a candidate status for the EU could send four observers. Applying this model to the Caresche proposal, the JCC would be composed by six MPs from the Eurozone parliaments and 16 MEPs, while the parliaments of the Eurozone's "Pre-Ins" would participate with 6 ob-

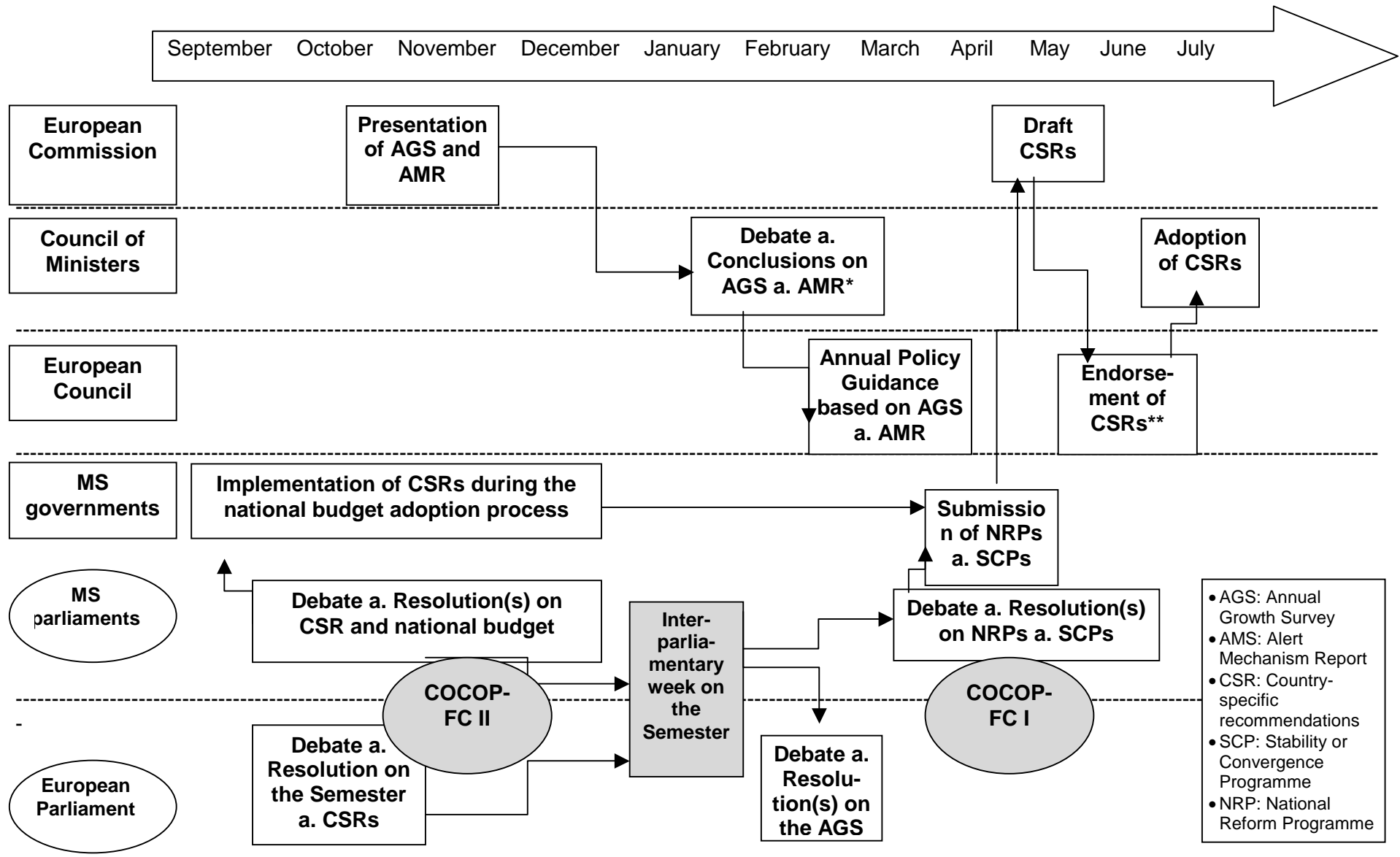
¹⁷ Speakers of Parliament, *Working paper of the meeting of the Speakers of Parliament of the Founding Member States of the European Union and the European Parliament*, Luxembourg, 11 January 2013, <http://www.ipex.eu/IPEXL-WEB/dossier/files/download/082dbcc53b70d1c2013ccdb9a8692a61.do>.

¹⁸ Cristophe Caresche, "Rapport d'information déposé par la Commission des Affaires européennes ...", cit., p. 67. Author's translation.

¹⁹ Idem.

²⁰ Inter-Parliamentary Conference for the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP), *Rules of Procedure of the Interparliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy*, Nicosia, 9-10 September 2012, <http://www.cyparliament2012.eu/easyconsole.cfm/id/349>.

Fig. 1. The European Semester for economic policy coordination and the future work of the COCOP-FC (according to Caresche)



servers, and the parliaments of the United Kingdom, Denmark and Sweden would be represented with 4 observers.

In terms of physical “location” and “identity” of this inter-parliamentary conference and its JCC, one could conceive a remodeling of the current Economic and Social Committee of the EU (ECOSOC). To establish a comprehensive approach on the DEMU’s substance, the COCOP-FC could bring together MEPs and MPs from committees on economic, budgetary, financial, social, labor market, and employment affairs. Building on the existent ECOSOC, the Conference could rely on a fully equipped infrastructure. It would meet to discuss the various OMC cycles and the European Semester. In analogy to the “early detection” mechanism of subsidiarity monitoring (PSC), the COCOP-FC could engage the European Council and the Eurogroup’s governments’ structures into a particular form of collective “first reading” of reform programmes and draft reports. It would allow the representatives of the national parliaments to develop truly European perspectives on DEMU. In practical terms, the related procedure for adopting reasoned opinions of the COCOP-FC should be designed in a way that would automatically - after reaching a predetermined rate (of appeals, amendments to drafts etc.) - impact on the further consultation and decision-making of the EU institutions.

Conclusion: Towards deeper multi-level parliamentarism

Clearly, the existing interparliamentary cooperation mechanisms (COSAC, Joint Conferences of Parliaments etc.), the EP and the national parliaments are particularly challenged to elaborate objectively convincing arguments for defining the characteristics of a multi-level democracy in the area of EMU. This debate requires mutual recognition of prerogatives, power and participation levels as well as insight into the day-to-day performance and the limitations of parliamentary influence. As today’s EU, the reformed DEMU system will draw its legitimacy from both the EP and the parliaments of the Member States. As the reformed EMU system is likely to establish different layers or concentric circles of governance, both levels of parliament should ensure that groups and spin-off processes of self-proclaimed “cores” do not create dynamics that will weaken the Union’s overall structure, solidarity and inter-institutional cohesion. Avant-garde dynamics should not hinder supranational policy decisions of the EU, but support the institutional and normative “loyalty to the Union” of states and civil societies. Although the very existence of the EP constitutes no guarantee for a democratic EU system, the strengthening of the EP’s legislative and scrutiny rights (and responsibilities) constitutes the only way to ensure a democratic and effective inter-institutional and multi-layered system of checks and balances.

The greater involvement of national parliaments in the DEMU’s outer (i.e. EU-related) and inner (i.e. Eurozone related) policy cycles may help to render governments more accountable for what they decide in the European Council, the Council of Ministers and its subordinated working mechanisms. However, the simple formalization of a joint body incorporating MEP’s and MP’s within the realm of a new Treaty also renders the

EU more complex and less understandable.²¹ The “ordinary” - hopefully interested - citizen may ask: If the (directly elected) European Parliament represents the citizens of the Union, the Council of Ministers the member states through (elected) governments, the European Economic and Social Committee the “economic and social components of civil society”, and the Committee of the Regions the (elected) representatives of some of the Union’s regional and local communities, what is the value added of a group of bodies bringing together some members of the European Parliament with some members of the national parliaments?

“[N]o parliamentary conference is in itself capable of providing democratic scrutiny or legitimacy. The European Parliament and national parliaments are not able to farm out their constitutional duties to a conference. [...] The core part of parliamentary work, the thorough examination and public discussion of issues to be decided, is practically impossible in a conference situation. In view of the debate on the role of parliaments in certain member states, it is also necessary to emphasise that the notion of a ‘joint position of parliaments’ has no foundation in reality. Parliaments do not take a particular position because they are parliaments. National parliaments look to the national interest and the European Parliament to the European interest. At both levels, there are differences between political groups; the position of any parliament is the outcome of discussion, compromise and voting. Conferences offer participants useful support in their work in their home parliament. No conference can replace the work done in parliaments”.²²

However, one should not underestimate the added value of a COCOP-FC: Although it could not replace the EP’s and national parliaments’ powers in effectively providing democratic input to the reformed EMU system, it could help to create mutual trust and understanding between parliamentarians, and provide a platform for empowering “weak” parliaments by establishing an inter-parliamentary hub of scrutiny *vis-à-vis* the inter-governmental policy framework. The DEMU reform process should address appropriate ways for a more coherent and clear-cut organization of interest representation and mediation in a differentiated, more and more fragmented European Union. There are no easy solutions and one should be aware of naïve myths and simplistic designs.

Updated: 4 April 2013

²¹ Finnish Parliament, *Banking Union and the Future of EMU*, cit.; Kieran Coughlan (Secretary General of the Irish Parliament), *Contribution on Article 13 at SG Conference*, Cyprus, 11 February 2013, <http://www.ipex.eu/PEXL-WEB/dossier/files/download/082dbcc53b70d1c2013ccea94faad2b81.do>.

²² Finnish Parliament, *Banking Union and the Future of EMU*, cit.

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