

Trans-national bureaucratic networks in the EU

The role of parliamentary officials in inter-parliamentary coordination and control

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Abstract

It is in the very nature of the provisions of the Lisbon Treaty on national parliaments that members of parliament (MPs) can no longer operate in isolation. A certain number of “votes” by national parliaments is needed in order to flag the yellow card under the Early Warning Mechanism.

Against this background this contribution sheds light on the role unelected officials play within this context.

Whereas the main focus will be directed towards the network of the permanent representatives of national parliaments to the European Union (NPRs), we put it into context by comparing it to other forms of trans-national bureaucratic cooperation such as the Committee of European Affairs Committees (COSAC) Secretariat. This should then enable us to answer the more analytical question of whether *parliamentary* officials operating within trans-national bureaucratic networks remain representatives of “their” respective national parliament in Brussels or adopt a trans-national, “European”, stance.

Introduction

Parliamentary administrations can play a crucial role in the process of parliamentary scrutiny of EU affairs. The requirement for national parliaments to cooperate systematically with one another and the need to develop a high level of technical and legal expertise has led to the proliferation of a network of the permanent representatives of national parliaments to the European Union (NPRs). These are (unelected) officials that are delegated by their respective national parliaments to Brussels for a certain period of time. Despite the fact that this network has rapidly expanded, it has received little academic attention. This might come as a surprise, given that this network encompasses representatives from almost all 28 national parliaments¹ and some bi-cameral parliaments delegate two representatives. This network has not been cut back in times of economic and financial crisis but has expanded consistently during the period of 1991-2013. Even a non-EU Member State, Norway, now delegates a representative.

This network is seen as the most established form of transnational cooperation between parliamentary bureaucratic actors at the EU level, but other forms of cooperation between officials do prevail, such as cooperation between officials within the COSAC Secretariat.² While the main focus of this paper will be directed towards the network of the permanent representatives of national parliaments, we thus put it into context by comparing it to other forms of transnational bureaucratic cooperation.

This should then enable us to answer the more analytical question whether *parliamentary* officials operating within trans-national bureaucratic networks remain representatives of “their” respective national parliament in Brussels or adopt a trans-national, “European” stance? This question is important as it has implications for democratic legitimacy. On the one hand we might observe that actions of unelected parliamentary officials are no longer exclusively determined by their principals (in this case directly elected members of national parliaments (MPs)). On the other hand we might find that parliamentary officials operating at the EU level actually assist MPs in performing their tasks in EU affairs and lead to

¹ The position for the Slovak and Bulgarian parliament is currently vacant. This is however to be filled again.

² Officials do attend and prepare meetings inter-parliamentary meetings such as Inter-parliamentary Conference on CFSP/CCDP or the Speakers Conference. These are however rather incidental forms of cooperation.

outcomes that might otherwise not be achieved. The latter is especially relevant in light of the “Lisbon provisions” on national parliaments which foresee a certain degree of inter-parliamentary cooperation, especially in the context of multi-coloured cards.

Methodologically, this paper builds primarily on a series of semi-structured interviews conducted with NPRs from 20 Member States.³ This information has been supplemented by interviews with other parliamentary officials working within national parliaments and questionnaires submitted to experts working on national parliaments.⁴ Moreover interviews have been conducted with officials working for the COSAC Secretariat. In sum, these interviews have been conducted during the period of September 2010 until January 2015. By way of this data collection all EU Member States have been covered at least to some extent. Moreover the empirical conclusions and their conceptualization have been discussed at a so-called “Monday Morning Meeting” of the NPRs to confirm the validity of the insights.⁵

Against this background, this paper is set up as follows: After examining the main changes of the Lisbon Treaty and its implications for national parliaments, we develop a conceptual framework by bringing together the more general literature on parliamentary officials with the literature on networking of officials within the system of EU multi-level governance. We then probe into the rationale and tasks of the network of national parliamentary representatives and put it into context by comparing it to other forms of inter-parliamentary bureaucratic cooperation that involve officials such as the COSAC Secretariat.

1. Powers of parliamentary control after the Treaty of Lisbon

The Lisbon Treaty upgrades the role of national parliaments within the European legal order.

First, the information rights of national parliaments are strengthened with regard to legislative documents. This is a step forward for those parliaments that

³ The questions asked ranged from the daily tasks that the respective NPRs fulfill to how they keep in touch with their respective national legislature, the nature of the regular meetings of NPRs (Monday Morning meetings), the system of parliamentary scrutiny of the respective Member States and the implications for staff.

⁴ These questionnaires were filled in by country experts as part of the OPAL Country Reports. They contained data on the date when the NPRs were established and the legal rules concerning NPRs. This data covers all EU Member States.

⁵ This meeting took place on 6th May 2013. Another presentation on the use of the Lisbon provisions by national parliaments was given to the representatives of national parliaments in Brussels in December 2014.

were previously dependent on their respective governments to provide them with information on EU affairs. A novelty of the Lisbon Treaty, that has received substantial academic attention (Hefftlar et.al. 2015) is the fact that subsidiarity is to be ensured through a mechanism, which is commonly referred to as 'Early Warning Mechanism' (Rothenberger and Vogt 2007).

Accordingly any national parliament or any chamber of a national parliament may, within 8 weeks from the date of transmission of a legislative act send to the Presidents of the EP, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity. Each national parliament has two votes and in the case of bicameral systems, each of the two chambers has one vote. In this context two procedures commonly referred to as 'yellow and orange cards procedures' form one of the cornerstones of the Treaty when it comes to parliamentary control. The 'yellow' card procedure consists of the following: where reasoned opinions on a non-compliance of a draft legislative act with the principle of subsidiarity represent at least one third of all the votes allocated to national parliaments, the draft must be reviewed.⁶ After such review, the institution that has put forward the proposal may decide to maintain, amend or withdraw the draft. In this context reasons must be given for whichever decision is taken.

The 'orange' card procedure states that under the ordinary legislative procedure the draft legislative act must be reviewed if the reasoned opinions regarding subsidiarity represent at least a simple majority of the votes allocated to national parliaments. After this review, the Commission may decide to maintain, amend or withdraw the proposal (Christiansen et al. 2013; Kiiver 2012). However, if, by a majority of 55% of the members of the Council or a simple majority of the votes cast in the EP, the legislators are of the opinion that the proposal does not comply with the principle of subsidiarity, no further consideration shall be given to it (COSAC 2008).

Moreover national parliaments can participate in the request for filing an action for annulment before the Court of Justice of the European Union on grounds of a breach of the principle of subsidiarity. Finally, it is foreseen that national parliaments are to play a role in the inter-parliamentary cooperation between national Parliaments and with the European Parliament (Kiiver 2012).

⁶ If the draft legislative act is about the area of freedom, security and justice (Article 76 TFEU), this threshold shall be 1/4.

Due to the fact that the thresholds for the ‘cards’ under the Early Warning Mechanism are high and the deadlines are tight, there has to be some coordination among national legislatures in order to be able to have an impact under the EWM. This includes the communication of the priorities of individual parliaments and the attempt to identify issues that are of a common concern for a larger number of parliaments. This is where the inter-parliamentary cooperation of officials could play a crucial role.

2. Analytical framework

While we can build on a growing host of literature when it comes to the way that national parliaments hold the executive to account in EU affairs (Maurer and Wessels 2001; Raunio and O’ Brennan 2007, Heftler et.al. 2015), the literature on parliamentary administrations in EU Member States is thus far mainly descriptive and rather limited in scope. The main insights relate to the political neutrality of administrators for example in French system and in the British parliamentary administrative system (Baron 2013; Campbell and Laporte 1981; Perez 2007; Ryle 1981).

There is a growing debate on the role of non-elected officials in the European Parliament after the Lisbon Treaty (eg. Egeberg et.al. 2013; Neuhold and Dobbels in this volume; Winzen 2011) but the scholarly debate on role of officials in national parliaments is still very much in its infancy. Notable exceptions include Christiansen, Högenauer and Neuhold (2013) and Winzen (2015). While Christiansen et.al. (2013), raise the question whether the extension of the powers of national parliaments might empower bureaucrats rather than elected members of parliament, Winzen proposes a so-called “delegation approach” as an appropriate angle to study legislative-administrative relations. Accordingly, he argues that “parliamentarians successfully delegate to bureaucrats, making bureaucratic growth a successful strategy to strengthen the parliament” (Winzen, 2014). Although bureaucrats have preferences and agendas of their own, it is unclear whether political and administrative agendas overlap or, whether they are in fact even different (Winzen, 2014).

When trying to study inter-parliamentary cooperation between parliamentary officials, and in this context especially the establishment of the network of NPRs, it is instructive to build on conceptualisations of networking of officials within

the EU system in the literature more generally.

Networking of *parliamentary* officials across Member State borders has, however, thus-far been eclipsed by systematic scholarly analysis, possibly because it is a recent phenomenon. However, the concept of epistemic communities is instructive in this context, as it has been developed in the context of officials engaging in international policy coordination. Epistemic communities have been described as a 'network of professionals with recognized expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge within that domain' (Haas 1992: 3). What is crucial is the fact that the professionals making up epistemic communities have a shared set of normative and principled beliefs, shared notions of validity and a set of common practices associated with a set of problems and policy issues (Haas 1992: 5; Clemens and Cook 1999: 446).

When applying this to the EU, in the context of the role of government representatives in EU Treaty reform, Reh adds to these dimensions issue-relevant expertise, experience in negotiating internationally and effective preparation, including access to information on on-going negotiations (Reh 2007: 1189). Richardson points to the fact that these epistemic communities are important in the EU exactly because they so "often transcend national boundaries". The policy community/policy network approach can in contrast enhance our understanding of the ways in which agenda issues are channelled into legislative proposals- especially areas of 'low politics' that are of a highly technical nature (Richardson, 2006: 6).

However, within epistemic communities its members often 'go native', i.e. their actions are no longer exclusively determined by their principals, but also by a feeling of solidarity with the group. In the EU context, this phenomenon has so far mainly been identified with regard to government officials in Council working groups. Regular meetings between government officials are seen to contribute to the development of a high degree of collegiality and collective identity among officials (e.g. Juncos and Pomorska 2011). Beyers and Dierickx (1998) contend that nationality - while remaining important in many respects - is diluted in the Council as a supranational network develops in juxtaposition to the intergovernmental characteristics of agents. In the context of the Council of Europe, Checkel has also found that social agents go 'native' (2003). A sign of an epistemic community is when officials start to moderate their mandates or

develop codes to signal disagreement with their official mandate to their peers on the international level (cf. Juncos and Pomorska 2011; Beyers and Dierickx 1998; Checkel 2003).

This, as alluded to before, raises interesting questions as regards to officials operating within trans-national bureaucratic networks: do they develop a collective “European” identity” and as such moderate their national “position” or actually remain representatives of “their” respective national parliament in Brussels? In order to be able to answer this question we need to shed light on the forms of bureaucratic networks prevalent at the EU level that bring together parliamentary actors.

3. The network of national parliamentary representatives: rationale and tasks

3.a. The development of the network of NPRs over time

The network of NPRs started in the early 1990s but was initially slow to grow from one representative to include representatives from all member states parliaments.⁷ The Danish parliament was the forerunner, having already sent a parliamentary representative to Brussels since 1991.⁸ It was the first legislature to deal with EU issues quite intensively through the mandating of the respective minister in the Council, so this delegation of a parliamentary representative to Brussels ‘came rather naturally’ (Interview IV). Note that this parliamentary representative was thus sent to the European level in order to be able to develop a parliamentary stance and position independent from the Danish government.

The Finnish parliament followed in 1995 in the same vein; in order to obtain first-hand information not provided by the executive (Interview VII). Italy followed suit in 1998 with an NPR who commuted from the Italian capital. The UK House of Commons delegated a representative the year after.

A big influx only took place prior to and after enlargement (2003-2005). This ‘boom’ was only partially related to enlargement in included also ‘older’ Member States such as Germany, Greece, Belgium, the Netherlands and Austria (lower chamber). The last Member States that sent a representative were Malta and

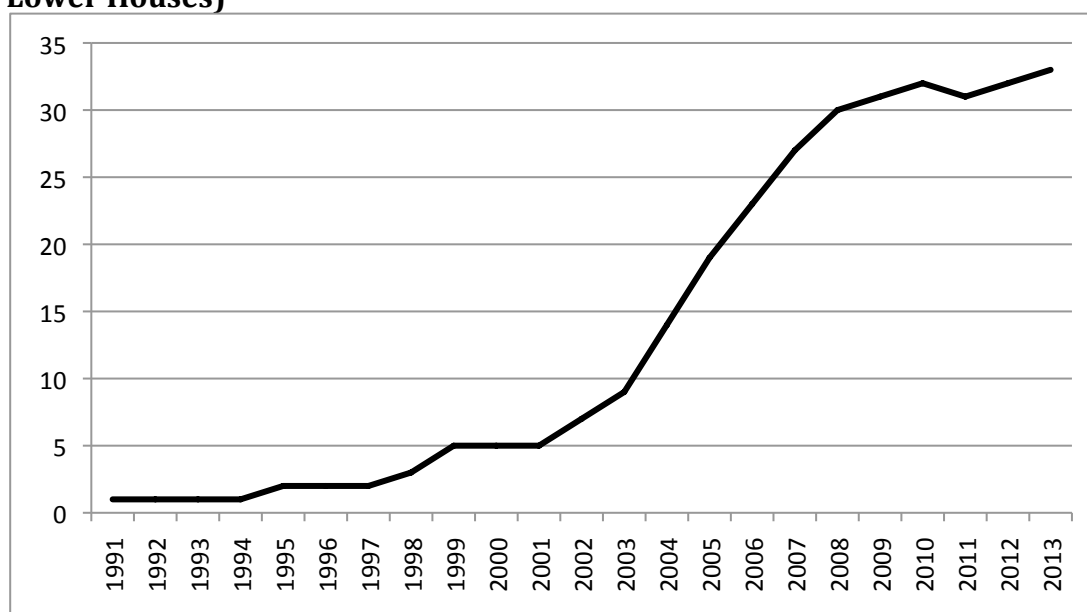
⁷ While at a given point in time (for example Bulgaria and Slovakia do not have a representative) not all positions are filled, this is temporary.

⁸ The Danish NPR was at this point however based at the Belgian Chamber of Representatives.

Croatia in 2012-2013 respectively. Even Norway is sending a representative since the beginning of 2013.

Thus, the network has grown even in times of financial crisis, where one might assume that administrative cost would be reduced. This can be seen as a reflection of its perceived value added. In fact, the House of Lords is currently considering a recommendation from the UK government to increase the number of British NPRs in Brussels before the next British Council Presidency (House of Lords, 2014) and the Dutch parliament has recently decided to appoint two NPRs instead of one (Interview XXIV).

Figure 1: The Total Number of NPRs per Year (including both Upper and Lower Houses)



3.b. Close ties to the sending institution

One feature that all NPRs have in common is that they are experts in parliamentary affairs: They are direct delegates of their parliament and are in constant contact with their 'home parliament'. The parliamentary representatives are officials of their respective parliament and most have worked their legislature for several years prior to having been delegated to Brussels. It is seen as vital that the NPR has roots in the respective national parliament: 'How could you exercise your function effectively if you are not a civil servant from parliament? One needs to know the parliament from within and to know what is key' (Interview XXIII).

As systems of parliamentary control are not only rather complex but have their unique ways of functioning (O'Brennan and Raunio 2007), it is key that an NPR is very much aware of how the respective political system works and which players are responsible for which type of issues at which stage of the policy-process: Is the sectoral committee or the European affairs committee in charge? If the plenary has to take the final decision, the scrutiny process takes longer and the NPR needs to factor that in. The Dutch and Danish NPR, for example, tend to update the relevant committees regularly when the parliament is aiming for a yellow card (Interviews XXV and XXVI).

A large number of NPRs, such as the Spanish, Italian, Portuguese, Austrian, Swedish, Finnish, Danish, Dutch and the representatives of the French National Assembly and of the UK House of Commons maintain their ties by going back to 'their' Member State parliament around once a month primarily with the objective of information exchange; conveying developments from the EU arena to the national level and vice versa. In this context NPRs attend staff meetings of officials working for sectoral committees and the EAC and provide reports on EU affairs. For example the NPR of the House of Commons writes a weekly policy briefing for the EU Scrutiny Committee of the House of Commons (Interview XXI).

Several NPRs describe their respective committee responsible for European Affairs (and where relevant the Secretariat General) as their 'main or primary clients' they have to see at regular intervals (Interview XV and Interview XVII). There is a trend, however, that in Member States that have joined the EU more recently this direct 'relay function' has been reduced or replaced with other means of communication. After assuming her function in 2008, the Lithuanian NPR initially went back home every six months for example. After the Eurozone crisis, most of the contacts now take place via email, phone and videoconference. The permanent representative of the Polish Sejm seldom goes back to the Polish parliament and keeps in touch mainly via email (Interview XVI and Interview XVII).

In general, the socialization in the home parliament is strong, with the effect that the NPRs form a group marked primarily by *national* ties and mandates. Most NPRs are recalled after a few years and keep their allegiance to their sending institution, i.e. their principal, as their career prospects are determined by the

perception of their performance by national actors.

3.c. Key tasks: information exchange and representation?

In addition to their close ties to their respective parliaments, the neutrality of the NPRs and their non-partisan role as well as the importance of a mandate from their respective parliament/committee is stressed time and time again (Interview I, Interview XX, Interview XV, Interview XI, Interview XXII). Thus, instead of developing a set of joint beliefs and common views on substantive issues, as suggested by the concept of an epistemic community, NPRs are usually requested not to engage in substantive debates. Also in practice, they try not to interpret the content of their parliament's positions. One official (Interview XX) brings it to the point by saying:

What you have to realize we are civil servants. I have a permanent position and I passed a Concours. I work for any political group and I am part of the staff of parliament; working for the house. [...] We deal with technical issues and we do not pre-cook any issues in any way.

NPRs thus tend to act on the basis of formal “mandates” or parliamentary positions, such as parliamentary or committee resolutions, opinions and are cautious when it comes to interpreting content (Interview XX, Monday Morning Meeting, 6 May 2013). Rather, the core task is to “build networks, especially with other parliaments and to find out what they do and alert them to what we do” (Interview XXIV).

Thus, the close ties with the sending institution in combination with the reluctance to engage in substantive debates has a three-fold effect on the role of NPRs:

NPRs maintain close contacts within the respective legislature as information brokers: representatives set up their ‘own channels’ they can tap into when requiring information on specific, sectoral issues, but also have first-hand information on subsidiarity checks. Their function is being described as being the ‘eyes, ears and mouth’ for their respective parliament” and as such to function as an ‘information-relay’ or ‘information-broker’ for their respective legislature (Interview X, Interview XVI, Interview XXIII, Interview XV; Bill Cash 2013).⁹ The familiarity of NPRs both with staff and members of parliament also ensures a high degree of trust and familiarity and enables them to adopt a

⁹ Bill Cash, Open Lectures, House of Commons, London, 21 February 2013.

parliamentary stance and position on EU affairs (Interview XV and Interview XVII).

Due to the fact that NPRs are all located on the same corridor of the EP (except for the German delegation and the Belgian NPRs)¹⁰, they are in a perfect position to gather more informal insights about the stance about respective issues in other parliaments or as regards to developments on the EU level (Interview XXVI). If one is in need of specific information or the position of a respective legislature on a specific issue *'you just go down the hall.'* (Interview XVI).

The second – and related – task of the NPRs is to assist their respective parliaments in exercising democratic control (Interview XV). This not only implies the forwarding of information, but also that NPRs assume a key role in *information-processing*, i.e. identifying and framing what could be relevant for the respective national parliament. The Commission sends a plethora of documents to parliaments under the Barroso initiative and NPRs contribute to the identification of issues that are to be subject to parliamentary control. In this quest, information has to be *'tailor-made to parliament's needs'* and needs to show an awareness of the priorities of the parliament (Interview XXIII; Pinheiro 2012: 212). The governments also provide information *'but you hear and see more when you are in Brussels'* (Interview X). In parliaments that select priority dossiers for scrutiny, it is the NPR that keeps bilateral contacts with sectoral committees and steers and assists them in the selection of priority dossiers for parliamentary scrutiny (President of the Portuguese Parliament 2008).

In addition, the task of NPRs is to alert their parliament to the general stance taken by national parliaments on a specific dossier, especially when a greater number of parliaments are starting to discuss the adoption of reasoned opinions on a certain issue. The Danish NPR, for example, informs his parliaments of all reasoned opinions submitted by other parliaments long before they are published on the official database IPEX (Interview XXV, also XXVII). Especially under the Early Warning System, where parliaments are actually aware that a minimum number of opinions has to be reached, there is a *'bandwagon effect'* that gains momentum in the final weeks. By keeping their parliaments abreast of

¹⁰ The German delegation is unique in that it has two dimensions: an administrative dimension and one where the Political Party Groups are represented and due to its size it uses office space outside of the EP (Interview XIV).

such dynamics and of the objections of other parliaments, NPRs can to some extent frame their parliament's agenda (Interview XXIV, XXV, XXVI).

NPRs also act as platform of information exchange *across* national parliaments not only to coordinate multi-coloured cards but as a forum to exchange best practices of parliamentary control. In this vein they exchange views for example on how the system of mandating the executive works in certain Member States in order for national parliaments to enhance their scrutiny systems.¹¹

Thirdly, the work of the NPRs also has an important 'European' dimension and as such contacts to the three main institutions involved in EU policy-making are seen as crucial (Pinheiro 2010). The link to the EP and the political dialogue with the Commission are highlighted as being vital in this respect. Even from a logistical perspective there is a direct link to the EP as NPRs are based within the premises of the EP. The network with the Commission spans all layers of the European executive centre (Bauer 2008); European Commission officials, the Secretariat General of the Commission, cabinet members and Commissioners. The latter are interested 'in us NPRs and see us as a new phenomenon' (Interview XVIII). This is manifested by the fact that not only representatives of the services of the Commission but also Commissioners themselves attend the meetings of NPRs (Interview V). The duration of the Monday Morning Meetings of the NPRs has thus risen from a few minutes in 2008 to 2-3 hours in 2014, as the NPRs are now inviting Commission officials and – to a lesser extent – Council representatives (Estonian NPR, 31 March 2014).

Moreover parliamentary representatives ensure cooperation with their respective Permanent Representation to the European Union and try to systematise these contacts (Interview XXI). Contacts to the Conference of Parliamentary Committees for Union Affairs (COSAC) as a political coordinating forum of the position of national parliaments (Interview IV) are simplified by the fact that COSAC is on the one hand located within the same building as the NPRs; attends the regular meetings of the NPRs and NPRs are part of COSAC during the period of the Troika.

COSAC, as explained further below, is thus seen as an internal rather than external partner, with NPRs being seen as an '*excellent source of information of*

¹¹ See for example the Seminar Engaging with Europe: Parliamentary Control in EU Affairs, Organised by the Dutch Parliamentary Representation in Brussels, 11th December 2014. This Seminar was pre-ceeded by a session between academics and NPRs to discuss practices of parliamentary control.

what is actually going on in national parliaments' (Interview V). In this quest NPRs are described as a “*bridge between Brussels and the parliaments in the capitals*” (Interview XXVIII).

NPRs are also playing a role in reflecting on a possible reform of COSAC meetings themselves in order to enhance parliamentary influence. Currently there are discussions on developing COSAC meetings “new style”, along the following lines: more discussion of substance for example of certain policy-dossiers, more opportunities for informal exchange between MPs and staff and more possibilities for the influence of the agenda by other parliaments than that holding the Presidency (Mastenbroek *et.al.* 2014). These issues were *inter alia* discussed between NPRs and representatives of the COSAC Secretariat.

However, despite these contacts to the EU institutions such as the Commission, the representative function of NPRs towards these bodies is rather weak. The main aim of encounters with Commission or Council representatives tends to be directed towards information-gathering rather than the representation of a legislative position (Interview XXIV).

When NPRs are involved in the *representation* of national parliaments at the European level, this is mostly in a supporting function. On the one hand NPRs provide support to their parliamentary President and to the delegations of their respective parliament when attending meetings of the EU institutions and collaborate in the organisation and following-up of work- and study visits by Members and parliamentary officials to the European institutions (Interview XXI, Interview X). On the other the ‘relay function’ as regards their national legislature also implies that NPRs accompany EU representatives such as the President of the EP or Commissioners when visiting their respective parliament and attending plenary or committee meetings (Interview XVII, Interview XV).

4. Putting the role of NPRS into context: a comparison to other “parliamentary trans-national bureaucratic networks”

4.1. The COSAC Secretariat

Note that the COSAC secretariat has *inter alia* been set up to promote inter-parliamentary cooperation. In this vein the COSAC Secretariat has its goal to assist COSAC in the quest of “exchange of information and best practice between

national Parliaments and the European Parliament, including their special committees”.¹²

COSAC itself, which is a Conference of the European Affairs committees of national parliaments of as well as representatives of the European Parliament, was established in May 1989. According to the Lisbon Treaty, COSAC may also organise inter-parliamentary conferences on specific topics, in particular within the field of common foreign and security policy (CFSP). It is noteworthy that the Treaty of Lisbon stresses explicitly that COSAC has a supporting role vis a vis national parliaments as “contributions from the Conference shall not bind national Parliaments and shall not prejudge their positions.”¹³ COSAC has a role in “show-casing” the importance of the rotating Presidency of the EU as COSAC meetings usually take place in the capital of the Member State holding the Chair.

As Hasters points out, a notable development in COSAC’s history is the set-up of a permanent Secretariat (Hasters 2014). This had been on COSACs agenda repeatedly and has been rejected time and time again; in 1995, 1997, and 1999 (COSAC, 2013). The necessity for a secretariat grew as the European Affairs Committees (EACs) of the Presidency could not face the organisation of the COSAC meetings alone (Trodooff, 2007, p. 4). It was then in 2003 that finally a Permanent Secretariat of COSAC was created. When it comes to the composition of the COSAC Secretariat, the rules of procedure of COSAC clearly make a link to the EU rotating Presidency by stipulating that „the COSAC Secretariat shall be composed of officials from the Parliaments of the Presidential Troika”.¹⁴ Moreover the COSAC Secretariat is to have a Permanent Member who supports the Secretariat in its activities“ (ROP, 2011, 9.1, in: Hasters 2014).¹⁵

Note that the actual size of the COSAC Secretariat varies because although each parliament is entitled to send one representative, some national parliaments delegate only one. It is thus up to the relevant national parliaments to decide who they actually appoint as members of the Secretariat. Additionally, in some cases the respective officials wear “two hats” insofar as they hold the position of

¹² According to Article 10 of Protocol (No 1) on the Role of National Parliaments in the European Union of the Treaty of Lisbon.

¹³ The Protocol on the “Role of National Parliaments in the European Union” of the Treaty of Amsterdam for the first time recognized COSAC. It came into force 1 May 1999.

¹⁴ Current Presidency, previous one and following one. In January 2015 this played out as follows: Latvia (Presidency of COSAC) has appointed 2 officials (one is the Latvian NPR and the other is a parliamentary official), Italy has appointed two members (one from each chamber) and Luxembourg has appointed one official.

¹⁵ The Presidential Troika refers to the delegation of NPs of the last, the current and the following Presidency as well as the European Parliament (ROP, 2011, 2.5).

the NPR of the respective Member State and at the same time assume the position within the COSAC Secretariat at the same time. Other national parliaments send one official solely for the tasks in the Secretariat. This implies that the composition of the COSAC Secretariat not only changes with each new Presidency but also its capacities (Hasters 2014). Moreover a representative of EP in charge of relations with national parliaments is represented in the Secretariat. This member changes on a regular basis (Interview XXVIII).

This position does however not compete with that of the Permanent Representative within COSAC.¹⁶ Due to the fact that he or she is appointed for two years, with a possible renewal for another two, this representative can be seen in a key position, both compared with the other members of the Secretariat. The process of appointing the Permanent Member of COSAC is based on the COSAC Rules of Procedure. Accordingly the Permanent Member is appointed by the COSAC Chairpersons on the proposal of the Presidential Troika. It is noteworthy that it is a formal pre-condition that the Permanent Member is an official of a national parliament (Interview XXVIII). Moreover the Permanent Member is very often also an NPR prior to the appointment to the COSAC Secretariat, which is seen as very useful, as one permanent member of the COSAC Secretariat points out:

“I was already acquainted with the multi-national Brussels’ environment, the multi-faceted work required here, inter-parliamentary affairs and with colleagues from other Parliaments (national parliaments and EP) and other EU institutions. I also had the opportunity to be a member of the COSAC Secretariat itself¹⁷; of the Troika of COSAC and to work closely with its PM and with other Troika colleagues. The fact that before that I had been working in the European Affairs Service of a national parliament supporting the Committee on EU affairs was also useful. “

The Permanent Representative assumes somewhat the “memory” of the institution due to the fact that he or she is based in Brussels for around three years and plays a key role behind the scenes of COSAC. As such the representative obtains a comprehensive comparative overview of the actual role different national parliaments assume in the scrutiny of EU affairs, especially due to the function related to compiling the COSAC reports (Interview V).

¹⁶ This is currently an official of the Cypriot House of Representatives.

¹⁷ When the respective national parliament assumed the Presidency.

Note that the permanent member of COSAC, though an official of a national parliament, works for COSAC as a whole and not for a specific national parliament.¹⁸

The main tasks of the COSAC Secretariat as such are stipulated in the Rules of Procedure (Rule 9.4):

"The COSAC Secretariat shall assist the Presidency Parliament in all its tasks. The members of the COSAC Secretariat shall perform their duties under the political responsibility of the COSAC Presidency and the Presidential Troika or according to the decisions taken by COSAC meetings. The Permanent Member shall coordinate the activities of the COSAC Secretariat under the direction of the Presidency Parliament."

Against this background, the concrete tasks of the Secretariat can thus be grouped into two main categories in the practical process:

Secretarial/organizational issues related to (COSAC) meetings: The COSAC Secretariat provides assistance, support and advice to the Presidency Parliament by way of organising the meetings of the COSAC Chairpersons and the COSAC Plenary and as such takes care of any organizational issues related to this tasks (such as booking rooms). The COSAC Secretariat does not assist in preparing the Speakers' Conference;

Drafting COSAC documents: A bulk of the work of the Secretariat of COSAC meetings consists of drafting documents such as the COSAC Bi-annual reports. The drafting of the Bi-annual Report is based on Parliaments' replies to a questionnaire sent to Parliaments (national Parliaments and EP) on certain topics to be covered in the Bi-annual Report and the COSAC Secretariat collects the replies and draws up a synthesis (Interview XVIII). COSAC publishes such biannual reports on EU practices and procedures since 2004 and these give an insight about developments at the EU level and parliamentary practices in the member states (Hefftlar and Gattermann 2015). Moreover the COSAC Secretariat assists the secretariat of the Presidency Parliament, in preparing the documents for the COSAC meetings. It is the COSAC Secretariat that also drafts the minutes of the COSAC meetings. Note that *within* the COSAC Secretariat the workload is divided/distributed amongst the members of the Secretariat on the basis of a

¹⁸ In January 2015 the Permanent Member was an official from the Cypriot parliament supporting the Latvian Presidency.

proposal by the Permanent Members who coordinates the activities of the Secretariat (Interview XVIII).

As alluded to before, there are close ties with the permanent representatives of national parliaments. Depending on the workload, officials of the COSAC Secretariat may attend Monday Morning Meetings. Also NPRs may attend COSAC meetings according of course to the internal arrangements of each national parliament and be able to “follow what is going on”. The information exchange goes thus both ways (Interview XVIII).

COSAC is not the only form of inter-parliamentary cooperation that involve officials at least to some extent. The oldest form of inter-parliamentary cooperation is the ‘Conference of Speakers of the Parliaments of the EU’ which held its inaugural meeting in Rome in 1963. Since 1975 they have met on an annual basis (before that only irregularly). The conference consists of the speakers of national parliamentary chambers and the President of the EP. Similarly to COSAC each conference is chaired by the speaker or president of the parliament, which holds the EU Presidency during the second half of the calendar year.

Within the framework of inter-parliamentary activities, the Conference of Speakers regards its own central functions as to safeguard and promote ‘the role of parliaments and carrying out common work in support of the inter-parliamentary activities’, to represent a ‘forum for the exchange of opinions, information and experiences among the Speakers’ and to ‘oversee the coordination of inter-parliamentary EU activities’ (Art. 2, see EU Speakers’ Conference, 2010, in: Heffter and Gattermann 2015). In this form of inter-parliamentary cooperation, senior officials (heads of EU staff and heads of EU administration) play a role as they support their respective speakers but this can not be seen as a systematic form of inter-parliamentary cooperation. The same is true for Inter-parliamentary Conferences on specific issues such Economic and Monetary Union (EMU) and Common Foreign and Security Policy (CFSP). In the latter case delegates of standing committees (MPs) are supported and accompanied by EU experts or committee staff working for the respective sectoral committees.

5. Conclusion

Overall, we see that officials can play a key role in inter-parliamentary cooperation. Here the network of NPRs can be attributed a central role. The network contributes to the attainment of common outcomes that could otherwise not be achieved by working as an information relay both *towards* their respective national legislatures and *across* national parliaments. It is in the very nature of the Lisbon provisions that a certain degree of coordination between national parliaments is needed in order to raise subsidiarity concerns. In practice, this coordination takes place to a large extent on the bureaucratic level. Officials in turn direct the attention of decision-makers to issues that might be of political importance.

Overall, the review of the background and tasks of NPRs leads us to two observations. On the one hand, NPRs share a common background and have a high level of expertise in parliamentary affairs, which would be in line with the concept of an epistemic community. On the other hand, their ties to their sending institution, to their respective national parliament, are very close and remain very close throughout their time in Brussels. Despite their similar background, they thus remain primarily 'national agents' with a past and future in the service of the national parliament. A look at the tasks of the NPRs highlights information gathering and interpretation for the national level as their main role, followed by the facilitation of contacts with the European institutions and other Brussels actors. The representational function of parliamentary representatives is however comparatively weak. While they facilitate the attendance of political members of national parliaments in important fora and may inform other actors about the position of their parliament, the NPRs see themselves as administrators who are clearly not to negotiate, deliberate or decide on behalf of their parliaments.

NPRs generally emphasized the importance of committee/plenary positions as a basis for action as well as their close ties to their respective parliaments. The career structures of parliamentary officials generally give credibility to such claims, as NPRs usually return to their parliaments after a couple of years and pursue a career in the domestic context. Finally, our analysis has reflected that NPRs proactively embrace subsidiarity scrutiny and parliamentary activity under the EWS and thus in general identified strongly with the mandate of their principals.

The extensive information-gathering and -processing activities of the network

are designed to facilitate political scrutiny. Especially for parliaments with weaker administrative capacity, being informed about the dossiers that other legislatures find problematic, can facilitate and sharpen parliamentary scrutiny. In addition, the fact that most NPRs see their future within their parliament and have closely knit ties facilitates political control.

When comparing the network to other forms of inter-parliamentary cooperation between officials we see that that the network of the NPRs is the most institutionalized. The COSAC Secretariat also consists of (parliamentary) officials but even then there is a strong link with the NPRs as these are to some extent part of the Secretariat. It is noteworthy that the COSAC Secretariat in turn feeds into the tasks that NPRs perform, by for example compiling information on parliamentary scrutiny by way of the bi-annual reports. The role of the COSAC permanent member, who has to be a parliamentary member and very often has assumed the role of NPR of his/her respective parliament, is of paramount importance within the COSAC Secretariat. He or she coordinates the work of the COSAC Secretariat, works somewhat as a memory of the institution, and plays a key role in assisting the COSAC Presidency and the Presidential Troika.

What is very interesting when it comes to the question of whether officials moderate mandates that are issued by respective national parliaments, is the fact that the permanent member of the COSAC Secretariat, does not work for a specific national parliament. Although he or she is a parliamentary official and as such has parliamentary expertise, he or she has to adopt a trans-national parliamentary stance by working for the rotating Presidency. The same is true for officials working for the COSAC Secretariat as a whole.

If we then come back to the question raised at the outset of the paper, of whether parliamentary officials, remain representatives of “their” respective national parliament or go ‘native’ (Checkel 2003) by adopting a European, trans-national stance, a differentiated picture emerges. It thus seems in the very nature of officials working for the COSAC Secretariat to contribute to strengthening the *parliamentary* stance *across* national parliaments by assisting COSAC in the exchange of information and best practices. Although officials working for the COSAC Secretariat are “delegates” from different national parliaments they have to support the rotating Council Presidency parliament in exercising its tasks. National interests thus move to the “back-burner”.

When it comes to NPRs we see that the fact that they are closely linked to their respective national parliaments and act and perceive themselves as “delegates” of their respective national legislature, does not contradict the fact that they can go “Europe”. They thus might play an important role in achieving *trans-national* outcomes that might otherwise not be achieved, by providing information on whether their respective parliament is issuing a reasoned opinion against a Commission proposal.

Comparatively speaking the role of officials at the Speakers Conferences is not as far-reaching. Although high-level parliamentary officials attend these meetings these contacts are more incidental when compared to officials working in the COSAC Secretariat or the representatives of national parliaments in Brussels. First observations point us into the direction that the same is true for inter-parliamentary Conferences on issues such as CFSP and EMU. Also here the cooperation between officials is more incidental.

In sum, officials, can be seen to play an important role in the context of *parliamentary control* of EU affairs especially by way of contributing to the dissemination of information both within and across national parliaments. National positions and trans-national outcomes do not necessarily contradict each other.

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Interviews¹⁹

- I. Interview with Permanent Representative to the EU, 14 September 2010
- II. Interview with the administrators of the European Affairs Committee of a national parliament, 27 September 2010
- III. Interview with Permanent Representative to the EU, 29 October 2010
- IV. Interview with Permanent Representative to the EU, 9 November 2010
- V. Interview with Representative of COSAC Secretariat, 9 November 2010
- VI. Interview with Permanent Representative to the EU, 10 November 2010
- VII. Interview with Permanent Representative to the EU, 16 November 2010
- VIII. Interview with Permanent Representative to the EU, 16 November 2010
- IX. Interview with Permanent Representative to the EU, 16 November 2010
- X. Interview with Permanent Representative to the EU, 17 November 2010
- XI. Interview with Permanent Representative to the EU, 22 November 2010
- XII. Interview with Permanent Representative to the EU, 22 November 2010
- XIII. Interview with Permanent Representative to the EU 17 December 2010
- XIV. Interview with Permanent Representative to the EU 24 May 2012
- XV. Interview with Permanent Representative to the EU, 24 January 2013
- XVI. Interview with Permanent Representative to the EU, 24 January 2013
- XVII. Interview with Permanent Representative, 25 January 2013
- XVIII. Interview with Permanent Representative to the EU, 25 January 2013
- XIX. Interview with Dutch EAC clerk, 9 January 2012
- XX. Interview with Permanent Representative to the EU, 7 February 2013
- XXI. Interview with Permanent Representative to the EU, 13 January 2010.
- XXII. Interview with Permanent Representative to the EU, 13 January 2010.

¹⁹ The interviews are kept anonymous as requested by the interviewees.

- XXIII. Interview with Permanent Representative to the EU, 25 January 2013.
- XXIV. Interview with a Dutch EU advisor, 16 April 2014.
- XXV. Interview with a Danish EU advisor, 15 April 2014.
- XXVI. Interview with a Dutch committee clerk, 18 April 2014.
- XXVII. Interview with a Belgian committee clerk, 23 April 2014.
- XXVIII. Interview with Permanent Representative to the EU, 25 June 2014.
- XXVIII. Interview with a Member of the COSAC Secretariat, 29 January 2015.
- Intervention of Estonian NPR at the OPAL Conference in London, 31 March 2014.