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Subnational parliaments in EU policy control:
explaining the variations across Europe.

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Abstract

The inclusion of subnational parliaments into the Early Warning System for subsidiarity control has generated transforming dynamics in the parliamentary *modus operandi* in EU decentralized systems. The empirical findings reveal considerable variations in the pace and scope of subnational parliamentary activity in *ex-ante* EU policy control challenging the existing theories of subnational mobilization. This article sheds light on these variations drawing from a comparative institutional analysis. It offers a theoretical framework which permits to account for the differences in the patterns of subnational parliamentary mobilization in the framework of the EWS, and beyond. This paper claims that the two most important variables behind the scope and effectiveness of regional parliamentary activity are the *meso*-level factors of the relationship between executive and legislature at subnational level and the position of regional executives in domestic governance arrangements.

Keywords

Subnational parliaments, Early Warning System, Europeanization.

Introduction

The new provisions for parliamentary engagement in the European Union's (hereafter EU) policy-making enshrined in the Lisbon Treaty have spurred the academic debate about the (re-)parliamentarization of the EU governance structure. The engagement of national parliaments in the control of subsidiarity as well as the dynamics of inter-parliamentary relations in the field of European affairs have recently received significant scholarly attention (Cooper 2012; Kiiver 2012; Kaczyński 2011; Matarazzo and Leone 2011; Raunio 2010; Louis 2008). Some authors have even proclaimed the emergence of a 'virtual third chamber' collectively fulfilling the legislative, representative and deliberative function in the EU (Cooper 2012). However, in the discussion about the nature of parliamentary control in the EU not much has been said about the role of subnational legislative chambers in the post-Lisbon institutional context. Moreover, the existing theoretical framework for studying parliamentary representation in the EU seems to overlook the subnational dimension. In their conceptualization of a 'multilevel parliamentary field', Crum and Fossum (2009) *de facto* limit their analysis to two-level relations between the European Parliament and the national chambers. This paper builds on a premise that if the input legitimacy of the EU is to be comprehensively evaluated, the analysis should also include the subnational dimension of the EU parliamentary field (Compare Bursens *et al.* 2012).¹

The theoretical and empirical relevance of adding subnational parliaments (hereafter SP) to the picture has normative as well as efficiency related explanations. First of all, SP are legitimate and directly-elected institutions representing the "multiple demoi" of the EU (Benz 2011). The Special Eurobarometer (307/2009) revealed that while only one third of Europeans tend to trust their national governments (34%), half of the citizens express trust towards their regional and local authorities (50%). The same survey showed also that a majority of Europeans feel that public authorities at the subnational level are not sufficiently taken into account in EU policy-making (59%). These findings imply that EU citizens not only entrust SP with significant scope of political responsibility, but they also expect regional responsiveness to the possibility of "being consulted" on EU related issues. As there is an extensive overlap between regional and EU competences in various policy areas and SP implement over 70% of EU legislation and programmes (Christiansen and Lintner 2005), their knowledge of EU policies affect the quality and timeliness of the legal transposition. Moreover, acting closest to the people, SP are able to capture social demands and represent them along the EU decision-making process.

In this regard, the Lisbon Treaty recognizes, for the first time, SP with legislative powers as a separate category of democratic institutions with the right to participate in the control of EU legislative process. Protocol no. 2 on the application of the principles of subsidiarity and proportionality attached to the Treaty of Lisbon (hereafter Protocol no. 2 TL) includes SP into the subsidiarity scrutiny process called the 'early warning system' (EWS) by stating: "it will be for each national Parliament or each chamber of a national Parliament to consult, where appropriate, regional parliaments with legislative powers". Such institutional innovation not only extends the EU channel of representative democracy to the subnational level, but also provides field for analysis of the newly emerging inter-institutional dynamics in EU decentralised systems. Since national transposition of the EWS depends exclusively on Member States and their intergovernmental arrangements, we can expect considerable cross-country variations in the pace and scope of the subnational parliamentary mobilization in EU policy control. Shedding light on these variations and the way in which SP interact with other institutional

¹ There are currently 74 subnational parliaments in the EU, who exercise constitutionally attributed law-making competences in various fields of policy. They can be found in eight EU member states: three federal (Austria, Belgium and Germany), two regionalized (Spain, Italy), one devolved (the UK) and two unitary states (Portugal - Madeira and Azores; and Finland - Åland Islands). Their legislative capacity varies from one Member State to another.

actors in European affairs is necessary to further our understanding of the dynamics at play in the EU multi-level policy process.

The scholarship on subnational mobilization in the EU has been primarily focused on local and regional governments (Callanan 2012; Bauer *et al.* 2010 among others) and regional offices in Brussels (Rowe 2011; Tatham 2008; Marks *et al.* 2002; Jeffery 1996 among others). Cases of subnational parliamentary activity have been analysed mainly in single country studies and mostly from a legal point of view (Carmona Contreras 2012; Palomares Amat 2011; Abels and Eppler 2011; Heggie 2006). To date, some comparative attempts to capture the role of SP under the EWS (Borońska-Hryniewiecka 2013; Vara Arribas and Bourdin 2011) provide institutional overview of the subsidiarity scrutiny procedures but lack the explanatory framework accounting for the variations in the parliamentary mobilization patterns.

This article aims to fill this gap by shedding light on the factors explaining SP's differential engagement in EU policy scrutiny under the EWS. It adopts a theoretically informed comparison of subnational parliamentary mobilization (hereafter SPM) in the framework of the EWS in Germany, Spain and the United Kingdom. The analysis draws from original data obtained from interviews and institutional documents. Building on the neo-institutional approach to Europeanization, this research identifies factors affecting SPM in *ex-ante* EU policy control which have not been addressed so far in a single study. The proposed theoretical framework bridges the gap between *micro*-level explanations of individual resources and capacities with *macro*-level factors of a country's constitutional status, providing a more contextualized account for SPM in EU policy control. This paper claims that the two most important variables deciding about the scope and effectiveness of parliamentary engagement in the EWS are two *meso*-level factors of (1) the relationship between the executive and legislature at the subnational level and (2) the position of the regional executive in domestic governance arrangements. While focusing on the EWS, this paper acknowledges that the scope of parliamentary EU oriented activity goes beyond the subsidiarity scrutiny, and therefore poses a question in what ways the domestic institutional arrangements influence SP's EU strategies in a broader framework of EU affairs.

This article is organized in the following way. Section one provides a conceptual framework for the main objects of analysis. Section two presents theoretical assumptions and hypotheses regarding subnational parliamentary mobilization in EU policy-control. Section three provides an overview of the applied methodology and data sources. Finally, section four presents the findings on the basis of comparative case studies. The article finishes with systematized conclusions and their implications for further research.

1. The 'Early Warning System' as Europeanization mechanism

Under the EWS, national parliaments have eight weeks from the date of transmission of an EU draft legislative act to scrutinize it and issue a reasoned opinion stating why they consider that the draft in question does not comply with the principle of subsidiarity. Depending on the number of reasoned opinions, the Commission might have to reconsider, amend or withdraw its proposal (Art. 6-7 of the Protocol no. 2).² The aim of this paper is not to assess the effectiveness of the EWS, which has been already attempted by many authors (Cooper 2012; Kiiver 2012; Raunio 2010; Piris 2010; Maurer 2008) but to analyze its impact on SPM. For this purpose, the EWS will be conceptualized here as Europeanization mechanism which exerts pressure at domestic level.

While Radaelli (2003, 30) defines Europeanization as institutionalization of formal and informal rules, procedures and "ways of doing things", firstly defined at EU level and then incorporated into the

² In fact, parliaments take a broader scope in their analyses exploring the content and the impact of the potential legislation at the domestic level.

domestic contexts, Risse *et al.* (2001, 2) point to its functional dimension and see it as an emergence of problem-solving structures of governance which formalize interactions among different actors. Finally, rational choice institutionalism conceives Europeanization as an emerging political opportunity structure which offers some actors additional resources to exert influence, while constrains the ability of others to pursue their goals (Börzel and Risse 2000, 6). The EWS combines these functions in a single framing mechanism.

Firstly, the EWS becomes a catalyst for the exercise of the already attributed legislative competences of SP transferred to the EU and restores the subnational representative function through linking political decisions at the supranational level with citizens' preferences on the ground. In this sense, the EWS becomes a legislative transmission belt between the Commission, the Member States' parliaments and the subnational assemblies who through cooperation and exchange of views reinforce each other's legitimacy (Compare Hurrelmann 2007). Secondly, the EWS was created to address a particular collective problem of democratic deficit and lack of accountability of the EU (De Wilde 2012; Cooper 2012). In this sense, the scrutiny procedure was to become the way in which EU legislator justifies his actions before a forum of national (and subnational) parliaments under the threat of consequences (i.e. "yellow" or "orange card"). The increased capacity of parliaments to keep track of EU policy-making through their involvement in the EWS should – ideally – translate into deepening of its legitimacy. Finally, the Protocol no. 2 TL, for the first time, provides SP with a legal base for participation in EU legislative process. Although SP hold legislative competences in the sphere of domestic policy-making, the complex system of EU multi-level governance challenged their ability to control European policy-making and the actions of their executives. The shift of power to the executive branch has been often referred to as (de-) parliamentarization, both at the national and subnational level (O'Brennan and Raunio 2007). The EWS establishes the first, albeit mediated, interface between the subnational parliaments and the European Commission. In this sense, it becomes an opportunity structure for SP to renegotiate their controlling and oversight powers in EU affairs *vis-à-vis* their subnational executives. Moreover, the EWS, has also given SP possibility to become direct interlocutors *vis-à-vis* national parliaments.

In line with Europeanization literature, it is assumed that the EWS exerts certain influence on domestic actors and their hitherto established relations. As a result of some degree of 'misfit' between the 'new' European and the 'old' domestic level processes, EWS produces certain 'inconvenience' on the side of domestic actors, constituting adaptational pressures (Börzel and Risse 2000). It also creates new patterns of interactions between the central and subnational authorities, as well as between the executives and legislatures, not infrequently leading to challenging the well-established hierarchies.

2. Theoretical explanations

The literature on territorial mobilization in Europe provides alternative explanations as to the scope of the regional involvement in EU affairs. At the micro level, in line with the logic of resource dependency, it is assumed that individual resources (i.e. organizational capacities, expertise or economic position) of a region influence the scope and quality of subnational mobilization in the EU (Börzel 2002; Blatter *et al.* 2008). These arguments are usually linked with the macro-level factor of constitutional status of a region marked by the degree of country's decentralization on the axis from a unitary to federal state. In this regard, taking that regions of federal states have more at stake in terms of the scope of their powers and the overlap between their and EU competences than their counterparts in regionalized or unitary systems, it is assumed that higher levels of devolution result in stronger subnational mobilization in EU affairs (Marks *et al.* 1996; Hocking 1997; Keating and Hooghe 2006). This has been empirically confirmed with regard to the regional activity in Brussels (Marks *et al.* 2002; Jeffery 2000; Tatham 2008). At the same time, it has been shown that a higher level of devolution in a Member State leads to more cooperation between subnational and national authorities in domestic EU policy-making (Tatham 2011).

Yet, while important for identifying the inter-regional patterns of mobilization in EU affairs, these two factors fail to explain the variations at subnational parliamentary level such as relatively low degrees of activity in federal states like Germany or Austria as compared with, for example, Spain or the UK, thus failing to account for cross-country patterns. Moreover, neither of them explains the systemic differences in the inter-parliamentary relations between national and subnational level. They simply overlook, or underestimate, factors which affect the position of SP domestic governance arrangements.

To be able to elucidate the main variables behind SPM and the subsequent inter-level parliamentary cooperation under the EWS, the theoretical framework applied in this paper bridges rational choice and historical explanations of the new institutionalism (North 1990; March and Olsen 2005). While broadly assuming that institutions shape political actors' behaviour and interactions (Héritier 2007), rational choice approach focuses on individual interests, strategies, capacities and constrains (Peters 2011, 47-49), and historical perspective emphasizes the influence of institutionally developed patterns of interactions, pointing to path dependency explanations (Pierson 2000, 252).

Institutions are structures of incentives, hence, it is assumed that SP will use the new opportunity structure of the EWS in order to gain influence over EU policy and to restore a controlling function *vis-à-vis* their governments. Consequently, driven by their purposeful behaviour, SP will deploy resources, comply with the newly established rules and engage in interactions with other institutional actors in the framework of the EWS. Yet, while taking this perspective as a point of departure, this research agrees with the argument that new institutional rules induced by the EU might entail a difficult process mutual re-structuring which is likely to affect the integration and coherence of domestic institutional systems (Kohler-Koch 2005). As a result of external pressures, domestic actors will show resilience towards change. The extent of their adaptation will depend on the institutional "goodness of fit" between the EU and domestic level as well as the existence of various mediating factors (Börzel 2005). Broad literature on Europeanization emphasizes that due to the varying nature of such factors responses to EU induced changes are uneven (Börzel and Risse 2000; Jachtenfuchs and Kohler-Koch 2004). These arguments resonate with path dependency approach emphasizing how the domestic institutional traditions and practices embedded over time influence the development of new governance styles and inter-institutional relations (Peters 2011).

We can thus expect that the transposition of the EWS into national contexts will be conditioned by institutional governance arrangements and practices already in place. Consequently, we can expect that its implementation will vary across Member States depending on the commitment of various institutional actors to transform the EU legal provisions into effective political tools. These are often expressed in endogenous institutional changes, development of informal mechanisms and lower-order rules (Héritier 2007) which selection does not have unbiased, neutral character but is rooted in particular institutional traditions and political values. In other words, traditions governing the relations among particular institutional actors will be of crucial importance in determining the scope and nature of subnational parliamentary mobilization under the EWS.

Accepting the above arguments, this research suggests that the main explanatory factors behind SPM are two *meso*-level variables: (1) the relationship between executive and legislature at subnational level and (2) the position of subnational executive in domestic governance arrangements. The *meso* nature of these factors stems from the fact that they refer to "infrastructural context" of domestic institutional relations situated between the individual region's capacities and the constitutional status of the state (For different conceptualization of *meso*-level factors see: Elbasani and Saatçioğlu 2013).

2.1 The relationship between the executive and legislature

The European integration and the emergence of EU multilevel governance is widely thought to weaken parliaments and to strengthen governments (Raunio 2007; Follesdal and Hix 2006). Regional

governments have acquired more expertise in European affairs through participation in domestic EU decision-making as well as through representing their regions in Brussels. In this regard, the recognition of parliamentary autonomy to scrutinize EU legislation and issue opinions on thereof increases SP's ability to control, or limit the domination, of regional governments. In this sense, the nature of executive-legislature relationship becomes crucial for the parliamentary mobilization. This variable primarily concerns the right of SP to timely information, consultation and decision-making powers over the government. It can be operationalized by looking at whether executive-legislature relation is based on cooperation, competition or dependency; whether there is expertise and information sharing or rather its monopolization by either institution; and finally, who is the protagonist under the EWS, i.e. who receives information first and who has the 'last say' in the procedure before issuing an opinion. It is assumed that cooperative relationship between the subnational government and parliament will help the latter one to perform its EU scrutiny function better and to become an active interlocutor in contacts with a national parliament. On the other hand, gate-keeping position or monopolization of information by SG will impede the protagonism of SP. From the above, two complementary hypotheses can be drawn:

H1: *Cooperative relations between SG and SP will lead to a stronger subnational parliamentary mobilization under the EWS.*

H1a: *Monopolization of information by SG will inhibit the subnational parliamentary mobilization under the EWS.*

2.2 The position of subnational executive in domestic governance arrangements

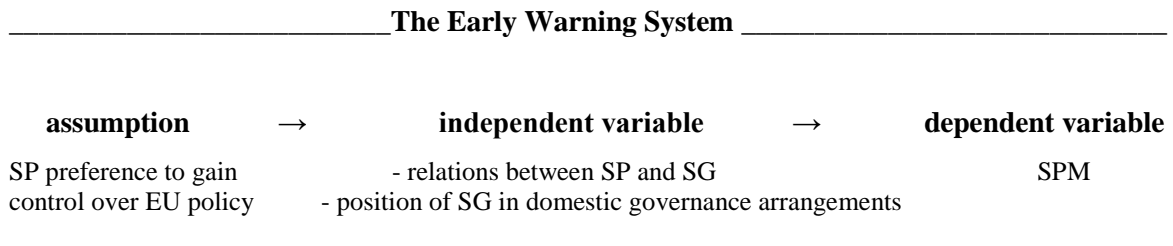
This factor can be divided into two kinds of considerations. Primarily, it accounts for the nature of domestic relationship between regional and central level decision-makers and might be operationalized by looking at whether regional interests are negotiated in formalized, institutional forums open to parliamentary scrutiny, or are they rather agreed through informal relations between subnational and national ministers, conducted 'behind closed doors' and in confidential manner. In the latter case, if SG are used to monopolize information (H1a), the powers of SP become severely restricted and limited to rubber-stamping executive decisions. From the above, the following hypothesis can be generated:

H2: *Informal character or confidentiality of intergovernmental relations between SG and national decision-makers will inhibit subnational parliamentary mobilization under the EWS.*

Secondly, in decentralized and multi-layered states the domestic relationship between the regional and central level decision-makers is directly related to the role and composition of the second chamber (Swenden 2010) which function is often to represent subnational interest at the national level. According to the provisions of the Protocol 2 TL, in bicameral systems each chamber can cast one independent subsidiarity vote under the EWS. Strong territorial second chambers, composed of regional representatives, may act as facilitators in the vertical inter-parliamentary relations and voice subnational concerns in *ex-ante* EU scrutiny. However, if the second chamber is composed of members of regional governments (not parliaments), the situation gets complicated. It might be that instead of national parliaments consulting SP as to their opinions regarding EU legislation, national legislators cooperate with representatives of SG in the second chamber. In such case, while regional executives serve as legislatures at the national level, legislative functions of SP become significantly impeded. This leads to generation of the following hypothesis:

H3: *Representation of SG in the second chamber at the national level will inhibit subnational parliamentary mobilization under the EWS.*

Figure 1. The model of the analyzed causal relationship



3. Methodology

In order to assess how the two *meso*-level factors combine in explaining SPM in EU policy control, this paper uses comparative analysis of the EWS in Spain, Germany and the United Kingdom. The choice of the case studies was guided by a number of considerations. First of all, in these countries regions enjoy wide law-making competences in various fields of policy and the impact of EU law on the exercise of regional powers is considerable. They represent states where regional elections play significant role, voters identify with their regions and regional politics influences the political dynamics at the national level. However, apart from similarities, this case selection allows this research to account for different systemic factors which might affect the SPM, such as the constitutional setup of the state (federal, regionalized and devolved system) and the tradition of intergovernmental relations. Most importantly, there are differences in key variables of interest that is the relationship between the executive and legislature at the subnational level and the position of regional executive in domestic governance arrangements.

3.1 Operationalization of the dependent variable

The concept of subnational parliamentary mobilization is understood here as institutional and political activities of SP aimed at gaining influence over European affairs in the initial phase of EU policy-cycle based on interaction with other institutional actors (i.e. national parliaments and regional governments) in *ex-ante* EU policy control. Taking into account that the engagement of SP in the EWS is voluntary, it is assumed that a meaningful inter-level parliamentary cooperation in EU legislative scrutiny will only take place if SP express interest and deploy certain resources, in other words, when they show the capacity to contribute as ‘input givers’ into the oversight of EU policy.

For the purpose of this research, changes to the dependent variable are measured through a series of the following indicators: the existence at regional level of formal procedures to conduct subsidiarity scrutiny under the EWS; the number of subsidiarity analyses conducted by SP; the number of reasoned opinions issued by them in the framework of the EWS; the number of cases when regional observations were included into the national final opinion; the existence of direct inter-parliamentary communication and cooperation between the national and subnational level; and finally, SP’s perception of the EWS in operation. The abovementioned elements account for the institutional effects as well as changes in actor’s strategies and behavior, thus linking the structural and agency-driven explanations.

3.2 Data sources

This research is based on empirical data gathered from three different sources. The first one includes a questionnaire directed to SP in Germany, Spain and the United Kingdom. Due to scarcity of evidence on subnational parliamentary participation in the EWS, direct contact was thought to be the best way of obtaining reliable information. Although primarily the questionnaire was targeted at politicians

presiding parliamentary EU commissions, in almost all cases their political secretariats directed me to legal advisers responsible for carrying out European affairs. The questionnaire was divided into four parts, each enquiring about different aspects of parliamentary experience in the EWS. The first section focused on institutional and structural changes which have taken place at the regional level in the context of the EWS. The second part regarded the hitherto record of participation in the procedure itself as well as enquired about the difficulties detected so far.³ The third one concerned the nature of inter-institutional cooperation. Here, the questions referred mainly to the relations with regional executives, national parliaments and other SP. The final section accounted for the attitude and perception of the members of SP towards the EWS, bringing to light the actor-centred dimension of the parliamentary experience. In many cases the questionnaires were complemented with further telephone interviews. As regards the gathered data, the questionnaires were completed by 20 out of 36 SP (the response rate of 56 %): 8 German, 9 Spanish and 3 SP of the UK.⁴ As the response distribution illustrates, the data accounts for different types of regions, including those with stronger cultural identities and economic position, as well as those less resourceful.

Bearing in mind, that the information obtained from SP might present certain bias (for example, regional officials may attempt to present their institutions as active, Europeanized, influential), the questionnaires at the regional level were cross-checked with data from official documents related to parliamentary EU activities such as the existing regional regulations, statutes, strategies and activity reports. As regards tracing the regional parliamentary input into national reasoned opinions, the data was obtained from the Inter-parliamentary Information Exchange System (IPEX) which registers all parliamentary documents under the framework of the EWS. The third set of data consists of informal interviews and desk research carried in various waves at the Subsidiarity Monitoring Network of the CoR between January 2011 and March 2012.

4. Subnational parliamentary mobilization under the EWS

4.1 Germany

While German *Länder* are among the most active regional authorities in EU policy-making, their parliaments (*Landtage*) have been for a long time considerably marginalized in the sphere of European affairs. European integration, together with the centralization of German federalism, has clearly worked in favour of de-parliamentarization at the subnational level (Kropp 2012; Panara 2011; Bauer 2005). The long tradition of intergovernmental cooperation and tight institutional linkages between national and subnational level in Germany largely neglects SP (Hrbek 2010; Abels 2012) which makes the German case especially intriguing (Stuchlik and Buzogany 2011).

In the German complex system of “cooperative federalism” (Börzel 2001; Jeffery 1997) the dominant role in domestic EU policy-making is played by the executives. At the federal level, interests of the *Länder* are represented by the *de-facto* second chamber (*Bundesrat*), fully composed of delegates from regional governments. Since *Bundesrat* members are not elected - either by popular vote or by *Landtage* - but delegated by their respective Land government, composition of the second chamber clearly favours regional executives. As the consent of *Bundesrat* is required for well over half of the federal laws, *Länder* governments get engaged, at an early stage, in the federal legislative

³ The data refers to the EWS experience in the time period 2011-2012.

⁴ In Germany: Berlin, Bavaria, Baden-Württemberg, Bremen, Hessen, Saxony, Lower Saxony, Nordrhein-Westfalen; in Spain: Basque Country, Catalonia, Extremadura, Canary Islands, Galicia, Aragón, Murcia, Andalusia and Cantabria; in the UK: Wales, Scotland and Northern Ireland.

process, which significantly impedes legislative functions of SP (Compare Abels 2012).⁵ In this regard Jeffery observes that in Germany large part of domestic decision-making is “conducted *behind closed doors* and tends to *precook* policy away from parliamentary scrutiny, with the Bundestag and *Länder* parliaments often effectively relegated to rubber-stamping devices” (1997,45). Kropp, on the other hand, argues that the “joint-decision making” model of German federalism (Scharpf 1988) based on obligatory cooperation and institutionalized veto points weakens SP in yet another way. She points out the fact that if executives do not agree on a common stance in federal negotiations, SP cannot preserve their legislative function by imposing their solutions since the executives can “deviate from parliamentary decisions referring to inescapable concessions to be made in order to avoid gridlock” (2012:7). In other words, SP do not have the right to influence their executives leading negotiations in the Bundesrat.

Such domestic governance arrangements clearly affect participation of the *Landtage* in the EWS. While at the federal level the subsidiarity check has been integrated into the regular decision-making process and the voice of the *Länder* is mediated through the executive-dominated Bundesrat, *Landtage* lose their protagonism. Due to absence of a national level regulation ensuring SP participation in the scrutiny procedure, as well as a direct channel of communication between the SP and the federal legislator, effective SPM depends to a great extent on the nature of SP relations with SG. These have been traditionally based on a domination of the latter ones not only thanks to their expertise and acquired EU experience, but also to the systemic provisions discussed above.

As regards the reception of EU documents necessary to conduct scrutiny under the EWS, these are forwarded to regional executives bypassing the SP. While for a long time SG could be selective in sharing information with their legislatures, only recently the latter ones have gained the right to be fully informed by their governments in EU affairs (Abels 2012). However, when expressing parliamentary opinion on EU topics, SP are still dependent on governmental expertise (Vara Arribas and Bourdin 2011:51).

In terms of the changes to the dependent variable, *Länder* parliaments have undertaken a series of lobbying activities at the federal level to regain control over executives and to increase their say in domestic EU policy-making. In the 2010 “Stuttgart Declaration”, Presidents of all *Landtage* demanded an extension of participatory and information rights of SP through changing the ancillary law on *Länder* EU involvement (EUZBLG). Over the last years, they have also undertaken a number of procedural and organisational adaptations to adjust to the provisions of the Lisbon Protocol. However, the research suggests that the new regulations established at the regional level are weak and mostly lack institutional safeguards. According to the questionnaires, only four *Landtage* established specific internal procedures to perform the work under the EWS (Bavaria, Baden-Württemberg, North Rhine-Westphalia and Berlin). Majority rely on the non-binding agreements recently negotiated with their governments on the improved *information* and *scrutiny* rights in domestic and EU affairs (Brandenburg, Hamburg, Hessen, Rhineland-Palatine, Saarland, Saxony, Saxony-Anhalt, Thuringia). In their case however, the information rights are typically limited to issues of “vital importance” for the *Länder*, which is left to the decision of SG.

The overall regional record of subnational parliamentary input under the EWS is rather poor (See Annex 1), ranging from no experience so far (Bremen, Nordrhein-Westfalen, Hamburg, Saxony or Mecklenburg-West Pomerania) through occasional activity (Berlin, Hessen) to regular scrutiny in case of Bavaria and Baden-Württemberg. The latter are however the most resourceful regions in Europe whose EU-oriented activity is exceptionally advanced and might be compared to this of a state. Therefore, their examples should not serve to draw generalizations about the overall systemic pattern,

⁵ Decisions regarding European affairs are taken in the Bundesrat Chamber for European Affairs (*Europakammer*) (Article 53.3a of Basic Law) which enables *Länder* governments to communicate and agree in an efficient way views on EU policy without going through a plenary session.

which is that majority of *Landtage* incline towards more controlling function rather than pro-active contribution under the EWS.

As regards the influence of parliamentary opinions in the EWS, the scrutiny power of SP is limited in the sense that in case of a disagreement with a SG, SP cannot use veto to change government's decision (Vara Arribas and Bourdin 2011:50). In other words, SG are not bound by *Landtage*'s decisions. No concrete data exists on the inclusion of SP observations into federal reasoned opinions. Since these are *Länder* governments who involve the *Landtage* in the EWS, there is no immediate register of parliamentary opinions at the federal level. In the period 2011-2012 neither of the federal reasoned opinions referred to regional parliamentary input (IPEX source).⁶

The existing intergovernmental arrangements also affect the SP's perception of their roles in EU policy-control. Questionnaires revealed that in spite of a general interest in the procedure widely perceived as an opportunity structure to gain more visibility in EU affairs, SP do not see themselves as protagonists in legislative scrutiny but rather accept the primacy of their governments, on which - as underlined - they "rely in terms of information and expertise". Some of the respondents do not even see the need to reform the existing mechanisms and to establish direct inter-parliamentary channel of communication between the *Landtage* and the Bundestag or Bundesrat (i.e. Berlin, Saxony-Anhalt, Nordrhein-Westfalen). There are also sceptical voices describing members of the *Landtage* as "part-time legislators" who due to "low profile" of their institutions often continue to "pursue other professions outside the assembly" (i.e. Berlin).

Finally, the inertia of domestic governance arrangements influences broader EU strategies of SP. In case of more resourceful *Landtage*, certain degree of state bypassing and EU level capacity building can be observed. Parliaments of Bavaria, Baden-Württemberg and North-Rhine Westphalia established their offices in Brussels to be informed, often well before the legislative scrutiny takes place, about any significant policy developments which might affect regional interests. This allows SP to gain control over EU policy outside of the domestic governmental arrangements. On the other hand, less resourceful *Landtage* express a rather permissive consensus towards the *status quo* and seem to rely on the "voluntary underuse of their participatory rights" (Bauer 2005), limiting their role to a receptive control of the executive.

4.2 Spain

Although not constituting a federal state, the Spanish *comunidades autónomas* (CCAA) enjoy a wide catalogue of legislative competences ranging from agriculture, environment, infrastructure and regional development to health and social policy, increasingly overlapping with EU competences. While European integration has reinforced the Spanish regional executives over legislatures in domestic EU decision-making (Carmona Contreras 2012; Closa and Heywood 2004; Campos Biglino 2003), this process has been less institutionalized than in the case of Germany and, therefore, remained more open to adaptive changes exerted by the EWS.

As regards the variable of the position of regional executive in domestic governance arrangements, contrary to the German case, Spanish SG do not perform the function of co-legislators at national level, simply because they are not represented in any of the national parliamentary chambers. Spain is a very clear case of asymmetrical bicameralism most of all since the Congress can override most of Senate's decisions by a simple majority. The Spanish Senate has been designed as a weaker body of limited decision-making powers, both in domestic as well as European affairs (Palomares Amat 2001).

⁶ The list of the opinions issued so far by the German Bundesrat: COM (2010) 0369 on deposit guarantee scheme; COM(2011) 0654 on criminal sanctions while dealing with data manipulation; COM(2011) 0793 on consumer disputes; COM(2011) 0828 on noise related operating restrictions; COM (2011) 0897 on public procurement; COM(2012) 0010 on the protection of individuals with regard to the processing of personal data by competent authorities; COM(2012) 0011 on general data protection.

However, unlike in the German case, Senate's composition links national and subnational parliamentary level to a certain extent, as 25% of the senators are appointed directly by SP. This favours, albeit rather symbolically, the regional parliamentary oversight of national level decision-making. In fact, this territorial link is too weak to allow the Senate to participate in a relevant way in voicing the interests of CCAA in forming the Spanish position before the EU. Regional interests are represented and negotiated at the national level in the Conference on Issues Related with European Union and in a system of Sectoral Conferences. Research as well as literature indicate that decision-making process within the Conferences is not very well institutionalized and significantly politicized due to its dependency on the respective regional majorities (Arbós Marin *et al.* 2009). Such state of affairs makes parliamentary scrutiny easier and allows SP to at least "debate" policy solutions at the regional level before they enter into the Conference.

Parliaments of CCAA are included into the EWS through a national-level regulation (Law 24/2009 amended by Law 38/2010). The organ responsible for the exercise of the EWS is the Joint Committee of the Congress and Senate for the European Union which channels all EU legislative proposals to SP without any filtering procedure. Once SP receive a draft legislative act, they may draw up a report if they consider that, firstly, their competences are affected, and secondly, the principle of subsidiarity has been violated. Contrary to the German case, SP have the priority in obtaining EU documents from the national parliament, and they forward them to their regional governments. Although SP are not obliged to consult or adjust their stances with the regional government⁷, the findings reveal that majority of the Spanish SP systematically collaborate with the executive branch in subsidiarity checks (e.g. Cantabria, Basque Country, Canary Islands, Galicia). Others perform their scrutiny functions independently (e.g. Catalonia). The respondents from SP have observed that as a result of the EWS, communication between the executive and legislature has improved and is increasingly based on mutual assistance. While this is also true in case of the German *Länder*, in the Spanish case the relationship between SP and SG is based on a stronger informational and political autonomy of the former one. On the one hand, regional executives are used by SP to help build necessary expertise and "EU sensibility", on the other hand, since the analysis of subsidiarity is fundamentally political, SG - as admitted by a Basque representative - see it crucial to submit EU projects to a political debate within the parliament, a debate which ideally "allows taking into account all circumstantial parameters and results in authentic involvement of all political parties".

As regards the changes to the dependent variable, fifteen out of seventeen SP have incorporated new provisions for subsidiarity control into their legal frameworks. Since 2006 eight CCAA amended their statutes of autonomy including their legislative assemblies into the subsidiarity consultation process.⁸ Others, such as SP of the Basque Country, Madrid, Canary Islands, Galicia, Asturias, Cantabria and La Rioja established specific internal regulations to perform the work under the EWS. Only the SP of Murcia and Aragón have not adopted any specific procedures. Yet, paradoxically, *Cortes de Aragón* is one of the most active SP in the EWS scrutiny.

Although the data regarding the parliamentary activity in the framework of the EWS reveals some disproportions among CCAA, the overall relative scrutiny record is the highest among the analyzed Member States (See Annex 1). The most active SP are the Basque Country, Aragón and Extremadura which account for over 65% of the opinions. Such data confirms that subnational parliamentary mobilization does not so much depend on financial and administrative resources or cultural distinctiveness of a region. Other SP (e.g. Catalonia, Canary Islands) are more selective in choosing the relevant EU drafts for analysis. Only four SP have not conducted any analyses so far (e.g. Andalusia, Asturias, Balearic Islands and La Rioja).

⁷ In fact, regional executives in Spain have been granted the possibility to voice subsidiarity related concerns before the Joint Committee (Law 38/2010), they however do this through their SP.

⁸ Valencia (2006), Catalonia (2006), Balearic Islands (2007), Andalusia (2007), Aragón (2007), Castilla y León (2007), Navarra (2010), Extremadura (2011)

As regards the inclusion of regional observations into the national opinion, from the formal point of view, although the Joint Committee is not legally bound to take into account the input of SP, it should incorporate the list of regional reports and references to the relevant documents. The data extracted from IPEX database reveal a positive picture regarding the reception of regional input by the Joint Commission. All reasoned opinions issued by *Cortes Generales* in the period 2011-2012 acknowledged the reports of SP referring to concrete parliamentary assemblies.⁹ For example, in 2012, the final national opinion regarding the Proposal for a Regulation on European Statistics (COM/2012/167) included explicit reference to the contents of regional reports stating that the proposal represents “interference in the organisation of competences of the Member States” (IPEX). This opinion was also conveyed to EU institutions within the framework of the “Political Dialogue”¹⁰ to which the European Commission answered in December 2012. In this case, however, regional opinions stayed in line with the stance of the Joint Committee. It remains to be seen how the Committee responds in case of differing points of view at the national and subnational level.

In terms of regional perception of the EWS, the questionnaires revealed that majority of respondents perceive it as an opportunity structure to “get out of an institutional *limbo* in the sphere of European affairs”, but at the same time emphasize that it requires considerable institutional effort. Greater parliamentary experience allowed CCAA for some constructive criticism and strategy adjustment. In contrast to their German counterparts, more Spanish respondents express skepticism as to effectiveness of the EWS and complain that the design of the procedure does not allow to meaningfully influencing the EU policy process (e.g. Basque Country, Canary Islands). The questionnaires revealed an increasing tendency of the Spanish SP to be more selective in choosing EU dossiers and to conducting broader analyses, beyond the scope of subsidiarity, including observations about the proportionality and policy contents.

As regards changes to parliamentary EU strategies, due to facilitating domestic governance arrangements, SP tend to focus on the improvement of the domestic parliamentary channel of cooperation, rather than to seek external influence. To this end, joint technical sessions and trainings are organized between the lawyers responsible for subsidiarity scrutiny in SP and the national parliament. In 2011 the Conference of Presidents of the Spanish Autonomous Parliaments (COPREPA) prepared a handbook facilitating elaboration of regional opinions within the EWS (Carmona Contreras 2012: 165). SP also recently established an inter-parliamentary online communication network, *Red_Parlamenta* which facilitates the exchange of scrutiny information.

4.3 United Kingdom

The research reveals that although the devolved legislatures of Scotland and Wales have the shortest experience of the EU, their awareness, engagement and internal specialisation in the field of European affairs is relatively well advanced. This might be due to the fact, that as young parliaments (created only in 1999), they had to face the challenge of extensive Europeanization already at the time of their establishment. In case of the Northern Ireland Assembly (NIA), due to political unrest its parliamentary experience was suspended between 2002 and 2007.

⁹ The list of opinions issued by the Mixed Commission: COM (2011) 215 and 216 implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements; COM(2011)0169 restructuring the Community framework for the taxation of energy products and electricity; COM (2011) 896 and 897 on public procurement; COM (2012)167 concerning European Statistics

¹⁰ Under Political Dialogue (known also as ‘Barroso Initiative’) the Commission transmits all new proposals and consultation papers directly to national parliaments and invites them to give comments, criticism and positive feedback regarding their contents. Within the scope of the PD, parliaments can assess the compliance with the principles of subsidiarity, proportionality, conferral and political accountability. Although the character of the PD is informal and non-binding for the Commission, it usually takes notice of their comments. It can be said that the EWS is a ‘hard core’ of the broader PD.

The degree of devolution in the UK is asymmetrical but the impact of EU law on the exercise of devolved matters is considerable in each of the regions. The most important matters affected by EU policy-making are agriculture, fisheries, economic development, environment and energy.¹¹ Although neither of the devolved regions enjoy constitutional right to participate in domestic EU policy-making, intergovernmental relations in the sphere of European affairs are covered by less formal arrangements, such as constitutional conventions and legally non-binding agreements known as Concordats or Memorandum of Understanding (Varney 2011). While the Memorandum provides for the inclusion of devolved administrations in the formulation of UK's policy position on EU affairs, the Concordats provide a general framework for inter-level cooperation. Similarly to the German case, systemic arrangements have favoured devolved executives as regards the right to information, participation and representation of the regional position in EU affairs. The roles of SP were left to be agreed at subnational level and were generally limited to scrutinizing EU documents (Hoegenauer 2012). In this context, however, it is important to note that, the Devolution Act has rebalanced the relationship between legislature and executive at the subnational level, departing from the Westminster model (Fasone 2012). It was achieved by granting SP more robust institutional structures and controlling powers that those enjoyed originally by the Westminster. The new arrangements which set up the devolved legislatures in Scotland and Wales met with ambitions to enhance the role of parliamentary European affairs committees (Randall and Seawright 2002). Oversight and scrutiny of EU documents was therefore on top of SP's political agenda from the very onset (Hazell and Paun 2010).

As regards the variable of the relationship between the regional executive and legislature, Scottish and Welsh parliaments developed a relatively strong controlling position in *ex-ante* review of EU policy and as well as good communication with regional executives before they engage in the formulation of the UK position (Compare Fasone 2012). In order to gain more independence *vis-à-vis* regional executives, both devolved legislatures invested considerable effort to set up specialized EU committees and establish direct links with Brussels to obtain relevant information. In spite of the initial organizational and capacity problems (Carter and McLeod 2005; Heggie 2003) the two SP have managed to develop an early engagement approach based upon intelligence gathering and policy analysis at the pre-legislative phase of EU policy-making. Internally, to ensure their legislative control, they developed procedures to hold the executive to account for its actions in the European field, as ministers might be called to provide evidence to EU parliamentary committees on their work (Vara Arribas and Bourdin 2011: 129). The process was gradually facilitated by SG who agreed to share more information with their legislators. The situation looks different in case of the Northern Ireland Assembly (NIA). According to the feedback received from the NIA, the internal arrangements for EU scrutiny in the NI government are still in the early stages themselves and there is generally no willingness to cooperate or to provide the Assembly with information on either subsidiarity or on other EU-related issues.

The relationship between SP and SG is especially important in the UK since the domestic relationship between the regional executive and central level decision-makers makes effective parliamentary scrutiny difficult to achieve. The two main challenges are the informal and *ad hoc* nature of large part of intergovernmental negotiations and the emphasis on confidentiality (Hoegenauer 2012). Moreover, the British second chamber does not facilitate legislative control of domestic EU policy-making at the subnational level. Composition of the House of Lords is entirely independent from territorial criteria and does not represent interests of the devolved territories.

Implementation of the EWS into the domestic order, reflects the established patterns of domestic governance based on informality, flexibility and unwritten codes of conduct. In spite of the absence of formal provisions for cooperation between the UK Parliament and the devolved legislatures under the

¹¹ The Scotland Act of 2012 extended the Scottish legislative competences to new policy areas and granted it further fiscal devolution; the Government of Wales Act of 2006 conferred legislative authority to the Welsh Assembly, which was approved in the 2011 referendum.

EWS, the House of Commons European Scrutiny Committee, in its 2008 report on “Subsidiarity, National Parliaments and the Lisbon Treaty”, placed the responsibility on the devolved assemblies to examine EU draft legislation and inform the House about possible objections. It also invited the comments of the devolved assemblies on the Committee's draft opinions on matters affecting their competences. The position of the House of Lords was quite more reserved, as it perceived the Treaty provision to consult SP to be explored on a “case by case basis” (HoL 2009). However, the HoL elaborated a handbook on EU policy scrutiny stating that if a subsidiarity issue is raised at staff level of the HoL, the EU Liaison Officer will alert the devolved legislatures in due time. Moreover, EU committees of the HoL and HoC have agreed to receive and translate the subsidiarity concerns of the Scottish Parliament (Vara Arribas and Bourdin 2011). To sum up, it could be stated that the UK provisions for inter-level parliamentary communication lie halfway between the formally institutionalized arrangements present in Spain and absence of any facilitating mechanisms in Germany.

As regards the right to information, all documents necessary to conduct the scrutiny under the EWS are transmitted to SP *via* the UK and devolved governments. At this stage, there is no direct contact between SP and the Houses of Parliament. The UK government in consultation with the devolved executives have the priority in elaborating EU draft legislation and issuing Explanatory Memoranda outlining their positions on EU proposals. The aforementioned pre-legislative engagement of SP allows them to pursue and select early information in order to perform the correct oversight of their governments. This however costs SP more institutional effort than their German and Spanish counterparts (Compare Heggie 2003). In this regard, as the Scottish respondent noticed, “informal contacts with staff members of the UK parliament play important role”.

In terms of changes to the dependent variable, the research reveals that while the initial phase of implementation uncovered a number of weaknesses in the parliamentary scrutiny, it also allowed for substantial improvements. According to the questionnaires, SP of Scotland and Wales established their internal scrutiny procedures and perform analyses under the EWS. The NIA is currently designing a new process for subsidiarity scrutiny. In Wales, the Committee for European Affairs has adopted a strategic approach based on identifying, at the earliest, pre-legislative stage, the most relevant proposals from the European Commission Legislative and Work Programme and to focus its work on those areas. The Scottish Parliament appointed a special EU Reporter to lead the parliamentary scrutiny work and liaising directly with other institutional actors, i.e. regional government and UK parliament (Scottish Parliament 2010). The greater specialisation provided by European Affairs Committees promotes an internal division of labour and accumulation of expert knowledge that aids parliaments when dealing with complex European policy issues (Raunio and Hix 2000).

As regards the scrutiny record, while in 2010 no opinions were issued by either of the SP, the years 2011-2012 witnessed an increase in the number of analysed EU proposals. According to the reports issued by the European and External Relations Committee, the Scottish Parliament identified six EU legislative proposals as raising possible subsidiarity concerns but due to logistic limitations communicated its views to the House of Lords and House of Commons in three cases (COM/2012/0034; COM/2011/0896 and COM/2011/0897). The National Assembly of Wales indicated that its Legal Services analyzed 29 EU draft legislative acts under the EWS. Out of these, one was identified as raising subsidiarity concerns (i.e. COM/2011/896 on public procurement). The NIA has so far issued one reasoned opinion (COM/2012/380).

Although the UK Parliament is under no formal obligation to accept views expressed by the devolved legislatures under the EWS, the experience reveals its receptiveness. So far, in all the above mentioned cases, reports of the devolved assemblies were taken into account in the final national opinions (IPEX database). However, in spite of the inter-level parliamentary communication in place, SP's perception of the effectiveness and significance of the EWS is, similarly to the Spanish case, rather critical. As the Scottish interviewee explained “I would argue that it has not been a success, either at a national or a regional level. The amount of effort required from all levels within a

parliament to provide an opinion is considerable. Thereafter the national parliament opinions have had little impact on the progress of (EU) legislation. Where a parliament feels strongly about an issue there are other avenues for seeking change at earlier stages; seeking to change a draft legislative proposal is too late". It is, however, important to notice, that the interviewee did not attribute this weakness to the nature of the domestic governance arrangements but rather to the limited scope of the EWS itself.

Such attitude is linked to a broader EU parliamentary strategy of the devolved parliaments. Similarly to their more resourceful German counterparts, British SP seek to gain external influence in European affairs through pre-legislative lobbying, networking and policy control often bypassing the national level. The Scottish and Welsh Parliaments established their offices in Brussels to keep their members informed about relevant developments in EU agenda. SP have also started forging closer ties with MEPs and practice short secondments to the European Parliament.

Conclusion

Research on subnational parliamentary mobilization in EU policy control remains a difficult task because researchers encounter enormous difficulties when drawing general conclusions. Each decentralized case is singular with respect to its genesis, institutional architecture and social embeddedness of the analyzed institutions. Notwithstanding, the analysis of Germany, Spain and the United Kingdom confirm the main theoretical assumption that changes to the dependent variable are mediated through the two *meso*-level factors of the relationship between the executive and legislature at the subnational level, and the position of regional executive in domestic governance arrangements. The research reveals that the nature and scope of parliamentary mobilization varies between Spain, Germany and the UK depending on the configuration of these *meso*-level factors. At the same time, it shows that the macro-level factor of constitutional setup of a state does not explain the cross-country patterns of parliamentary activity.

Disregarding some degree of intra-state variations among the less and more resourceful regions, and looking at the systemic patterns in the three Member States, it can be concluded that the SPM is the strongest in Spain, weaker in the UK and the weakest in Germany. In Spain, the SPM is facilitated by cooperative relations between regional executives and legislatures, informational priority of SP, transparent and open to parliamentary scrutiny relationship between regional governments and national level decision-makers as well as, albeit weakly, by the composition of the second chamber. In the UK, SPM has been initially hampered by the gate-keeping position of regional executives as well as the confidential and informal character of intergovernmental relation between the devolved and UK governments. Over time, however, the relationship between the devolved governments and parliaments has evolved towards more cooperative, which facilitated SP scrutiny of EU legislation. Although the position of devolved executives in domestic governance arrangements is still privileged, as they enjoy information priority over the parliaments under the EWS, these are SP whose reasoned opinions are taken into account at a national level. Finally, in case of Germany, the most important factor obstructing SPM under the EWS is the dominating position of regional executives in federal governance arrangements. Highly technical character of policy negotiations conducted behind closed doors in the executive-dominated Bundesrat institutionalizes the legislative function of regional executives in domestic EU policy-making. Information priority of *Länder* governments and lack of direct vertical relation between federal and regional parliaments further impedes SPM.

The domestic *meso*-level factors also influence the different subnational parliamentary strategies in the wider context of EU affairs. While the Spanish SP seek to improve intra-state communication channels, the UK devolved parliaments and stronger German *Landtage* seek rather external channels of control over EU policy.

Taking into account the above, it could be stated that while both *meso*-level factors are important in explaining the patterns of SPM among the analysed states, the primary one is always the position of

regional executives in domestic governance arrangements. This factor better explains why the institutional ‘misfit’ towards parliamentary Europeanization is found to be the strongest in Germany and the weakest in Spain. In terms of the inter-level parliamentary relations, in Spain a direct link has been established between SP and the national parliament both with regard to (bottom-up) uploading of regional opinions and (top-down) information feeding from the EU. In the UK, uploading of parliamentary opinions is complemented with informal contacts between the devolved parliaments and the House of Commons clerks. In Germany, no direct link between the regional and federal level assemblies exist and all information is mediated through regional executives. There is little reason to expect that vertical parliamentary channel will be established between SP and the federal level since, as revealed in the questionnaires, it seems unnecessary for both the executive and legislative actors. Lack of federal level safeguards for parliamentary involvement might be explained by the reluctance of the federal government to complicate the already complex system of domestic EU decision-making process. Contrary to Spain and the UK, the institutional structures of German parliamentary involvement have to a large extent resisted the changes of Europeanization. As these country patterns might undergo further consolidation or evolution, the adaptation that occurs in Germany lies more in the internal parliamentary organisation and only very slowly extends to a change in legislative-executive relations.

It could perhaps be argued that the evidence presented in this paper is premature, as the process of Europeanization, especially in the case of institutions as conservative as legislatures, is long-lasting and incremental. Thus far, however, the dynamics observed in the three analyzed countries seem to confirm validity of the theoretical assumptions. Further comparative research in other Member States is needed to confront and develop the proposed theoretical framework. Moreover, the empirical analysis allows us to see the EWS in a new light, as an Europeanization mechanism which increases mutual interdependence between institutional actors in the “multilevel parliamentary field”, giving rise to more cooperative forms of governance. It might be expected, that with time and more institutional adjustments in place, more regional input will be channeled upwards to the Commission through parliamentary channels. This encourages developing more robust theories regarding the actual and potential impact of the EWS not only on subnational parliamentary mobilization but also on multi-level parliamentary cooperation in the EU.

References

- Abels, G. (2012) Sub-national Parliaments in a Multi-level Parliamentary System – Reform Processes in the German *Länder* in the Post-Lisbon Era, Paper presented at the UACES Conference, Passau, 3-5 September 2012.
- Abels, G., Eppler A. (2011) Die deutschen Landesparlamente nach Lissabon-Vertrag und –Urteil. Ein Problemauf-riss entlang parlamentarischer Funktionen am Beispiel des Landtags von Baden-Württemberg', in *Europäisches Zentrum für Föderalismusforschung (ed.): Jahrbuch des Föderalismus 2011*, Baden-Baden: Nomos, pp. 457-470.
- Arbós Marín, X., Colino Cámara, C., Garcia Morales, M. J, Parrado Diez, S. (2009) *Las relaciones Intergubernamentales en el Estado autonómico. La posición de los actores, Generalitat de Catalunya*, Barcelona: Institut di Estudis Atonomics.
- Bauer, M.W., Pitschel D., Studinger, P. (2010) Governance Preferences of Subnational Administrative Elites in the European Union, *Lehrstuhl Politik und Verwaltung, Working Paper Series*, Vol. 4.
- Bauer, M.W. (2005) Europaausschüsse – Herzstück landesparlamentarischer Beteiligung in Angelegenheiten der Europäischen Union?, in *Europäisches Zentrum für Föderalismus-Forschung (ed.): Jahrbuch des Föderalismus*, Baden-Baden: Nomos, pp.632-647.
- Benz, A. (2011) Linking multiple demoi. Inter-parliamentary relations in the EU, *Institut für Europäische Verfassungswissenschaften, IEV-Online*, 2011/1
- Blatter, J., M., Kreutzer, Rentl, M. and Thiele, J. (2008) The Foreign Relation of European Regions: Competences and Strategies, *West European Politics*, vol. 31, no. 3, pp. 464-490.
- Borońska-Hryniewiecka, K. (2013, *in press*) Regions and subsidiarity after Lisbon: Overcoming the regional blindness?, in: (eds.) M. Cartabia, N. Lupo and A. Simoncini, *Democracy and Subsidiarity in the EU. National Parliaments, Regions and Civil Society in the Decision-Making Process*, 'Il Mulino - Percorsi', Series of Nova Universitas.
- Börzel, T. (2001) *States and Regions in the European Union: Institutional Adaptation in Germany and Spain*, Cambridge: Cambridge University Press.
- (2005) Europeanization: How the European Union interacts with its member states, in S. Bulmer, C. Lequesne, *The member states and the European Union*, Oxford: Oxford University Press, pp. 45-76.
- Börzel, T., Risse, T. (2000) When Europe hits home: Europeanization and domestic change, *European Integration online Papers*, Vol. 4, No. 15, <http://eiop.or.at/eiop/texte/2000-015a.htm>
- Bursens, P., Maes F. and Vileyn, M. (2012) Playing the Next Level of the Multilevel Parliamentary Game. Let's Add Subnational Parliaments to the Scene, *Paper prepared for the Political Studies Association Specialist Group Territorial Politics Biennial Conference*, 13 - 14 September 2012 Brussels.
- Callanan, M. (2012) Domestic governance arrangements and Europeanization: The case of central local relations in England, Ireland and Denmark, *Comparative European Politics*, Vol. 10, pp. 399-420.
- Campos Biglino, P. (2003) *La política europea de las comunidades autónomas y su control parlamentario*, Tirant lo Blanch.
- Carmona Contreras, A.M. (2012) Hacia la europeización de los parlamentos autonómicos? Reflexiones al hilo del mecanismo de alerta temprana, *Revista d'estudis autonòmics i federals*, Number 16, pp. 141-176.

- Carter C., McLeod A. (2005) The Scottish Parliament and the European Union: Analysing Regional Parliamentary Engagement, in: S. Weatherill, U. Bernitz (eds.), *The Role of Regions and Subnational Actors in Europe*, Oxford: Hart Publishing, pp. 67-88.
- Christiansen, T., Lintner, P. (2005) The Committee of Regions after 10 Years. Lessons from the Past and Challenges for the Future, *EIPA Scope*, Vol. 1, pp. 7-13.
- Closa, C., Heywood, P. (2004) *Spain and the European Union*, Palgrave Macmillan.
- Cooper, I. (2012) A “Virtual Third Chamber” for the European Union ? National Parliaments after the Treaty of Lisbon’, *West European Politics*, 35/3, pp. 441-465.
- Crum, B., Fossum, J.E. (2009) The Multilevel Parliamentary Field: a framework for theorizing representative democracy in the EU, *European Political Science Review*, Vol. 1, Issue 02 , July 2009, pp. 249-271.
- De Wilde, P. (2012) Why the Early Warning Mechanism does not alleviate the democratic deficit, *OPAL Online Paper*, No. 6/2012.
- Elbasani, A., Saatçioğlu, B. (2013 *forthcoming*), Muslims' support for European integration: the role of organizational capacities, *Democratization*.
- Fasone, C. (2012) What Role for Regional Assemblies in Regional states? Italy, Spain and United Kingdom in Comparative Perspective, *Perspectives on Federalism*, Vol. 4, Issue 2, pp. 171-216.
- Follesdal, A., Hix, S. (2006) Why There is a Democratic Deficit in the EU: A Response to Majone and Moravcsik, *JCMS* 2006 Vol. 44. No. 3, pp. 533–62.
- Hazell R., Paun A. (2010) Parliamentary Scrutiny of Multi-Level Governance. In R. Hrbek (ed.), *Legislatures in Federal Systems and Multi-Level Governance*, Nomos: Baden-Baden, pp. 159-179.
- Heggie G. (2006) The Scottish Parliament and the EU Constitution: Moving Beyond the Principle of Partnership. In: P. Kiiver (ed.), *National and Regional Parliaments in the European Constitutional Order*, Groningen: Europa Law Publishing, pp. 29-54.
- (2003) The story so far: the role of the Scottish parliament's European Committee in the UK-EU policy cycle, *Scottish Affairs*, no. 44, summer.
- Héritier, A. (2007) *Explaining institutional change in Europe*, Oxford University Press.
- Hocking, B. (1997) Regionalism: An International Relations Perspective, in: (eds) M. Keating and J. Loughlin, *The Political Economy of Regionalism*, London: Frank Cass.
- Hoegenauer, A. (2012) The Scottish Parliament – Active Player in a Multilevel European Union?, Paper Presented at the international workshop Subnational Parliaments in the EU Multi-level Parliamentary System: Taking Stock of the Post-Lisbon Era, Eisenstadt, Austria, 6-9 November 2012.
- House of Commons (2008) European Scrutiny Committee 33rd Report of 2007-8 Session, October 2008 (HC 563), p.14.
- House of Lords 23rd Report of Session 2008-09 (HL Paper 167).
- Hrbek R. (2010) Parliaments in EU Multi-level Governance, in: (ed.) R. Hrbek, *Legislatures in Federal Systems and Multi-Level Governance*, Nomos: Baden-Baden, pp. 136-150.
- Hurrelmann, A. (2007) Multilevel legitimacy: conceptualizing legitimacy relationships between EU and National Democracies, in: (eds.) J. DeBardeleben and A. Hurrelmann, *Democratic Dilemmas of Multilevel Governance Legitimacy, Representation and Accountability in the European Union*, Palgrave Macmillan.

- Jachtenfuchs, M., Kohler-Koch, B. (2004) Governance and Institutional Development, in: (eds.) Wiener, A., Diez, T., *European Integration Theory*, Oxford: OUP, pp. 97-114.
- James, G. March, Olsen, Johan P. (2005) Elaborating the “New Institutionalism”, ARENA Centre for European Studies, *Working Paper no. 11*, March 2005
- Jeffery, C. (1996) Regional information offices in Brussels and multi - level governance EU: A UK - German comparison, *Regional & Federal Studies*, Special Issue: Vol. 6, Issue 2, pp. 183-203.
- (1997) The decentralisation debate in the UK: role-model Deutschland?, *Scottish Affairs*, no.19, spring 1997.
- (2000) Sub-National Mobilization and European Integration: Does it Make any Difference?, *Journal of Common Market Studies*, Vol. 38, March, Issue 1, pp. 1–23.
- Kaczyński, M. (2011) Paper tigers or sleeping beauties? National Parliaments in the post-Lisbon European Political System, *CEPS Special Report 2011*.
- Keating, M., Hooghe, L. (2006) Bypassing the nation-state? Regions and the EU policy process, in: (ed.) J. Richardson, *European Union: Power and policy-making*, London: Routledge.
- Kiiver, P. (2012) *The Early Warning System for the Principle of Subsidiarity: Constitutional Theory and Empirical Reality*, London: Routledge.
- Kohler-Koch, B. (2005) European governance and system integration, European governance papers (EURGOV) No. C-05-01, <<http://www.connexnetwork.org/eurogov/pdf/egp-connex-C-05-01>>
- Kropp, S. (2012) Federalism and subnational parliaments – a delicate relationship? Paper prepared for the International Workshop ‘Subnational Parliaments in an EU Multi-level Parliamentary System: Taking Stock of the Post-Lisbon Era’, November 6-9, 2012.
- Louis, J. V. (2008) The Lisbon Treaty: The Irish No: National Parliaments and The Principle of Subsidiarity. Legal Options and Practical Limits, *European Constitutional Law Review*, Vol. 4, Issue 3, pp. 429-452.
- Marks, G., Haesly, R., Mbaye, H. (2002) What do Subnational Offices Think they are Doing in Brussels?, *Regional and Federal Studies*, 12(3): pp.1-23.
- Marks, G., Nielsen, F., Ray, L., and Salk, J. (1996) Competencies, Cracks, and Conflicts: Regional Mobilization in the European Union, *Comparative Political Studies*, 29(2), pp.164-192
- Matarazzo, R., Leone, J. (2011) Sleeping Beauty Awakens: The Italian Parliament and the EU after the Lisbon Treaty, *International Spectator*, Vol. 46, No. 3, pp. 129-144(16).
- Maurer A. (2008) National Parliaments in the Architecture of Europe after the Constitutional Treaty, in: (ed.) G. Barrett, *National Parliaments and the European Union: The Constitutional Challenge for the Oireachtas and Other Member State Legislatures*, Dublin: Clarus Press.
- North, D. (1990) *Institutions, Institutional Change and Economic Performance*, New York: Cambridge University Press.
- O’Brennan, J., Raunio., T. (2007) Deparliamentarization and European Integration, in (eds.) J. O’Brennan, T. Raunio, *National Parliaments within the Enlarged European Union*, Abingdon: Routledge, pp.1-26.
- Palomares Amat, M. (2011) La participación del parlamento de Cataluña en la aplicación y el control del principio de subsidiariedad, *Revista de Derecho Comunitario Europeo*, núm. 38, Madrid, pp. 19-59
- Panara, C. (2011) Germany: A cooperative solution to the challenge of the European integration, in: (eds.) C. Panara, A. De Becker, *The role of the regions in EU governance*, Springer.

- Peters, B. G. (2012) *Institutional theory in political science: the new institutionalism*, 3rd edition, New York: Continuum.
- Pierson, P. (2000) Increasing Returns, Path Dependence, and the Study of Politics, *American Political Science Review*, Vol. 94, No. 2, June, pp. 251-267.
- Piris, J-C. (2010) *The Lisbon Treaty: A Legal and Political Analysis*, Cambridge: Cambridge University Press.
- Radaelli, C.(2003) The Europeanization of Public policy, in (ed.) K. Featherstone, C.M. Radaelli, *The politics of Europeanization*, Oxford: Oxford University Press.
- Randall, N., Seawright, D. (2002) Merely a Talking Shop? The European Committees of the Scottish Parliament and Welsh Assembly: New Politics in a System of Multi-Level Governance?, Paper Presented at the Annual Conference of the Political Studies Association, University of Aberdeen, 5-7 April 2002.
- Raunio, T. (2007) National Parliaments and the Future of European Integration: Learning to Play the Multilevel Game, in J. DeBardeleben, A., Hurrelmann, (eds.) *Democratic Dilemmas of Multilevel Governance: Legitimacy, Representation and Accountability in the European Union*, Basingstoke: Palgrave: 159-176.
- (2010) Destined for Irrelevance? Subsidiarity Control by National Parliaments, *Working Paper 36/2010*, Elcano Royal Institut.
- Raunio, T., Hix, S. (2000) Backbenchers Learn to Fight Back: European Integration and Parliamentary Government, *West European Politics*, vol. 23, nr 4, pp. 142-168.
- Risse, T., Green Cowles, M., Caporaso, J. (2001) *Europeanization and domestic change: Introduction*, in (Ed.) M. Green Cowles et al., Ithaca: Cornell University Press.
- Rowe, C. (2011) *Regional representation in the EU. Between diplomacy and interest mediation*, Basingstoke: Palgrave Macmillan.
- Rubio de Val, C. (2012) *El Tratado de Lisboa y el principio de subsidiaridad, La relación Parlamento Nacional y autonómico en el control de la Subsidiaridad*, Instituto Aragonés de Administración Pública.
- Scharpf, Fritz W. (1988) The Joint-Decision Trap. Lessons from German Federalism and European Integration, *Public Administration*, Vol. 66, No. 2, pp. 239–78.
- Scottish Parliament (2010) *European and External Relations Committee*, 6th report 2012, session 4.
- Stuchlik, A., Buzogany, A. (2011) Paved with Good Intentions: Ambiguities of Empowering Parliaments after Lisbon, *German Research Institute for Public Administration Speyer*, Discussion Paper No. 66, April 1, 2011.
- Swenden, W. (2010) Subnational participation in national decisions: the role of second chambers, in: (eds.) H. Enderlein, S. Wälti and M. Zürn, *Handbook On Multi-Level Governance* Cheltenham: Edward Elgar, pp. 103-122
- Tatham, M. (2011) Devolution and EU policy-shaping: bridging the gap between multi-level governance and liberal intergovernmentalism, *European Political Science Review* (2011), 3:1, pp. 53–81.
- (2008): Going Solo: Direct Regional Representation in the European Union, *Regional & Federal Studies*, 18:5, pp. 493-515.
- Vara Arribas, G., Bourdin, D. (2011) *The role of regional parliaments in the process of subsidiarity monitoring within the Early Warning System of the Lisbon Treaty*, Committee of the Regions.
- Varney, M. (2011) Devolution and European Representation in the United Kingdom, in (eds.) C. Panara and A. De Becker, *The role of the regions in the EU Governance*, Springer, pp. 275-296.

ANNEX 1

Table 1: Subnational parliamentary mobilization under the Early Warning System.

Time period analyzed: (2011-2012)	Number of regional parliaments	Presence of formal procedures at regional level*	The number of subsidiarity analyzes conducted under EWS**	The number of reasoned opinions issued by the regional parliaments	Number of cases when regional opinions were taken into account at national level	Existence of direct inter-parliamentary cooperation between national and regional level
SPAIN	17	15	approx. 370	7	7	yes - formalized
UK	3	2	40	5	5	yes - informal
GERMANY	16	4	approx. 90	6	no data	no

* The data regarding the presence of formal procedures for subsidiarity scrutiny at regional level includes all regional parliaments in a Member State and is based on official institutional documents (i.e. regional regulations).

** In Spain and Germany, some parliaments would give only approximate answers regarding the number of subsidiarity analyses conducted under the EWS.

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