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SIGMA RAPORU VE TÜRKÇE ÖZETİ

PARLIAMENTS AND EXECUTIVE OVERSIGHT AND CONTROL

(YASAMA MECLİSLERİ VE YÜRÜTMENİN GÖZETİM VE DENETİMİ)

COMPARING SELECTED EUROPEAN EXPERIENCES

(SEÇİLİ AVRUPA ÜLKESİ TECRÜBELERİNİN KARŞILAŞTIRILMASI)

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Türkçe Özet Çeviriyi Hazırlayanlar
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(Bu rapor elektronik ortamda dağıtılmış olup arşiv amaçlı 15 adet çoğaltılmıştır.)

TAKDİM

Bu karşılaştırmalı çalışma Türkiye Büyük Millet Meclisi Başkanlığı'nın (TBMM) talebi üzerine, Avrupa Komisyonu tarafından TBMM'nin idari ve siyasi kapasitesini geliştirmesi için sağlanan destek kapsamında hazırlanmıştır. Çalışma SIGMA uzmanları tarafından kaleme alınmıştır. SIGMA uzmanları, bu çalışmanın gerek talep gerekse raporlama sürecinde TBMM Kanunlar ve Kararlar Başkanlığı uzmanlarıyla görüş alışverişinde bulunmuşlardır.

Çalışma çerçevesinde; Almanya, Fransa, Polonya, İsveç, İngiltere ve İspanya olmak üzere 6 ülkenin tecrübeleri incelenmiştir. Bu ülkelerin Türkiye'de yeni Anayasa ve İçtüzük hazırlık sürecinde gözlenen yürütmenin parlamento tarafından denetiminin etkinliğinin artırılması konusundaki tartışmalara katkı sunabilecek mahiyette örnekler barındırdığı düşünülmektedir.

İncelenen ülkeler bazında raporda cevap aranan hususlar özetle şu şekildedir:

i. Parlamenter gözetim ve denetim normlar hiyerarşisinin hangi seviyesinde (anayasa, kanun, içtüzük, yönerge vb.) düzenlenmiştir?

ii. Parlamenter gözetim ve denetimde hangi araçlar kullanılmaktadır? Bu araçlar hangi sıklıkla ve parlamentodaki hangi gruplar tarafından kullanılmaktadır? Son yıllarda esaslı bir yenilik yaşanmış mıdır? Bu çerçevede,

soru gibi rutin olarak kullanılan araçlarla daha nadir kullanılan meclis araştırması önergelerine; yürütmenin sona ermiş faaliyetlerini hedefleyen araçlarla, sürmekte olan faaliyetlerine yönelik araçlara; yürütmenin başarısızlıklarına dair belirtilerin tetiklediği *"yangın alarmlarıyla"* yürütme faaliyetlerinin sürekli gözden geçirilmesini hedefleyen düzenli raporlama zorunluluğu gibi *"polis devriyesi"* araçlarını ve bilgi edinmeyi amaçlayan araçlara mukabil yaptırım ve yerinden etmeyi amaçlayan araçların her birini eşit derecede dikkate almak önemlidir.

iii. Yürütmenin gözetim ve denetiminde parlamento içindeki kurumsal sorumluluk paylaşımı nasıldır? Özellikle genel kurul ile komisyonların ve kamu denetçiliği kurumu gibi diğer organların her birine düşen görevler nelerdir? Parlamento ve Yüksek Denetim Kurumu (Sayıştay) arasındaki ilişki nasıldır?

Bu eserde söz konusu rapor İngilizce metniyle aynen yayımlanmakla birlikte, daha geniş bir okur kitlesinin istifadesine sunabilmek amacıyla TBMM Başkanlığı tarafından hazırlanan özet bir çevirisi de eklenmiştir.

Kanunlar ve Kararlar Başkanlığı

İçindekiler

PARLIAMENTS AND EXECUTIVE OVERSIGHT AND CONTROL: COMPARING SELECTED EUROPEAN EXPERIENCES

Introduction

This comparative study was prepared at the request of the Turkish Grand National Assembly (TGNA) within the context of the support provided by the European Commission to the development of the administrative and political capacities of the TGNA.

The study looks at the experiences of six selected countries - Germany, France, Poland, Sweden, the United Kingdom and Spain - which have been agreed as particularly relevant case studies for supporting the ongoing discussions in Turkey aimed at increasing the oversight and control function of the Turkish Parliament over the Executive, namely in the context of the preparation of a new Constitution and the adoption of new Rules of Procedures in the Parliament.

This paper sets the context and looks at the different legal, institutional and political arrangements, as well as at the tools used for ensuring proper and efficient accountability of the executive *vis-à-vis* parliaments. The role of parliaments in the budget process and in EU Affairs is specially mentioned in the report.

The study was prepared by a team of SIGMA external experts that includes:

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1. Executive Oversight and Control: Accountability, Transparency and Performance

Executive oversight and control is a classical function of parliaments in democratic systems of government. Yet, the challenges faced by parliaments in performing this function; the institutions and instruments they employ; and, perhaps most importantly, the basic rationale that informs how parliaments exercise their powers of oversight and control are subject to change. In the EU member states, the single most important functional challenge is raised by the question of how national parliaments may adapt traditional oversight and control arrangements to take full account of the multi-level nature of governance in the European Union. In particular, parliaments have been confronted with the need to find ways of overseeing the actions of governments in the key EU intergovernmental decision-making bodies of the EU – the Council of the European Union and the European Council – and holding them to account for their actions, whilst respecting the rights of national executives under both national constitutions and the European Treaties. New or thoroughly reformed institutions and instruments of oversight and control have been adopted in many EU member states, partly in response to the integration process, but often in response to a widely perceived threat of a gradual "deparlamentarisation" of European democracies. As legislative powers in the European Union have continued to be transferred from domestic political systems to the European Union – with the European Commission, the European Parliament and the Council of the EU as the key actors in the legislative process –, executive oversight and control have steadily gained in importance. Parliaments have sought to compensate a partial loss of legislative powers through a renewed emphasis on scrutinising the activities of executives and holding them to account.

The attempt to strengthen parliaments' powers of oversight and control and to promote the actual use of their powers has gone hand in hand with a gradual partial reorientation of the fundamental objectives pursued. The traditional emphasis on the accountability of the executive to parliament has been complemented by a growing awareness of the role parliaments can play in enhancing and securing the transparency of public action and the performance of public

institutions (Pelizzo and Stapenhurst, 2012). Executive accountability to parliament, which implies that the executive is answerable for its actions to the legislature and is subject to parliamentary censure – including, as the ultimate sanction, removal from office – is still at the core of many oversight and control practices. But there has also been a growing stress on the value of transparency in what the executive does, not just when there are *prima facie* indications of executive failure, but as a general operational principle. Partly linked to arguments about the value of transparency, growing attention has been paid to the contribution that parliaments can make in improving public sector performance in terms of public policy outcomes. The criteria for assessing executive action have been increasingly diversified from the traditional emphasis on legality. Thus, many parliaments have undertaken steps to give more consideration to financial prudence and "value for money", sustainability or social equity when it comes to overseeing and controlling executive action.

Parliamentary oversight and control as means of enhancing executive transparency and performance require innovations in institutions and instruments. In particular, they necessitate that the *ex post* scrutiny of executive action is complemented by ongoing monitoring of central fields of executive activity; that parliaments' attention is not principally focused on instances of where parliamentarians suspect that the executive has in some ways acted improperly; and that the prime thrust of oversight and control lies less in admonishing and, where appropriate, censuring the executive but rather in enhancing the quality of public action.

Parliaments' role in securing accountability, transparency and performance can come into conflict with confidentiality requirements. The more parliaments succeed in their quest to gain regular access to classified information – from confidential to top secret material –, the more members of parliament are subject to limitations on the extent to which they are able to divulge and discuss information gained. In recent years, attention in the European context has focused on two issues: first, the secrecy and informality of many governance arrangements at EU level, which are difficult for national parliaments to penetrate; and, second, the politically very sensitive question of parliamentary control over intelligence services. As regards, first, EU governance, since the onset of the financial crisis, there has been a

rapid expansion of informal and non-transparent decision-making arrangements centred on the co-operation amongst national governments and EU level institutions, reinforcing long-running trends (Auel and Höing, 2015). As has been noted, even if parliaments succeed in gaining access to information, they may only be able to do so at the expense on accepting far-reaching restrictions on the use they may make of the information obtained: "if the executive power denies parliaments, national and European, crucial information by relying on its own internal rules on document secrecy and the effectiveness of its own decision-making, then the role of parliaments may be eviscerated. The same may happen if parliaments are given access to categories of information (for example, 'limited' documents or those that are classified at lower levels not requiring security clearances) but the executive actors insist that these documents are not made public and are not discussed in public" (Curtin, 2014: 24). In this manner, parliamentary access to confidential information may come at the expense of parliamentary transparency. Many European parliaments have also, in recent years, sought to strengthen parliamentary oversight and control of security and intelligence services (for an informative survey see Wills et al., 2011; a recent comprehensive study of the UK experience has been published by Bochel et al., 2014); but, again, parliaments' efforts to gain access to confidential and secret information threatens the transparency of their own proceedings.

Against this background, the present report examines the evolving institutions and instruments of parliamentary oversight and control over the executive in six EU member states. The report aims to illustrate the diverse understandings and practices in the EU member states; pays particular attention to the conditions – legal, institutional and political – that influence national arrangements; and highlights major trends and innovations. The six countries examined include Germany, France, Poland, the United Kingdom, Sweden and Spain.

These countries represent different traditions of parliamentary democracy and executive-legislative relations: *Germany* as a country in which the *Bundestag* has a very wide range of instruments at its disposal to scrutinise the Federal executive, but in which the implementation of most Federal legislation is the prerogative of the sixteen *Länder* and local authorities; *France*, where, under the 5th Republic since 1958, parliament was long considered subservient to a

mighty dual executive of the President and the Government; *Poland*, which, since the late 1980s, has undergone major changes in the balance of powers between the executive and the legislature; the *UK*, traditionally seen as executive dominated; *Sweden*, in which transparency has long been an overriding concern of parliament in its dealings with the executive; and *Spain*, which is also often classed as a system in which the executive enjoys very wide discretion. In the case of countries with a bicameral system, the report concentrates on the lower chamber, i.e. the German *Bundestag*; the French *Assemblée Nationale*; the Polish *Sejm*; the UK *House of Commons*; and the Spanish *Congreso de los Diputados*.

The reports draws on publicly available information and documentation and, selectively, on secondary literature. The analysis of the individual countries seeks to address a common core of questions, although relative substantive emphases differ from case to case. In particular, the report asks:

- At what level in the legal hierarchy – constitution, parliamentary laws, secondary legislation, rules of procedures, manuals etc. – is the system of parliamentary oversight and control regulated? The answer to this question matters since it gives a first indication of the procedures that need to be followed when it comes to changing parliamentary practice.
- What are the main instruments available to ensure executive oversight and control? With what intensity are these instruments used and by which groups in parliament? Have there been major innovations in recent years? In this context, it is important to pay equal attention to both routine instruments, such as parliamentary questions, and those which are employed more rarely, such as special committees of inquiry; to instruments that are oriented towards *ex post* oversight and control and those focused on monitoring ongoing executive action; instruments triggered by "fire alarms", i.e. typically employed when there are indications of executive failure, and "police patrol" instruments, which aim at recurring reviews of executive action, such as regular reporting requirements; and

instruments oriented towards sanctioning and censure versus those that aim chiefly at eliciting information.

- What is the institutional division of responsibilities for executive oversight and control within parliament? In particular, what are the respective roles of the plenary and committees, as well as other bodies, such as parliamentary ombudsmen? And what is the relationship between parliament and the Supreme Audit Institution (SAI)?

With a focus on this set of questions, Section 2 provides an examination of oversight and control arrangements in Germany, France, Poland, the UK, Sweden and Spain. Reflecting on these diverse country experiences, Section 3 then highlights trends in parliamentary practices across the six countries. It pays particular attention to major changes in the way in which parliaments seek to exercise oversight and control and considers both drivers of, and obstacles to, innovations.

2. Comparing Country Experiences of Executive Oversight and Control: Different Systems, Common Responses?

2. 1. Germany: Oversight and Control in a Federal System

To understand the German system of parliamentary oversight and control it is important to draw attention to two basic features of the political system at the outset: first, the emphasis on parliamentary government; and second, the federal nature of the German polity. The Federal executive bears the hallmarks of a classical parliamentary government (Goetz, 2003). The Federal Chancellor, as the head of the government, is elected by the *Bundestag*, must be a member of parliament, and may at any time be replaced by means of a constructive vote of no confidence, through which a successor is elected *by* a majority of the members of the *Bundestag*. Both the Chancellor and ministers are comprehensively accountable to the *Bundestag*, its committees and to individual MPs, who enjoy extensive rights of information, consultation, oversight and control *vis-à-vis* the Federal government, in addition to very extensive legislative powers (von Beyme, 1998). Political accountability is secured both through formal means, such as regular reporting requirements imposed on the government, parliamentary questions or interpellations, but also through informal mechanisms by which Parliament reaches into the executive process, such as regular meetings between ministers and MPs from the governing party. The majority parliamentary parties and the government are, accordingly, said to constitute a "composite actor". As will be set out below, this implies that formal oversight and control are to a very large extent a function of the parliamentary opposition parties; the latter account for over 90% of the use of formal oversight and control instruments.

A second basic feature of the political system that affects parliamentary oversight and control is the federal nature of the polity and the decentralisation of public policy-making. Each of Germany's sixteen *Länder* has its own fully-fledged executive and, importantly, the implementation of Federal legislation is, to a large extent, left to *Länder* authorities and local authorities, who enjoy considerable autonomy from the Federal government in the implementation of Federal laws. This leads to an often difficult position for the Federal executive: whilst there is a tendency to hold the Federal government

politically responsible for major problems in the delivery of public policies, its legal powers to supervise, let alone control, the administration of Federal laws are often very narrowly circumscribed. There is, thus, a tension between political responsibility and legal competences.

Legal Setting

There is no single legal document that sets out the powers of the *Bundestag* regarding oversight and control of the executive. Rather, the rights of the *Bundestag*, the instruments available and the relevant institutional arrangements are regulated though a number of partially overlapping sources, including, in particular, the German Basic Law, i.e. the Constitution; the Rules of Procedure of the *Bundestag*, including its various annexes; the Law Governing the Legal Framework for Committees of Inquiry; references to regular reporting requirements of the Federal Government contained in a large number of Federal laws; specialised legislation touching on the rights of the *Bundestag*, such as the legal framework governing the Federal budgetary process or the Law on Cooperation between the Federal Government and the German *Bundestag* in Matters Concerning the European Union. There have also been several landmark judgments by the Federal Constitutional Court that have helped to fashion the practice of parliamentary oversight and control.

The Constitution establishes the fundamental principle of the full accountability of the Federal Government to the *Bundestag*, but it is through the Rules of Procedure that these provisions are fleshed out. Over the decades, the legal provisions governing the *Bundestag's* oversight and control activities have steadily expanded, a process that has mirrored the establishment of new oversight and control instruments; new processes, notably as regards matters concerning the European Union; and new specialised bodies, such as, e.g., the Committee for the Scrutiny of Acoustic Surveillance of the Private Home, which is charged with monitoring how the intelligence services use their powers in this highly sensitive field.

Political Setting

The political setting in which oversight and control takes place is characterised by at least two important features. First, unlike in many other European parliamentary democracies, there is no tradition of minority governments that rely on the informal support or at least tacit toleration of the opposition. Instead, Federal governments are invariably made up of coalition parties that enjoy a majority in parliament. As a consequence, the dividing line between governing parties, on the one hand, and opposition parties, on the other, is clear and sharp. Coupled with the fact that party discipline in the governing parties tends to be very high, this means that the government rarely faces the possibility of a defeat for its bills in the *Bundestag* (although it may well fail to gain support in the *Bundesrat*, the upper chamber composed of representatives of the *Länder* governments). The opposition parties, therefore, have a strong incentive to focus a great deal of their attention on the scrutiny of executive action.
Second, since unification, there have always been several opposition parties in the *Bundestag*. The current coalition of the Christian Democrats of Chancellor Merkel, its Bavarian sister party, the CSU, and the Social Democrats faces opposition from two parliamentary parties, the Greens and the LEFT. Opposition activity is typically intensified through competition for public attention amongst the opposition parties.

Institutional Setting

The *Bundestag* has a broad range of bodies involved in the exercise of its oversight and control powers. Many of the key instruments employed by the *Bundestag* centre on the plenary and on its standing committees, of which there are currently 23. The plenary, whose proceedings are televised, is the site where many of the key instruments are employed. In particular, it is here that debates on votes of no confidence in the Chancellor take place; motions for a vote of confidence are decided; major interpellations are debated; oral questions of topical interest following the weekly cabinet meetings can be put by MPs; and the weekly Question Time and also the Topical Time (*Aktuelle Stunden*) take place. All of this ensures that oversight and control take place in full publicity.

The standing committees of the *Bundestag*, which shadow the work of the ministries, play a central role in the scrutiny of legislation, but also perform oversight and control functions, e.g. through the questioning of ministers and officials. In the case of some committees, such as the Sub-committee for Public Accounts of the Budget Committee or the Committee for Petitions, this function dominates. Similarly, in the Committee for Foreign Affairs, oversight and control typically take precedence over legislative work, and the Committee for Defence, likewise, spends a good deal of its time on oversight activities. The latter committee is also distinguished by the fact that it possesses the right to turn itself into a committee of inquiry if it so wishes.

Whilst the plenary and the standing committees are key sites of oversight and control, there are a number of additional specialised bodies that scrutinise executive activity in particular areas, including: committees of inquiry established in accordance with Article 44 of the Constitution; the Parliamentary Control Panel, which supervises the intelligence services; the G10 Commission, which is involved in decisions on the restrictions on the privacy of communication under Article 10 of the Constitution; a body known as ZFdG Panel, established in accordance with the Customs Investigation Service Act; and the above-mentioned Committee for the Scrutiny of Acoustic Surveillance of the Private Home. Mention should also be made of the Parliamentary Commissioner for the Armed Forces, who assists the *Bundestag* in exercising oversight over the armed forces.

Oversight and Control Instruments

As the preceding remarks already indicate, the *Bundestag* disposes of a broad range of oversight and control instruments to examine executive action. As Table 1 shows, many of these are employed frequently and routinely, mostly by the opposition parties. Routine instruments, primarily aimed at soliciting information, include:

- Written questions: every MPs may address up to four written question per month to the government, which should receive a written reply from the government within five days; the questions and answers are published as parliamentary papers;

- Oral questions: every MPs may ask up to two oral questions per week during the regular sessions of parliament, which are answered orally by the government in the plenary (or in writing of if MP is unable to attend Question Time);
- Individual interventions during Topical Time (which may be asked for by at least 5% of MPs or a parliamentary party at the conclusion of Question Time) and during the weekly questioning of the government following cabinet meetings on Wednesdays;

There are also instruments that are only available to groups of MPs, notably:

- Minor interpellations, which need to be supported by at least 5% of MPs or a parliamentary party and which are designed to solicit specific information from the government. They must normally be answered in writing within two weeks;
- Major interpellations, which need to be supported by at least 5% of MPs or a parliamentary party, and consist of often lengthy lists of detailed questions on major policy issues. The written answers provided by the government are typically debated in the plenary.

Further very important instruments for soliciting information are the very extensive regular reporting requirements imposed on the Federal Government through Federal legislation or decisions by the *Bundestag*. Many of these reports, covering diverse spheres of public policy, have to be produced annually, biannually or every four years, and are then considered by committees and often also by the plenary. In addition, the *Bundestag* often requests one-off reports from the Federal Government on its strategies for particular policy problems and the implementation of laws and strategies (a full list can be found in the regularly updated Data Handbook of the *Bundestag*, item 6.17: Reports of the Federal Government to the *Bundestag*).

These routine instruments, typically employed primarily for soliciting information, are complemented by instruments that are used much more rarely, but have a high political profile. They include, in particular,

- Committees of inquiry: these committees can be classed amongst "fire alarm" instruments, so far as they are only set up in exceptional circumstances when there is clear *prima facie* evidence of a major breakdown in the exercise of public authority. Such committees can only be established with the support of at least 25% of MPs, and they exercise a quasi-judicial function. Thus, "A committee of inquiry may interview and swear in witnesses and expert witnesses, order that documents be presented to it and request executive assistance from courts and administrative authorities. At the end of the inquiry, a report is published and a debate held in the *Bundestag*."(www.Bundestag.de/htdocs_e/Bundestag/function/scrutiny/bodies.html)
- The constructive vote of no confidence in the Chancellor, whereby the Chancellor may be voted out of office at any time during the parliamentary term through the election of a new Chancellor with an absolute majority.

Table 1: Statistics on the Work of the German Bundestag *in the 14th, 15th and 16th Electoral Terms*

	14th electoral term 1998-02	15th electoral term 2002-05	16thelectoral term 2005-09
Committees of inquiry	1	2	2
Meetings of committees of inquiry	125	62	172
Petitions (without mass submissions)	69 421	55 264	69 937
Major interpellations	101	65	63
Minor interpellations	1 813	797	3 299
Oral questions (Question Time)	3 229	2 550	2 703
Urgent questions	80	37	111
Written questions	11 838	11 073	12 705
Debates on matters of topical interest	141	71	113
Government policy statements	60	23	34
Sessions of questions addressed to the Federal Government following the weekly cabinet meeting	61	42	59

Source: S. Linn and Sobolewski (2010) The German Bundestag: Functions and Procedures, Rheinbreitbach: NDV.

Data for the 17th electoral period, from 2009 to 2013, underlines the predominance of the opposition in oversight and control. Thus, the then three opposition parties - Social Democrats, Greens and The Left - accounted for 52 out of 54 major interpellations; 3 590 out of 3 629 minor interpellations; 5 948 out of 6 057 oral questions; 18 859 out of 20 141 written questions; and 105 out of 107 urgent questions.

Budgeting

The "power of the purse" is central to understanding the *Bundestag's* position in the German political system and it has been vigorous in seeking to protect this power even under the influence of the European financial crisis and the many decisions that had to be taken at European and national levels in seeking to maintain the financial stability of the Eurozone. In line with Article 110 of the Basic Law, and elaborated in its Rules of Procedure of the *Bundestag*, the *Bundestag* enjoys wide powers both in (1) the scrutiny and amendment of the annual draft budget and draft budget law prepared by the Government, (2) the ongoing monitoring of budget management (the Federal Government is, for example, required to report every three months about deviations from the budget), and (3) the *ex post* scrutiny of public accounts.

The key body charged with exercising these powers is the Budget Committee, currently the largest of the *Bundestag's* standing committees – it has 41 members – and by convention always chaired by a member of the largest opposition party. The Budget Committee has established two sub-committees: one, with 17 members, that deals with public accounts, in close co-operation with the Federal Audit Office; the other, with 12 members, which deals with matters concerning the European Union. The Budget Committee also provides the umbrella for a number of specialised parliamentary bodies dealing with the budgets of the intelligence services; Federal debt management; and also the Financial Market Panel, designed to ensure parliamentary oversight over Federal Agency for Financial Market Stabilization, created in the wake of the financial market crisis.

In auditing public accounts, the *Bundestag* draws on the reports of the Federal Court of Audit (*Bundesrechnungshof*), which has a comprehensive responsibility for auditing the Federation's account and scrutinising its financial management. The *Bundesrechnungshof* has the legal status of a highest Federal authority and it operates on the basis of a legal bases including the Constitution (Article 114), the Budgetary Principles Act (Article 53-56), the Federal Budget Code (Articles 88 - 114), the *Bundesrechungshof* Act, and its Standing Orders and detailed Audit Rules. The Court of Office reports directly to both the *Bundestag* and the *Bundesrat* and also to the Federal Government; the two chambers elect the President and Vice-President

of the Court of Office, respectively. Whilst the Court of Office focuses on auditing, its President doubles as Federal Commissioner for Performance. In this capacity, the Commissioner's chief task is to carry out investigations and put forward proposals and recommendations designed to enhance the efficiency and effectiveness of the Federal administration. He may do so at his own initiative or at the suggestion of the Federal government, the *Bundestag* or the *Bundesrat*.

EU Affairs

Although at least since the 1960s, there has been a very broad and stable cross-party pro-integration political consensus in the *Bundestag*, the German Parliament has long found it difficult to develop institutions, procedures and instruments to allow for the effective parlamentarisation of EU-related policy-making in the Federal Republic. The question of how the *Bundestag* should organise itself, so as to be able to make a substantive contribution to Germany's positioning in the European decision-making bodies and how to ensure that the executive provides comprehensive and timely information both before and after decision-taking, was certainly not ignored. But given the relative remoteness of European policy from the central concerns of most voters and the limited ultimate impact national legislators are likely to have when it comes to shaping decisions in the European decision-making bodies, there were strong incentives for *Bundestag* members to focus their efforts on domestic politics rather than EU-related business (Saalfeld, 2003).

Over time, this relative neglect proved unsustainable, for two main reasons. One the one hand, with the steady widening and deepening of the *acquis européen*, the distinction between domestic and European policy became ever more porous, and national public policy-making became progressively "Europeanized". On the other hand, the Federal Constitutional Court repeatedly emphasized the central position of the *Bundestag* in guaranteeing the democratic legitimacy of progressive integration. It stated this position forcefully in its judgement on the constitutionality of the ratification of the Maastricht Treaty and has reinforced its demand for a comprehensive involvement of the *Bundestag* in EU policy-making several times since. It is no

exaggeration to claim that the Court has been the single most decisive driver of change in how the German Parliament deals with EU affairs.

Current arrangements rest on a number of normative foundations, including, in particular, Articles 23 and 45 of the Federal Constitution; the Law on the Exercise by the *Bundestag* and the *Bundesrat* of their Responsibility for Integration in Matters Concerning the European Union (the so-called Responsibility for Integration Law); the Law on the Cooperation between the Federal Government and the German *Bundestag* in Matters Concerning the European Union; and Article 93b of the Rules of Procedure of the *Bundestag*. On the basis of this normative framework, elaborate procedures have been established, the main thrust of which is fourfold: first, to inform the *Bundestag* as comprehensively and as timely as possible of all political developments at EU level, notably the preparations of EU legislation; second, to allow the *Bundestag* to exercise its rights under Article 5 (3) of the Treaty on European Union relating to subsidiarity action and objections; third, to enable the *Bundestag* and its committees to consider all EU legislative proposals in such a timely fashion so as to be able to issue opinions to be taken into account by the Federal Government when it represents the Federal Republic in the EU decision-making bodies; and, fourth, under certain conditions, to pass instructions binding on the Government. The latter provision, established through the Responsibility for Integration Law, was adopted following the judgement of the Federal Constitutional Court on the constitutionality of the ratification of the Lisbon Treaty and marks a very important advance in the *ex ante* oversight and control powers of the *Bundestag*. Thus, "the Federal Government can, in the case of specific EU proposals which fall within the scope of the *Bundestag's* special responsibility for integration, only take final action in the Council on the basis of a law passed beforehand, or of a decision taken or instructions issued by the Bundestag" (http://www.Bundestag.de/htdocs_e/Bundestag/europe/mitwirk01.html).
The emphasis on *ex ante* rather than *ex post* parliamentary oversight and control necessitated by the institutional architecture of the EU was reaffirmed by the Court as recently as 2012, when it ruled on two applications that had been brought by the parliamentary group of the Green Party, in which they alleged that the Government had infringed their rights in connection with the European Stability Mechanism (ESM) and the Euro Plus Pact (an English summary of the case and

the Court's judgment can be found in the Court's Press release no 42/2012 of 19 June 2012). In both cases, the violation of time rules was central. In the ESM application, the Green Party group alleged that:

> "the Federal Government infringed the German *Bundestag's* rights to be informed under Article 23.2 GG (Federal Constitution, KHG) by omitting to inform immediately before and after the European Council meeting of 4 February 2011 comprehensively, at the earliest possible time and continuously, about the configuration of the ESM, and that it in particular omitted to send the Draft Treaty establishing the ESM to the German *Bundestag* on 6 April 2011 at the latest" (Federal Constitutional Court, Press release no. 42/2012, 19 June 2012)".

In the second application, the Green Party group alleged that:

> "the Federal Government infringed the German *Bundestag's* rights under Article 23.2 GG (Federal Constitution, KHG) by omitting to inform the *Bundestag* before the European Council meeting on 4 February 2011 about the Federal Chancellor's initiative for an enhanced economic coordination of the euro area Member States and by omitting until 11 March 2011 to inform it comprehensively and at the earliest possible time about the Euro Plus Pact after the meeting" (Federal Constitutional Court, Press release no. 42/2012, 19 June 2012)".

The Court upheld both applications and ruled that the Federal Government had failed in its constitutional duty to inform the *Bundestag* as early as possible, thus depriving parliament of opportunities for effective influence.

Concluding Remarks

The German system for establishing parliamentary oversight and control over the Federal executive is highly differentiated, in terms of the main actors involved and the instruments employed. Major relevant powers are invested in individual members of parliaments, groups of parliamentarians (with different quotas applying to different instruments) and parliamentary parties. The legal bases are established

in different places and at different levels of the legal hierarchy, including the Constitution, Federal laws, such as the one relating to committees of inquiry, and the Rules of Procedure of the *Bundestag* and its various annexes. Information requirements on the implementation of laws or political strategies are also often written into the relevant legislation or based on *Bundestag* decisions. There is a strong orientation towards soliciting information as a basis for political debate. By contrast, whilst the constructive vote of no confidence in the Chancellor is the single most powerful instrument at the disposal of the *Bundestag* to control the executive, it has only been used successfully once in the history of the Federal Republic, when Chancellor Kohl first came to power in 1982. Thus, the emphasis is on information, ensuring transparency and increasingly also encouraging debate about performance.

The *Bundestag* zealously guards its relevant powers; the opposition parties use them vigorously in an attempt to draw attention to alleged shortcomings or outrights failures of the Government and other Federal authorities; and information provided by the Government often generates heated political and public debate. But the multi-level nature of the German political system imposes major and, arguably, growing restrictions on the effectiveness of the *Bundestag* powers. The first, the federal nature of the polity, is, of course, a constitutive feature of the German political system. However, the discrepancy between the legislative powers and budgetary responsibilities of the Federal level, on the one hand, and its administrative competences, on the other, has widened over the decades. Whilst the *Länder* retain only residual autonomous legislative powers and have become increasingly dependent on Federal funds, e.g. in the field of higher education, administrative responsibilities are still highly decentralized. As a consequence, the political accountability of the executive to *Bundestag* for the implementation of Federal legislation often conflicts with a legal reality in which the Federation's competences as regards the implementation of laws and public policies are narrowly circumscribed.

The second challenge arising from the multi-level nature of the polity has to with progressive European integration and its impact on the political systems of the member states, which is broadly debated with reference to the concept of Europeanisation. The issue here is, first,

how the *Bundestag* can monitor, influence and, under certain conditions, direct and sanction the actions of the Federal executive in the decision-making bodies of the European Union, i.e. how it can secure the parliamentary accountability of the executive in EU affairs. This challenge is, of course, faced by parliaments in all EU member states. But the decentralised system of public administration in Germany adds to parliament's predicament: its impact on legislation at EU level is, by necessity, limited, whilst its oversight and control powers over the implementation of EU legislation are also limited, given that administrative responsibility does primarily rest with the *Länder*.

2.2. France: Beyond "Rationalised Parliamentarism"

France is generally assumed to have a weak legislature. The conventional story is that, having experienced a long period of political instability during the Fourth Republic (1946-1958), the founders of the Fifth Republic embraced a "rationalized" version of parliamentarism characterised by strong executive dominance. As a result, the 1958 Constitution placed severe limitations on the powers of the parliament including in particular:

- the restricting of parliamentary law-making competences to several areas explicitly enumerated in the constitution;
- non-accountability of the president to the legislature;
- the ability of governments to subject any bill to a motion of confidence and/or special restrictive procedures (such as *vote bloqué*);
- the ability of governments to declare any bill inadmissible on legislative or financial grounds;
- governmental control of the parliamentary agenda;
- the inability of the parliament to adopt resolutions.

Although the legislative influence of the French Parliament has perhaps always been higher than conventional wisdom allowed (Kerrouche, 2006), the constrained institutional setting provided for only weak opportunities for parliamentary oversight and control of government activities. The main oversight and control instruments

consisted of the motion of censure, parliamentary questions, and committees of inquiry. At least by some accounts, the French parliament spent only 15% of its time on oversight and control of the government (François, 2008).
This picture of parliamentary weakness is increasingly outdated. The last two decades have seen the emergence of more opportunities for legislative scrutiny and for oversight and control of the executive. The main changes took place in the mid-1970s, mid-1990s and, most notably, as part of the constitutional amendments adopted in 2008. In many ways, the French Fifth Republic has gained a 'new' parliament (Bouard et al., 2013).

Legal Setting

As befits the French legal tradition, the powers of the parliament and the executive are highly codified. Three types of documents are of primary importance here. The first is the Constitution of 4 October 1958, which has been amended 24 times since its adoption. The most recent constitutional amendment was passed on 23 July 2008. An amendment to the Constitution can be proposed by the President (on a proposal of the prime minister) or members of parliament. The amendment must be passed in identical form by both the National Assembly and the Senate, and subsequently approved in a referendum. If the proposal to amend the Constitution is tabled by the Government, the President can decide not to submit it to a referendum, but rather to submit it to a joint meeting of both houses of parliament (Congress). In the latter case, the Constitution must be approved by 3/5 of votes cast in the Congress.

The second type of legal basis derives from several statutes and ordinances that implement in detail the provisions of the Constitution. For example, committees of enquiry were originally established by the ordinance of 17 November 1958 (Lazardeux, 2009). The legal participation of the National Assembly and the Senate in EU affairs was for a long time regulated by Law 79-564 of July 1979, as amended by Law No 90-385, 1990, later amended by Law no. 94-476, 1994 (Sprungk, 2007). Budgetary matters are now regulated by the Organic Law on Budget Legislation adopted on 1 August 2001.

The final source of legal provisions is provided by the parliamentary standing orders which are of internal character. The Rules of Procedure of the National Assembly were adopted on 3 June 1959 and have been amended 31 times since. The most recent amendment was passed on 27 May 2009. The Rules of Procedure can be amended on a proposal of Members of Parliament. The procedure for examining such proposals is the same as that applicable to bills initiated by members of parliament. A simple majority is sufficient for adoption.

Political Setting

Two key factors have an impact of the patterns of executive-legislative relations and parliamentary oversight and control in France. The first is semi-presidentalism. One part of the dual executive – the President – is directly elected and is not accountable to the legislature. The other part of the executive – the prime minister – is appointed by the president, but normally maintains the confidence of the lower chamber, the National Assembly. Since 1958, there have been three periods of *cohabitation* when the president and prime minister came from different parties (1986-1988, 1993-1995, 1997-2002). The President's term is now five years and presidential elections take place one month before legislative elections which decreases the risk of cohabitation. The other factor is a high bipolarity of the French party system, which is often claimed to have been reinforced by semi-presidentialism. The last few decades have seen the alternation of left-wing and right-wing governments. Most cabinets have been minimal winning or oversized coalitions formed either around the Socialist Party or the main party of the right. Table 2 shows the composition of the 13th and 14th legislatures.

Table 2: Political Groups in 13th and 14th Legislatures

Party Group	2007-2012	2012 -
UMP	320	195
SRC	204	293
GDR	24	15
NC	23	-
UDI	-	30
Ecolo	-	17
RRDP	-	16
Others	6	7

As at 20 June 2007 for 2007-2012; as at 1 March 2013 for term started in 2012

Institutional Setting

Under the original constitutional and regulatory framework established in 1958 at the start of the Fifth Republic, the primary arena for parliamentary oversight and control of the executive was the *plenary sitting,* with parliamentary questions as the main instrument. The committees had a more restricted role in oversight and control. Over the last five decades, the importance of the plenary sitting as an institutional arena for oversight has grown, but more oversight and control functions have also been delegated to standing committees and special committees such as the *EU Affairs Committee* and *Committee for the Assessment and Control of Public Policies*.

Oversight and Control Instruments

The original 1958 Constitution provided for four main types of oversight and control instruments: the motion of censure, parliamentary questions, committees of inquiry, and the informational role of standing committees. There have been some important changes since 1958 to the way in which these instruments are employed.

I. Traditional Instruments

Motions of Censure

Since the birth of the Fifth Republic, the National Assembly has had the right to call the government to account by passing a motion of no confidence. This right, however, was constrained by a number of conditions. For a motion to be admissible, at least one tenth of the members had to sign it. One member could sign only one motion during a parliamentary session. Finally, the motion could be accepted only if it was supported by an absolute majority of all members and only votes in favour of the no-confidence motion were counted. All the three conditions put the government in a favourable position: not only were confidence motions likely to be rare, but they were also hard to pass. While the number of motions of censure has fluctuated from term to term, only one motion has been successful since 1958. In 1995, the conditions for calling a motion of censure have been slightly relaxed by allowing members to sign up to three motions during one parliamentary session.

Parliamentary questions

The 1958 Constitution gave members the right to ask both oral and written questions. Originally, there were two types of oral questions: without debate and with debate, but the latter provided for a cumbersome process in which ministers were allowed to postpone their answers, and this instrument has disappeared from regular use since the late 1970s (Lazardeux, 2009). Three main avenues for asking questions are currently in place: (i) questions without debate, (ii) question to government, and (iii) written questions.

(i) Questions without Debate

The term ‘questions without debate’ is somewhat misleading since, once asked, these questions are followed by a minister’s reply which, in turn, can be followed by a member’s response. They are asked by members in their individual capacity (which excludes questions asked in their capacity as committee chairs or party group leaders). The questions must be brief and contain only the elements absolutely essential for the understanding of the question.

The questions without debate are not asked spontaneously during a parliamentary debate. They must be presented in advance to the president of the National Assembly who passes them on the government. The questions are then asked orally during sittings which take place normally during the weekly sittings devoted to monitoring of the government as envisaged by article 48.4 (see below). These are normally held during the Tuesday and Thursday morning sittings. The overall time for the question, the minister's response and the MP's reply is six minutes.

(ii) Question to Government

In the mid-1970s, a new form of oral questions – *questions au gouvernement* (questions to government) – was introduced. At present, the Constitution requires that at least one sitting per week is devoted to questions from members of parliament and to answers from the government. In practice, two sittings of questions to government – on Tuesday and Wednesday afternoons - are held every week during the session. Each sitting lasts for one hour.

One half of all questions asked at such sittings must be addressed by opposition members, and every group must ask at least one question during every sitting. The first question is asked by a member of an opposition or minority group or by a member who does not belong to any group. Each question may last up to four minutes, two minutes for the member, and two minutes for the minister. Overall, 15 questions can be addressed in a sitting.

Questions to government have proved to be extremely popular, not least because the question time is regularly televised on the public TV channel and the whole government is present in the chamber. In addition, questions of this type are spontaneous, and do not have to be tabled in advance which makes the question time lively (Lazardeux, 2009). The content of these questions is open, but insults and threats are prohibited (National Assembly, 2014).

Table 3: Oral Questions to Government, 13th Legislature (2007-2012)

	2007-8	2008-9	2009-10	2010-11	2011-12
UMP	330	402	372	399	208
SRC	220	330	366	400	211
GDR	55	86	93	99	55
NC	55	84	92	101	53
NI	2	5	6	6	3
Total	**662**	**907**	**929**	**1 005**	**530**
Sittings	**55**	**67**	**62**	**67**	**36**

Source: Recueil statistiques, Assemblée Nationale, XIIIe Législature

Table 4: Oral Questions without Debate, 13th Legislature (2007-2012)

	2007-8	2008-9	2009-10	2010-11	2011-12
UMP	183	186	151	151	73
SRC	119	154	150	149	76
GDR	30	36	35	34	18
NC	24	36	26	29	15
NI	1	2	4	5	4
Total	**357**	**414**	**366**	**368**	**186**
Sittings	**15**	**15**	**12**	**12**	**6**

Source: Recueil statistiques, Assemblée Nationale, XIIIe Législature

(iii) Written questions

Members have always had the opportunity to ask written questions to ministers in the 5th Republic, and there have been only minor changes regarding this procedure since 1958. At present, specific questions are addressed to ministers, while questions relating to a general policy of the government are addressed to the prime minister. Written questions are submitted to the President of the Assembly who transfers them to the government.

Written questions are published every week in a special supplement of the Official Journal, regardless of whether the parliament is in session or not. Written questions must be drafted briefly and must confine themselves to what is strictly essential to an understanding of what is being asked. They may not contain personal allegation against specifically named persons. The implementation of correct procedure

for tabling questions is overseen by the president of the National Assembly. The government responses are published in the same journal. All written questions and responses can also be accessed online on the parliamentary website.

Until 2014, the government had to provide its answers in writing within a month and this time limit could not be interrupted. This said, ministers could in their written response declare that it was not in the public interest for them to respond to the question or could ask for additional time of up to one month. Since November 2014, the government has had two months to respond to written questions. If the government has not responded within the prescribed time, the chairmen of political groups can alert the Assembly to this fact. Such alerts are published in the Official Journal and the government must then respond within ten days (Article 135 of the Rules of Procedure).

Written questions have been very popular. As shown in Table 5, during the 13th legislature (2007-2012), members of the National Assembly submitted a total of 132 810 written questions, that is, an average of 230 questions per member. About six in every ten questions were asked by a member of one of the governing coalition parties (UMP or NC). Since the start of the 2012-2017 legislative term, the ease of submitting written questions has increased, as MPs are now able to submit questions using a specialized internet portal (National Assembly, 2014). To avoid further increases in the number of written questions, the November 2014 amendment of the standing orders has introduced a new provision which gives the Conference of Presidents the right to specify a limit on the number of written questions a member can propose in a given session.

Table 5: Written Questions, 13th Legislature (2007-2012)

	2011-12	2010-11	2009-10	2008-9	2007-8
UMP	7 065	15 363	16 761	16 055	19 170
SRC	5 375	11 073	10 138	8 891	9 721
GDR	531	1 089	984	1 326	1 291
NC	731	1 387	1 727	1 542	1 357
NI	254	325	250	176	228
Total	**13 956**	**29 237**	**29 860**	**27 990**	**31 767**

Source: Recueil statistiques, Assemblée Nationale, XIIIe Législature

(iv) Parliamentary Questions - An Assessment

Parliamentary questions may serve different purposes, some of which may be unrelated to that of parliamentary oversight. For example, MPs may use parliamentary questions to pursue aims such as gaining a higher public profile, expressing dissent with official party position, or pursuing narrowly-defined, constituency-based, interests (Martin, 2011). So are parliamentary questions used chiefly as an instrument of parliamentary oversight in France?

The analysis of written questions by Lazardeux (2005) seems to answer this question in the positive. It argues that written questions are mainly used as a form of oversight and information-gathering. The study demonstrates that, on average, opposition members ask more written questions than government MPs. Moreover, more questions are asked by MPs who do not have access to alternative sources of information through office-holding (committee membership, mayorships, etc). Lazardeux also finds that the level of staffing helps build oversight capacities: MPs with more staff ask more written questions.

In contrast, the analysis of oral questions by Rozenberg et al. (2011) points to a more differentiated picture. Looking at a sample of 122 questions to government and questions without debate asked by French MPs in the area of defence policy, it finds that a large proportion of oral questions made explicit references to the constituency or constituents of the MP. This would suggest that MPs ask oral questions, at least partly, to develop a higher profile in their local communities and thus to increase their chances of re-election. Most such local questions were raised via questions without debate, while questions of government were less likely to be of local nature. This assessment of the dual nature of the two types of oral questions is confirmed by others (National Assembly, 2014).

Committee of Inquiry

The possibility to set up a committee of inquiry has been available to members since 1958, but there have been some important changes to this procedure over the past five decades, all of which have made it more attractive to members. In the late 1970s, the maximum time of

operation was extended from four to six months; the committee reports were to be published automatically; and committees were given the right to summon witnesses. In the late 1980s and early 1990s, a second wave of reforms made committee deliberations public and gave opposition parties the right to request that at least one proposal for setting up a committee of inquiry should be automatically placed on the agenda.

At present, a committee of inquiry can be set up by the parliament to investigate the actions of public services and entities. A proposal to set up a committee is unacceptable, however, if the Justice Minister declares that the matter is subject to ongoing legal proceedings. In addition, if a judicial investigation is opened after a committee of inquiry has been set up, the committee must bring its proceedings to an immediate end. Every opposition or minority group may demand – once during an ordinary session – that its motion for setting up a committee of enquiry be automatically placed on the agenda of a sitting devoted to monitoring the government. The request for establishing a committee of inquiry can be rejected only if 3/5 members of the Assembly vote against it.

The position of a chairman or *rapporteur* of a committee of inquiry is normally held by a member of the opposition. Committees must report within six months, otherwise they are wound up (Articles 51-2 of the Constitution and Articles 137-144 of the Rules of Procedure). Within six months from the publication of a report by the committee of inquiry, the relevant standing committee must report on the implementation of that report.

The inquiry committees have important investigation powers:

- The right to summon witnesses: every person subpoenaed by the committee must appear before the committee. The subpoena may be issued through a bailiff or police officer. Witnesses testify under oath and are liable to penalties in case of perjury. In addition, witnesses testify under art. 226-13 and 226-14 of the Criminal Code that regulate the questions of professional secrecy. These provisions prohibit the disclosure of professional secrets, unless the law allows such disclosure under specific conditions.

- The power to demand documents: the rapporteurs of inquiry committees have the power to demand any documents that they consider useful in the investigation. They are not, however, able to demand classified documents concerning national defence, foreign affairs, and the internal or external state security.
- The power to request action from the Court of Accounts: inquiry committee have the right to request the Court of Accounts to undertake investigations of organizations that are subject to the parliamentary inquiry.
- The right to organize public hearings: inquiry committees have the right to organize their hearings in public (including televised hearings) or in camera.

Committees of inquiry have been a popular instrument of oversight and control, although the number of motions always exceeded the number of committees that were actually set up. There have been 62 committees of inquiry since the birth of the 5th Republic (until the end of the 13th legislature), an average of more than one per year. In the 13th legislature alone, there were seven committees of inquiry. Many such committees were established on a proposal of opposition members, but there were also committees that were initiated by government MPs – see Table 6.

Table 6: Committees of Inquiry, 13th Legislature

Theme	**Sponsor**	**Start**	**Report**	**Meet-ings**	**Time**	**Sum-mons**
Franco-Libyan Relations	n/a	11/10/07	22/02/08	25	33 h 05	26
H1N1 Flue vaccination	n/a	24/02/10	6/07/10	47	68 h 45	52
Economic speculation	SRC	28/06/10	14/12/10	24	27 h 15	23
French railways	GDR	8/12/10	8/06/11	23	26 h 45	45
Regional express network Île-de-France	UMP	6/12/11	7/03/12	25	39 h 15	76

Risky financial products	SRC	8/06/11	6/12/11	17	31 h 45	84
Funding for employment organisations	NC	8/06/11	8/12/11	20	40 h 00	70

Standing Committees

Article 145 of the original 1959 Rules of Procedure of the National Assembly briefly stated that standing committees should make available to the Assembly such information as it requires to exercise its control over government. In the last few decades, this provision was fleshed out with more detailed powers. Importantly, in 1990, the committees were given the right to entrust one or more of their members with a fact-finding mission. Such fact-finding missions could, in particular, relate to the implementation of legislation. In 1996, committees were given the right to call for interview any person they wish. The rights of opposition parties have also been reinforced. At present, if a fact-finding mission is composed of two members, then one must be from the opposition. If there are several members, then the composition must reflect that of the Assembly. A report by fact-finding mission may give rise to a debate without vote or to a sitting with questions. Within six months the relevant standing committee must report on the implementation of that report. In addition, at the end of six months after the coming into force of a law whose implementation required the publication of regulatory texts, a group of two MPs, one of whom must be from the opposition, must present a report to the committee on the implementation of the law.

II. New Instruments

The 2008 constitutional amendment has introduced many new mechanisms through which the Assembly can exercise oversight and control over the activities of the executive. This was carried out as part of a more general reform programme aimed at modernising the institutions of the Fifth Republic which had been promised by Nicolas Sarkozy during the presidential campaign. The most important new instruments include government declarations, presidential addresses,

scrutiny debates, resolutions, the power to veto presidential appointments, and the committee of control (Bouard et al., 2013).

Government Statements

Until the 2008 constitutional amendment, the government could ask to make a statement with or without debate before the Assembly. Following the 2008 amendment, the Constitution provides for an additional possibility for any parliamentary group to request that the government make a statement on a given subject. The statement is always followed by a debate in which speaking time is allocated to parliamentary groups in proportion to their size. If the government so desires, the debate is followed by a vote which cannot, however, be linked to the issue of confidence (Articles 51-1 of the Constitution and Article 132 of the Rules of Procedure). In the 13th legislature, there were a total of 33 government statements on issues ranging from the war in Afghanistan through EU negotiations to the financial crisis.

Presidential Address

Until recently, the French president was the only French citizen who was not allowed to enter parliament. The 2008 constitutional amendment has introduced, in Article 18, the possibility for the president to address both houses of parliament convened in *Congress*. The Congress may then debate on the speech in the President's absence, but the debate cannot be followed by a vote. While many commentators have applauded this new provision as introducing some element of checks and balances, others have criticised the fact that it undermines the importance of the programmatic declaration of the prime minister on the basis of which the National Assembly votes on the motion of confidence (Ducoulombier, 2010).

Scrutiny Debates

The 2008 constitutional amendment has introduced a requirement that at least one in every four sitting weeks should be devoted to the monitoring of government action and the assessment of public policies (Article 48.4 of the Constitution). This provision came into force in 2009 and in the three years between 2009 and 2012, the Assembly held 46 debates to monitor and scrutinise the activities of the government.

This new mechanism has thus led to a marked increase in the opportunities for monitoring and scrutinising the actions of the government in the full chamber.

Resolutions under Article 34.1 of the Constitution

The 1958 Constitution did not give the Assembly the right to pass resolutions. In the mid-1990s, the power to pass resolutions was given to the Assembly in the area of EU affairs. The 2008 amendment has extended this right to all other policy areas. The resolutions are non-binding.

Appointments

The 2008 amendment of Article 13 of the Constitution gives the Assembly the power to exercise direct control over important presidential appointment decisions. The appointments are submitted to the relevant permanent committee of both chambers who give a public opinion of the candidates. If the sum of negative votes in the committees of both chambers represents 3/5 of all the votes cast, the president's nomination is vetoed. The list of positions to be covered by this procedure is to be laid down in an organic law, but the Constitution already says it applies to members of the Constitutional Court.

Committee for the Assessment and Control of Public Policies

The 2008 amendment has set up a new committee to contribute to the monitoring and assessment of public policies whose main task is to evaluate public policies in cases where the scope of the policy goes beyond the remit of a single standing committee.

The committee is composed of 36 members and it is chaired by the President of the Assembly. The membership of the committee is appointed in such a way as to ensure proportional representation of political groups and a balanced representation of standing committees. There are some *ex officio* members: chairmen of political groups, chairman of the European Affairs Committee, general rapporteur of the Finance Committee, chairman of the Parliamentary Office for Scientific and Technological Assessment (OPECST) and chairman of

the Parliamentary Delegation for the Rights of Women and for Equal Opportunities.

The committee performs a number of key oversight tasks:

- The committee undertakes – on its own initiative or at the request of a standing committee – evaluations of public policies according to an agreed annual programme of work. Each parliamentary group has the right to one assessment per ordinary session. The standing committees responsible for a policy under audit delegate one or more of their members to participate in the evaluation. The committee recommendations are forwarded to the government which must respond within three months. The governmental response is subject to a plenary debate during one of the weekly sittings devoted to monitoring of the government as envisaged by article 48.4. After six months from the publication of the report the committee rapporteurs present a progress report to the committee on the implementation of the report conclusions.

- The committee may make proposals to the Conference of Presidents concerning the agenda of the weekly sittings devoted to monitoring of the government as envisaged by article 48.4.

- The committee is informed of the results of all fact-finding missions set up by standing committees or the Conference of Presidents.

- The committee may be asked to give an opinion on the impact assessments attached by government to a bill submitted to the parliament. The request for such an opinion comes from the chairman of a standing committee to which a bill was referred. The committee opinion must be communicated as soon as possible to the committee and the Conference of Presidents.

- The committee is also responsible for a preliminary assessment of amendments proposed by standing committees and MPs under article 98.1 of the standing orders.

Table 7. Evaluations undertaken by the Committee for Assessment and Control in the 14th legislature

Year	Topics
2012	Follow-up assessment of the performance of social policies in Europe
	Follow-up assessment of medical care at school
	Follow-up assessment of the general overhaul of public policies
2013	Evaluation of public aid to business creation
	Evaluation of the policy against smoking
	Evaluation of public support for exports
	Evaluation of France's cultural network abroad
	Evaluation of public policies for social mobility of young people
	Matching supply and vocational training needs
2014	Assessment of the implementation of the 2008 "energy-climate" package in France
	Assessment of the policy concerning the hosting of asylum seekers
	Assessment of the policy concerning the fight against the use of illegal substances
	Assessment of the customs policy in the struggle against fraud and trafficking
	Assessment of the development of service to individuals.

Source: Assemblée Nationale 2014: 365-6

Budgeting

The 1958 Constitution provided for only a very limited participation of the parliament in the adoption of finance laws (Williams, 1958). This position was elaborated in the organic law of 2 January 1959. The parliament had only 70 days to pass the budget and, if this deadline was not met, the government could bring the provisions of the finance bill into force by ordinance. Perhaps most importantly, individual members were barred by Article 40 of the Constitution from proposing amendments if their adoption would have as a consequence either a diminution of public resources or the creation or increase of an item of public expenditure.

The most important change in the area of budgetary scrutiny occurred in the framework of a new organic law on budget legislation adopted on 1 August 2001 (Bezes, 2008). While the time constraints on the parliament remained the same, the new law introduced more flexibility in the interpretation of Article 40 of the Constitution. Importantly, it allowed members to propose transfers of expenditure between programmes within the same area of public policy (mission) without increasing the overall expenditure. The new law also regulates the role of the Finance Committee in budgetary monitoring. The key role in monitoring is played by special *rapporteurs* who are responsible for the examination of funding for all or part of a mission. Importantly, during the budgetary year, they have the right to examine all documents concerning the implementation of the finance laws as well as the management of public companies.

In addition, since the early 1990s, the Finance Committee has set up an assessment and monitoring mission to carry out annual assessments of the results of public policies (Assemblée Nationale, 2014). This mission is co-chaired by a government MP and an opposition MP and it has 16 members who come in equal parts from the government and opposition parties. The mission has widespread powers to summon witnesses and to have access to all documents, with the exception of documents related to national defence, state security, judicial confidentiality or medical secrets (Assemblée Nationale, 2014).

In the context of budgetary oversight, one should also mention the role of the Court of Auditors. The 1958 Constitution required the Court of

Auditors to assist parliament in the monitoring of the implementation of the finance laws. Over the last two decades, the powers of the Court have grown significantly. As a result of the 2001 budgetary reform package, the Court of Auditors has been empowered to certify the accounts of the state. This procedure came into effect in 2006. The certification process is to check compliance of the national accounts with formal accounting standards. This report provides parliament with in-depth information about the operation of the national accounts. The 2008 amendment has expanded the remit of the Court of Auditors to include assessing public policies (new Article 47.2). The public nature of these reports is considered an important instrument for informing citizens. In fulfilling this task, the Court works closely with the assessment and monitoring mission of the Finance Committee. It is consulted by the mission on the principal themes for its annual assessment. The Court's reports presented under Article 47.2 of the Constitution often provide a trigger for the mission's activities. Also, since 2011, the president of the National Assembly and the speaker of the Senate may request that the Court of Accounts present an evaluation report on a specific matter within a year (Assemblée Nationale, 2009).

Petitions

Citizens have the right to bring petitions to the National Assembly. Petitions must be addressed to the president of the National Assembly. Every petition must specify the place of the petitioner's residence and his/her signature. The submitted petitions are entered on an official register of petitions and the petitioner is informed of the serial number his/her petition was allocated. After that the president of the National Assembly refers the petition to the Law Committee which is responsible for handling petitions. Once or twice a year the committee considers petitions, with one member appointed as rapporteur.

Acting on the recommendation of the rapporteur, the law committee decides whether any action should be taken regarding a petition. The committee may take no action, or it may refer a petition to another standing committee, a minister, or submit the petition to the full chamber. The petitioner is informed of the committee's decision. All petitions and committee decisions are published in a special bulletin which is distributed to MPs. If a committee has decided to take no

action, an MP may request that the petition be presented to the full chamber. The final decision on this request is taken by the Conference of Presidents.

If a petition is referred to a minister, the minister has three months to reply to a petition. If no reply is received within this time period, the committee may decide to refer a petition to the full house. If the committee decides to refer a petition to the full chamber, it presents a written report reproducing the full text of the petition. The report is printed and distributed to MPs.

After a petition is referred to the full chamber – either by a committee or through a request of an MP accepted by the Conference of Presidents – it may be placed on the agenda of the plenary according to the standard procedure for the formulation of the plenary agenda. The plenary debate on a petition starts with the speech of the committee rapporteur and is followed by a debate. Once the debate is finished, the chamber moves on to the next point on the agenda.

The number of petitions received by the National Assembly has steadily declined since the 1970s, although the last decade has seen a slight increase in the number of petitions, partly due to the growing importance of the Ombudsman's Office (Costa et al., 2012). The number of petitions referred to minister has declined steadily. There was only one such petition in the 2007-2012 term.

Table 8. Number of Petitions reviewed by Law Committee in the National Assembly

Legislative terms	Petitions reviewed
2007-2012	69
2002-2007	34
1997-2002	27
1993-1997	70
1988-1993	62
1986-1988	84

Source: www.assemblee-nationale.fr

Criminal liability

According to article 68-1 of the Constitution, members of the Government are criminally liable for acts performed in the holding of their office and classified as serious crimes or other major offences at the time they were committed. They are tried by the Court of Justice of the Republic which consists of fifteen members: twelve Members of Parliament, elected in equal number from among their ranks by the National Assembly and the Senate, and three judges of the *Cour de Cassation*, one of whom acts as president of the Court of Justice of the Republic.

EU Affairs

The French parliament's powers of oversight in EU affairs have grown over the last five decades. Already in 1979, the National Assembly and the Senate set up Delegations for European Affairs. Delegations were not full committees, as the Constitution limited the number of the latter to six. The idea for creating a delegation was to enable members to inform themselves about EU affairs following the introduction of direct elections to the European Parliament (Grossman and Sauger, 2007). Following the adoption of the Maastricht Treaty, the French Constitution was amended in 1992 to require the government to transmit to parliament all draft proposals for legislation emanating from the EU. In the 1990s, this requirement was extended to other EU documents, and parliament also won the right to propose and adopt resolutions in the area of EU affairs. Finally, the 2008 amendment has set up a full Committee for European Integration inside each chamber with extensive powers to be consulted and informed of EU affairs.

At present, the EU Affairs Committee in the National Assembly can, upon its own initiative or on the request of a standing committee, provide opinions on bills concerning a field covered by the activity of the European Union. Moreover, the EU Affairs Committees and standing committees can propose a draft resolution regarding proposals for EU legislation. Most such resolutions originate inside the EU Affairs Committees. These can be debated in the plenary and passed, but they do not have a binding force for the government. There were 177 such resolutions passed in the Senate in 2000-2009 and 58 in the National Assembly in 2002-2009 (Dyevre, 2012). Compared to

the specific EU-related instruments for *ex ante* scrutiny, the French Parliament relies on the standard arenas for *ex post* monitoring, particular on parliamentary questions and general scrutiny debates.

Concluding Remarks

Of the six parliaments analysed in this study, the French National Assembly has undergone the most far-reaching changes in the past two decades as regards both oversight and control capacities and practices. Through a series of reforms, culminating in major constitutional changes in 2008, executive-legislative relationships have undergone a transformation. Executive dominance has been reined in and parliamentary accountability of the government has been strengthened, as have the tools available to the National Assembly to make a positive contribution to the enhancement of public policy performance. Although the basic parameters of the political system – notably the existence of a dual executive with a directly elected President and a government headed by a prime minister – have remained intact – parliament has not only gained in autonomy, but also in influence.

2.3. Poland: The Progressive Strengthening of the *Sejm*

Since democratisation in the late 1980s, the Polish parliament, and in particular its lower house, the *Sejm*, have played an important role both in law-making and executive oversight and control (Zubek, 2001; Goetz and Zubek, 2007). But the last decade or so has seen a relative weakening of the *Sejm*'s law-making role which has mainly been due to two key developments:

- the increasing institutionalisation of political parties combined with growing party discipline and stronger powers of government and parliamentary party leaders over members;
- the change of the procedural rules in the late 1990s, in particular in the area of plenary agenda-setting. The new rules have given considerable powers over the plenary agenda and the parliamentary timetable to the Speaker who can exercise such powers for the benefit of government parties.

At the same time, however, over the last decade, the *Sejm* has gained new opportunities for legislative oversight and control. Three main instruments are worth mentioning here:

- reform of parliamentary questions and the introduction of topical debates in 2003;
- reinvigoration of committees of inquiry from 1997 onwards;
- new mechanisms for monitoring the government in EU affairs.

These new instruments have supplemented an already impressive array of oversight and control mechanisms, including, in particular, the extensive powers of the *Sejm*'s standing committees.

Legal Setting

Poland's legal system is based on the tradition of codified law. The legal provisions regulating legislative oversight and control are contained in three types of documents: the Constitution, statutes, and parliamentary rules of procedure.

Between 1992 and 2013, Poland had two constitutions. The interim constitution was passed on 17 October 1992 to replace the old Communist constitution of 1952 (which was amended in 1989). The interim Constitution was amended twice in 1995 and once in 1996. It was repealed in 1997 by the new Constitution of 2 April 1997, which has so far been amended twice. The new Constitution can be amended on a proposal of 1/5 of all *Sejm* members, of the Senate or of the President. The amendment must be passed by 2/3 of the *Sejm* members and by absolute majority in the Senate. The text passed by both chambers must be identical.
Secondly, there are several statutes that regulate issues related to parliamentary oversight and control. The most important are:

- Law of 21 January 1999 on the committee of inquiry;
- Law of 9 May 1996 on the role of Deputy and Senator;
- Law of 11 March 2004 on the cooperation of the Government, the *Sejm* and the Senate regarding EU affairs;
- Law of 7 July 2005 on lobbying.

Parliamentary standing orders constitute a further source of legal provisions regarding oversight and control. Standing orders have the form of a parliamentary resolution. The *Sejm's* standing orders were adopted on 30 July 1992 and have been amended 48 times since then. The rules of procedure can be amended on the proposal of the *Sejm* Presidium, 15 members or a committee. A simple majority of votes with at least half of the members present is sufficient for amendment. The rules of procedure of the Senate were adopted on 23 November 1990. They can be amended on the proposal of the Speaker of the Senate, the Senate Presidium, Committee of Procedure, Ethics and Senators Business or of a group of 10 Senators.

Political Setting

Executive-legislative relations and the patterns of oversight and control in Poland have been, first and foremost, influenced by the bipolarity of the party system since 1993. Before 2005, the party system was dominated by a post-Communist party on the left, the SLD, and one or two parties on the right (AWS, then PO and PiS). The left-right split was not, however, ideological, but rather reflected the post-Communist *vs.* post-dissents divide. The importance of this cleavage declined over the 1990s and came to an end with the collapse of the electoral support for the SLD in the wake of the *Rywin* affair. Since 2005, the Polish party system has been dominated by the centrist and liberal Civic Platform (PO) and the right-wing and conservative Law and Justice Party (PiS). See Table 7 for the composition of the current and previous legislature.

Table 9: Political Groups in 6th and 7th Legislatures

Party Group	6th Legislature 2007-2011	7th Legislature 2011 -
Civic Platform (PO)	208	206
Law and Justice (PiS)	146	138
Democratic Left Alliance (SLD)	43	26
Polish Peasants Party	31	29
Palikot Movement	-	41
Other	32	20

As at the end of the 6th legislature and as of 26 March 2013 for the 7th legislature

The other key factor that has had an important impact on the pattern of executive-legislative relations has been the increasing institutionalisation of parties since 1989. Except for the two post-Communist parties – the SLD and the PSL – the other parties that emerged after the collapse of Communism were loose networks of individuals which frequently split and merged. In contrast, the PO and the PiS, the two parties that currently dominate the party system, are more disciplined and structured organisations, although they share a heavy reliance on their leaders. As a result, the Polish parliament has come increasingly to resemble western European parliaments in the sense that parties and party cleavages dominate legislative politics.

Finally, it is important to note that in the period 1992 to 1997 the Polish political system provided the directly elected president with strong veto and appointment powers. In contrast, the 1997 Constitution, while retaining a direct election for presidency, has reduced the control of the president over the cabinet and the legislature, not least by reducing the threshold for overriding the president's veto from 2/3 to 3/5.

Institutional Setting

The committees of the *Sejm* have traditionally provided a key forum for parliamentary oversight and control in Poland. The committees enjoy extensive powers to demand information, hold hearings and undertake fact-finding missions. In recent years, the powers of committees have been strengthened further. In the last decade, the plenary has also emerged as an important venue for oversight and control. The procedure for asking parliamentary questions has been overhauled and supplemented by the right of parties to initiate scrutiny debates during each weekly sitting. The role of the Senate in legislative oversight has been rather marginal, as the current constitution explicitly makes the government accountable only to the lower chamber.

Instruments of Oversight and Control

Motion of No Confidence

Under the 1992 Constitution, a motion of no confidence could be proposed by at least 46 members. The motion could, but did not have to, identify a new candidate for prime minister. The motion was considered accepted if it was supported by an absolute majority of votes cast (in which case abstentions were counted as votes against). If a motion failed, it could not be introduced within three months, unless it was proposed by 115 members. If a motion was accepted, the prime minister would resign and the president could either appoint a new prime minister or dissolve the parliament. Between 1992 and 1997, the *Sejm* passed a vote of no confidence twice. In 1993, the motion was passed against the Suchocka government and the *Sejm* was dissolved. In 1995, a constructive vote of no confidence led to the change of prime minister, but not of the composition of the governing majority coalition. In addition, the 1992 Constitution also provided for the possibility a vote of no confidence against an individual minister. The procedure was the same as that for the motion of no confidence against the whole government, except that the motion could not identify a new candidate for minister.
The 1997 Constitution has changed the no confidence procedure by requiring that all motions are 'constructive' in the sense that they must identify a new candidate for prime minister. It is thus no longer possible for a no-confidence to be passed against the government without electing a new prime minister. The no-confidence motions have been proposed a few times since 1997 (most recently in spring 2013), but none have been successful. The 1997 Constitution has also preserved the possibility of a no-confidence vote against an individual minister. While many such motions have been proposed since 1997, they have always been rejected.

Government Statements and Topical Debates
Conventionally, the government informs the *Sejm* by way of presenting reports and policy statements about its past or future actions. The presentation of reports and statements in a plenary sitting is followed by a debate which may lead to a vote rejecting the government statement (but without implications for confidence). Reports may also be transferred to a committee for further deliberation

and may provide the basis for a draft resolution (see below). Between 1991 and 1997, the prime minister and ministers presented 212 reports and statements, an average of 35 per annum (Zseliga, 1998). Between October 2011 and March 2013, the government presented 21 reports and policy statements to the parliament (www.premier.gov.pl). In addition to government statements, agencies and other state institutions are required by different statutes to present reports to the parliament. The presentation is normally followed by a debate. Such reports are, for example, presented by the Supreme Audit Office, Ombudsman, Constitutional Court, Television and Radio Council, and the National Bank of Poland.

The statements and reports mentioned above are presented by the government and other agencies either on their own initiative or if required by statute. Since April 2003, an amendment to the rules of procedure has introduced a new institution of Topical Debate. During each sitting week, the Speaker is required to introduce a special item on the plenary agenda called "Topical Debate". The item should not take longer than 90 minutes. Within the framework of a Topical Debate, parliamentary groups or 15 members can ask any member of government to present a statement on any issue. The *Sejm* Presidium decides which requests are accepted taking into account the size of parliamentary groups. The statement by a government minister or prime minister is followed by a general debate. Between April 2003 and September 2011, government representatives were asked to present 183 times during topical debates, an average of 22 times a year (see Table 8). The motions for such presentations came both from both opposition and government parties.

Table 10: Successful Motions for Government Statements during Topical Debates

Party Group	**2001-2005**	**2005-2007**	**2007-2011**
PiS	11	10	24
PO	9	10	35
SLD	4	4	13
PSL	9	3	8
LPR	6	6	-
SO	7	8	-
Others	11	-	5
Total	**57**	**41**	**85**

Source: www.sejm.gov.pl

Resolutions

Before 1992, the *Sejm* could pass legally binding resolutions requiring government to take some specific action. The 1992 Constitution, however, changed the status of parliamentary resolutions into non-binding instruments. The 1997 Constitution has preserved this change. There are now four different forms of such instruments which fall into two broad categories: (i) appeals and requests to government to undertake a specific action or course action, and (ii) statements containing the *Sejm*'s position on a given matter. Resolutions may be proposed by the *Sejm* Presidium, a group of 15 members or by committees. They undergo two readings on the floor and a committee stage before adoption. Table 9 shows the number of proposed and passed resolutions between 1993 and 2011. Parliament adopts between 200 and 300 resolutions per term.

Table 11: Proposed and Passed Resolutions, 1993-2011

	1993-1997	**1997-2001**	**2001-2005**	**2005-7**	**2007-11**
Proposed resolutions	371	225	304	173	242
Passed resolutions	296	190	256	203	289

Source: www.sejm.gov.pl

Standing Committees

The *Sejm* committees have always had many oversight and control powers, even before 1989 (Olson 1998). The 1992 and 1997 Constitutions as well as the 1992 rules of procedure have confirmed this strong position of the *Sejm* committees. The committees have five types of powers:

- to demand information: the committees may request information from ministers on any aspect of government policy, and ministers are obliged to provide this information to committees;

- to request the presence of ministers at the meetings of committees where the matters falling into their competence are to be discussed;
- to hold scrutiny hearings regarding any aspect of government policy falling within their remit. Such meetings normally start with a presentation by governmental minister and presentation by a representative of the Supreme Audit Office which is followed by a general debate;
- to undertake field visits and field research regarding the operation of state-owned companies and other state offices;
- to pass non-binding *desiderata* and opinions. A *desideratum* is a request relating to a specific issue; an opinion contains the committee's position on a specific issue. Both instruments can be addressed to the government as a whole or to individual ministers. They can also be addressed to the head of the Supreme Audit Office, governor of the central bank, general public prosecutor, and the chief labour inspectorate. *Desiderata* and opinions passed by a committee are sent by its chair to the *Sejm* Speaker who passes them on to their addressees. The Speaker may ask the committee to reconsider a *desideratum* or an opinion; once a committee has reaffirmed a *desideratum* or opinion, the speaker must send it on to its addressees. The addressee of a *desideratum* or opinion must - within 30 days – take a position on the committee's request or opinion and inform the speaker of their position. The speaker may extend the 30-day deadline on the request of the addressee, after having consulted with the committee. The committees discuss the responses they receive at their meetings. If no reply is received within the deadline, or if the committee considers the reply to be unsatisfactory, it may pass a new desideratum or opinion, ask the Speaker to return the reply as unsatisfactory or ask the full chamber to pass a resolution on the matter.

See Table 10 for a summary of all *desiderata* and opinions passed by the *Sejm* committees between 1993 and 2011.

Table 12: Committee Desiderata and Opinions, 1993-2011

	1993-1997	1997-2001	2001-2005	2005-7	2007-11
Committee desiderata	280	339	230	134	218
Committee opinions	881	1 093	1 507	886	1 675

Source: www.sejm.gov.pl

In addition, since 2006, the *Sejm* committees have been given the right to hold public hearings regarding any bill that has been referred to them. Any member of the committee can propose a public hearing and the committee votes to approve or reject the motion. Once a decision has been taken to hold a public hearing, any pressure group and non-governmental organisation that registers its interest within a deadline is granted the right to participate and present testimony during hearings.

Committees of Inquiry

The Polish *Sejm* has long had the right to establish committees of enquiry (although the term 'committee of inquiry' was only introduced in the 1997 constitution) (Kruk, 2008). There were three such committees in 1991-1993, two in 1993-1997, three in 2001-2005, one in 2005-2007, and four in 2007-2011. In the last decade, committees of inquiry have received extensive media attention and have played an important role in scrutinising the actions of government. The most famous committee of inquiry was the *Rywin* committee which investigated corruption surrounding the amendment of the media law in 2001-2002. Its hearings led ultimately to the resignation of the Miller government in 2004 and the collapse of the support for the post-Communist SLD party.

At present, a motion to establish a committee of inquiry can be proposed by the *Sejm* Presidium or a group of 46 members. The proposal is examined in two readings and a final vote is taken in a plenary sitting. The committee of inquiry can operate in parallel to judicial and police investigations. There are no time limits for the committee to present a report, but committees are wound up automatically at the end of the parliamentary term.

The inquiry committees have important investigation powers:

- The right to summon witnesses: every person subpoenaed by the committee must appear before the committee. Witnesses testify under oath and are liable to criminal penalties in case of perjury. Witnesses who are bound by state secrecy may only be interviewed regarding matters covered by secrecy only once they have been relieved of the secrecy obligation by the relevant authority. The committee may request that witnesses be relieved from the secrecy obligation and such requests should not be rejected unless this may result in a significant damage to the interests of the state. Witnesses bound by professional secrecy may be relived from this obligation by a court order on the request of the committee. Meetings in which state or professional secrets are discussed are closed to the public.
- The right to retain experts. The committee may appoint experts to obtain specialized knowledge. Experts are appointed under the criminal court proceedings act.
- The power to demand documents: the inquiry committees have the power to demand documents and information that they consider useful in the investigation from any state authorities and other organizations.
- The power to request specific actions from the general public prosecutor. The prosecutor undertakes such actions under criminal proceedings act. Members of the committee may participate in such actions.
- To hold public hearings. The committee may agree to the public broadcasting of its deliberations.

Parliamentary Questions

The 1992 Constitution provided for two types of questions. Interpellations were written questions addressed to the prime minister or individual minister. They had to be responded to within 21 days and if the member was not satisfied with the answer, he or she could ask the Speaker to arrange for an oral response in the plenary. The second type – members' questions – were asked orally during a plenary sitting and had to be directly responded to by members of the government who were required to be present at such sittings. In 1993, the rules of

procedure set aside three hours at each sitting week for parliamentary questions. The 1997 Constitution has preserved the two types of questions: interpellations and members' questions, but has changed the nature of the latter. In addition, in article 115, the Constitution has also introduced a new form of oral questions called *topical questions*.

(i) Interpellations

Interpellations are a form of written questions which must cover a significant issue of public policy. An interpellation must contain a brief statement of fact and a clearly identified question. The *Sejm* Presidium may reject interpellations that do not comply with these formal requirements. The Presidium may also decide to delete phrases that violate the principles of the members' etiquette. Each member has the right to make an interpellation by submitting it in writing to the Speaker. The Speaker forwards interpellations to their addressees. Interpellations must be responded to within 21 days. The Speaker forwards the replies to the sponsor of the interpellation. If the sponsor considers the reply unsatisfactory, he or she may ask the Speaker to request additional information from the addressee of the interpellation. Such requests for additional information may only be made once. Additional information must be provided within 21 days. Table 13 shows the number of interpellations submitted by MPs in the current 2011-2015 legislative term (until 31 May). More than two in three interpellations are submitted by opposition parties, with almost half of all questions submitted by the largest opposition party – the PiS.

Table 13: Interpellations by Party Group, 2011-2015

Party groups	**Interpellations**
Civil Platform (PO)	8 563
Law and Justice (PiS)	14 764
Polish Popular Alliance (PSL)	1 017
Democratic Left Alliance (SLD)	2 882
Other	5 887
Total	**33 113**

Source: www.sejm.gov.pl

(ii) Members' questions

Members' questions are the other form of written questions. They differ from interpellations in two main ways. First, they have a different scope. An interpellation must cover a significant issue of public policy, while members' questions must relate to a specific issue regarding the domestic or foreign policy of the government. Second, members' questions are addressed and responded to according to the same procedure as interpellations, except that the sponsor of a members' question does not have the right to request additional information. Table 14 shows the number of members' questions submitted by MPs in the current 2011-2015 legislative term (until 31 May). The data pattern is similar to that for interpellations.

Table 14: Members' Questions by Party Group, 2011-2015

Party groups	**Interpellations**
Civil Platform (PO)	1 883
Law and Justice (PiS)	3 007
Polish Popular Alliance (PSL)	402
Democratic Left Alliance (SLD)	602
Other	2 430
Total	**8 324**

Source: www.sejm.gov.pl

(iii) Topical questions

Following the revision of the standing orders in 1997 and 2003, the agenda of every sitting week must include an item 'Topical questions'. MPs inform the Speaker in writing about the general theme and the adressee of a topical question they would like to ask during the question time. The *Sejm* Presidium decides which questions are placed on the agenda, after having consulted the Council of Elders. There can be no more than 11 questions during one sitting week. Each question can last 2 minutes, and the response can last 6 minutes. After that, the sponsor of the question can ask a supplementary question for no longer than one minute, followed by a three-minute reply. At a maximum, topical questions thus take up about 2-2.5 hours of every sitting week.

(iv) Overall assessment

As in the other states covered by this report, parliamentary questions may serve different purposes, some of which may be unrelated to that of parliamentary oversight, for example, gaining a higher public profile or pursuing constituency-based interests. The question is whether parliamentary questions are used chiefly as an instrument of parliamentary oversight in Poland.

To date there is no academic research on this topic, either in the English or Polish language. The data in Tables 13 and 14 show that written questions are asked chiefly by opposition MPs. This suggests that written questions are mainly used as an instrument of oversight and information-gathering. Table 15 further shows that this form of parliamentary oversight has grown in importance over the last two decades, as the number of interpellations increased by a factor of four and the number of members' question by a factor of two. It is possible that this trend has been reinforced by the growing bipolarity of the Polish party system.

These figures do not, of course, exclude the possibility that opposition members ask questions to pursue constituency-centred or other interests. To check this possibility, a random sample of 154 topical questions from the 2007-2011 legislative term have been analysed. The analysis shows that only 34 (22%) of the questions' titles contain a reference to a local issue such as local companies, economic or infrastructural projects. The bulk of topical questions relate to specific issues of government policy in various areas without specific reference to local conditions.

Table 15: Parliamentary Questions, 1993-2015

	1997-2001	**2001-2005**	**2005-7**	**2007-11**	**2011-15***
Interpellations	7 075	10 660	9 581	24 435	33 113
Member's questions	4 247	4 386	3 495	10 632	8 324
Topical questions	311	710	439	952	888

Source: www.sejm.gov.pl * until 31 May 2015

Relationship with the Supreme Audit Office

The Supreme Audit Office (SAO) is a constitutional body with responsibility for auditing central state institutions, local government and other organisations that are publicly funded or that use state property. The *Sejm* has a special relationship with the SAO. The head of SAO is appointed by the *Sejm* for six years and the Speaker appoints deputy heads. The SAO is required to keep the *Sejm* informed about the results of all of its audits and to present other motions and reports envisaged in the law on the SAO. The SAO can also ask the *Sejm* to deliberate on a particular issue. The *Sejm* and its institutions (Speaker, Presidium, committees) can ask the SAO to undertake audits of specific issues. The SAO also has a special role in budgetary scrutiny – see below.

Budgeting

The government is required to present to the *Sejm* a final budgetary statement within five months from the end of the budgetary year. This statement is considered by the *Sejm* within 90 days and a vote is taken on whether to approve the final accounts. The 1992 interim Constitution required the government to resign if the final accounts were rejected. The 1997 Constitution does not provide for any special consequences of such a decision. It is assumed that, if accounts were rejected, the parliament would proceed to vote on confidence or to initiate proceedings for violation of the Constitution against individual ministers (Kruk, 2008).

The budgetary statement is deliberated only in the *Sejm*, and the Senate has no role in this process. The Supreme Audit Office must present its opinion. The draft statement – together with the opinion of the Supreme Audit Office – is forwarded by the Speaker to all relevant standing committees that present their opinions to the Public Finance Committee. The Public Finance Committee formulates a report in which it recommends rejection or approval of the statement. The report is presented to the plenary floor and a debate is held. The head of the Supreme Audit Office presents its opinion. The *Sejm* votes on the accounts according to the same procedure as that for ordinary resolutions.

Petitions

The 1997 constitution entitles every citizen to bring petitions to any state authority, including the parliament. The constitutional provisions required that the details regulating the submission of and responses to petitions should be regulated in a statute. Until 2014, this constitutional provision remained largely dormant, even though the concept of a petition was introduced in the 1998 amendment of the Civil Procedure Code (Florczak-Wator, 2011). It was only in July 2014 that a law on petitions was finally passed, and it will enter into force in September 2015.

The new law states that a petition may be submitted by an individual, corporation and other organizations to any state institution, including the Sejm and the Senate. The petition may be made in a public or individual interest. A petition is defined as a request that a state institution that a specific action, in particular amend a law or take a specific decision. A petition must contain the description of the petitioner, the description of the addressee and the explanation of its purpose. If the petition does not comply with technical requirements it may be rejected.

A petition must be considered without delay, and not later than within three months from the date of its submission. This deadline may be extended by a further three months. The *Sejm* and the Senate must compile and publish annual list of all petitions received and responded to. The petitioner is informed about decisions taken in response to a petition. No complaints may be lodged against such decisions.

The *Sejm* standing rules are currently being amended (June 2015) to incorporate specific provisions regulating the consideration of petitions. The draft rules envisage that petitions will be considered by a specialized Petitions Committee within a deadline specified by the Speaker.

Criminal liability

According to article 156 of the Constitution, members of the Government are liable for the violation of the constitution and laws as well as for criminal offences performed in the holding of their office.

They are tried by the Court of the State (*Trybunał Stanu*) on the decision of the Sejm expressed by a 3/5 majority of all members on the request of the president or 115 MPs. The Court of the State consists of 19 members including the president of the Supreme Court who acts as chair. The other members of the court are selected from among the MPs, at least half of whom must have legal qualifications to act as judges.

EU Affairs

With Poland's accession to the European Union in May 2004, the Polish Parliament has gained new powers to scrutinise governmental actions in EU affairs (Lazowski, 2007). According to a law on institutional cooperation passed in March 2004, the parliament won the right to be informed on EU affairs, to be consulted in the EU law-making process and to influence selected EU-related appointments. The key institution inside the *Sejm* is the European Union Committee which consists of 46 members; its composition reflects the proportional size of different political groups.

Under the inter-institutional arrangement, the government is required to present a report on Poland's participation in EU affairs to the *Sejm* and the Senate every six months. The two chambers may themselves require the government to present a report on a particular EU-related matter. The government also has an obligation to provide both chambers with copies of all pending EU proposals including Council and Commission work plans, consultation documents, proposals for legislation, proposals for international agreements and soft law proposals.

When it comes to the scrutiny of government actions in the EU law-making process, the government must present to both chambers its draft positions on pending EU law proposals. The draft opinions are accompanied by impact assessments. The chambers have 21 days to present their opinions. The opinions are presented by the EU Committee, rather than the full plenary. The parliament is also consulted on various appointments to EU institutions. These include: members of the European Commission, the Court of Auditors, judges at the European Court of Justice, advocates general, members of the Economic and Social Committee, and the Committee of Regions.

Concluding Remarks

The Polish *Sejm* provides an instructive illustration for a general trend noted in Section 1 of this paper: whilst European integration inevitably limits parliamentary discretion in law-making, parliaments have strong incentives to enhance both their oversight and control capacities and to employ their relevant powers vigorously. Emerging from the initial democratic transition with an already impressive range of oversight and control instruments, the Polish parliament has since acquired further relevant powers and is prepared to use them vigorously. In so doing, the *Sejm* exercises both the classical political function of holding the government to account, but also makes a major contribution to enhancing the quality of public policy.

2.4. The United Kingdom: Incremental Advances under Conditions of a Strong Executive

What distinguishes the British House of Commons from the other parliaments studied in this report is the doctrine of parliamentary sovereignty which, one the one side, leaves all power to decisions taken in the House of Commons, but – somewhat paradoxically – also weakens the legislature as it gives the executive reasons centralising decision-making. In the United Kingdom, parliamentary oversight and control take place less within the government–opposition framework (as the former can usually rely on large majorities thanks to the majoritarian electoral system), but more between frontbenchers and backbenchers across political parties. Here, a shift from a chamber to a committee-based system of oversight and control has been taking place. However, the doctrine of parliamentary sovereignty remains highly influential, not least in the minds of MPs themselves.

Legal Setting

As a consequence of the long-term evolution of parliamentary procedures in the United Kingdom, the level of integration of the legal framework underlying parliamentary control is low. With even the constitution being unwritten, most oversight and control procedures are based on convention. The core idea behind the constitutional doctrine of parliamentary sovereignty is that statute law passed by

simple parliamentary majorities can alter any constitutional setting: only Parliament has the right to "make or unmake any law whatever, and, further, that no person or body is recognised by the law of England as having a right to override or set aside the legislation of Parliament" (Dicey, 1959). Although the process of Europeanisation, alongside with the jurisdiction of the European Court of Justice and the 1998 Human Rights Act, can be interpreted as a shift towards a more rights-based legal and political culture, parliamentary sovereignty continues to be at the core of executive-legislative relations in the United Kingdom. The cabinet is still exclusively regulated by convention. Another convention of great importance stipulates that MPs do not lie in Parliament and do not accuse their fellow MPs of doing so. The most important formal pieces of legislation underlying executive-parliamentary relations are the Parliament Acts of 1911 and 1949, which secured the supremacy of the House of Commons over the House of Lords. The latter can only exert a suspensory veto over legislation. Additionally, the Salisbury Convention ensures that all government bills mentioned in the election manifesto face no opposition in the House of Lords. Rather, the House of Lords usually amends legislation, predominantly with respect to technical aspects. The only significant exception to this are EU politics (see below).

All instruments of executive oversight and control mentioned below are subject to recall by simple majorities. The House of Commons Standing Orders (SO) are subject to regular change. They are neither binding nor complete: for instance, the mechanisms underlying the passage of bills (and in particular the three plenary readings) are not even mentioned in the SO. The factual handling of parliamentary procedures is ultimately negotiated by 'usual channels' consisting of the Chief Whips of all parliamentary parties (in which the whip of the major governing party enjoys a privileged position).

Political setting

Britain's 'Westminster model' of democracy is – perhaps more than any other democratic setting – based on majority rule pure and simple. The dualistic character of political competition reflects the traditionally one-dimensional societal conflict structure, which is institutionally transformed by a majoritarian ('first past the post')

electoral system. Accordingly, for much of the 20th century, the United Kingdom displayed a two-party system consisting of Labour and the Conservative Party (at least at the national level). Recently, bipartisan competition has been challenged by the Liberal Democrats (which currently govern in a coalition with the Conservatives), the UK Independence Party, and the Greens (which currently hold one parliamentary seat). Alongside with parliamentary sovereignty, the electoral system centralises power to an extent which renders Britain resembling an 'elective dictatorship' (Lord Hailsham): "The working British constitution [...] is ruthlessly simple: a government supported by the majority party in the House of Commons can do anything" (Budge, 2002: 33).

According to the convention of ministerial responsibility, ministers must be Members of Parliament (the House of Commons or the House of Lords). A formal resolution on ministerial responsibility was only passed in 1997. However, the insertion of the phrase that 'ministers must not *knowingly* mislead Parliament' (HC Deb, 19 March 1997, vol. 292, c1046-7, emphasis added) opened up loopholes and subsequently served as grounds on which ministers have delegated responsibility for operational failures to senior public servants instead of resigning (Grant, 2009). In line with the executive's strong position, the final decision over conduct of ministers lies with the Prime Minister and not with Parliament. However, the constitution also recognises the opposition: the second largest party automatically is Her Majesty's Opposition, which, as part of the constitution, enjoys special privileges. For instance, its leader and whips receive special salaries (the leader also a car with chauffeur) and privileged access to the 20 Opposition Days (on 17 of which the major opposition party sets the plenary agenda). On all other sitting days the parliamentary agenda is set by the government. As will be discussed below, the opposition rather acts like a government in waiting and pays more attention to developing an alternative course of action than to close scrutiny of the government.

Institutional Setting

Several institutional arenas of executive oversight and control can be differentiated: the plenary, parliamentary committees, the Ombudsman, and a supreme audit institution. Clearly the most visible

plenary activity is question time. Here, one can broadly distinguish questions to ministers, Prime Minister's Questions, and written questions. Another plenary activity are adjournment debates, in which backbenchers can raise issues. Additionally, there is the option to have emergency debates without prior notice under SO 24. MPs may seek an emergency debate from the Speaker on Mondays to Thursdays. If the Speaker assents, MPs have three minutes to make a speech after question time and any urgent questions or ministerial statements. The Speaker then decides whether to submit the application to the plenary. Emergency debates need assent of a parliamentary majority (which only occurs very rarely as Table 11 illustrates). If the House agrees the debate will take place on a future day, it is usually the next sitting day. All plenary debates are based on motions. The most common debates are on government bills or motions which can be formally approved by the House. Besides, there are adjournment debates which enable individual MPs to raise topics at the end of a sitting and topical debates mostly raised by Select Committees (Norton, 2013: 111–8).

In the United Kingdom, two types of parliamentary committees are scrutinising the executive: first, *Public Bill Committees*, which largely oversee legislation, and second, *Select Committees*, which rather resemble permanent committees of inquiry. Another, more theoretical option is an impeachment of Prime Ministers. The impeachment is an ancient parliamentary right last used in 1806 and can be successful if it is proven that the Prime Minister is misleading the country in breach of the constitution. However, when it was last attempted to impeach a Prime Minister (Tony Blair for his conduct of the Iraq war), it led to no result as Blair resigned in 2007.

Apart from direct scrutiny carried out by Parliament, two additional bodies oversee the executive indirectly. First, the *Parliamentary and Health Service Ombudsman (PHSO)*, which comprises the offices of the Parliamentary Commissioner for Administration (PCA) and the Health Service Commissioner for England (HSC). The PHSO is a non-elected, non-political official reporting to Parliament via the Select Committee on Public Administration, with which the Ombudsman closely coordinates its activities. Originally set up in 1967, the Ombudsman investigates public complaints about government maladministration. Unlike MPs, the Ombudsman has access to departmental files and can take evidence on oath. With a staff of 422

and a budget of 33 million pounds, the Ombudsman dealt with 4 732 enquiries, conducted 410 investigations and secured over 1 700 remedies in 2011-12 (www.ombudsman.org.uk). However, these enquiries have to be filed through MPs, which diminishes the effectiveness of the Ombudsman. In 2001, it was proposed to simplify this procedure. However, the reform is still delayed by the government (Giddings and Irwin, 2005).

Second, the *National Audit Office (NAO)*, which also reports to the Public Accounts Committee through the Comptroller and Auditor General, who is an officer of the House of Commons. With a staff of 860, the NAO is also reactive rather than proactive. Its financial audit touches upon three areas: the truth and fairness of financial statements; the regularity (or statutory validity) of expenditures, and; the propriety of the audited body's conduct in accordance with parliamentary, statutory and public expectations. Similar to the Ombudsman, reports of the NAO serve as basis of investigations of the Select Committee.

Instruments of Executive Oversight and Control

It has already been mentioned that *parliamentary questions* are the most important means to hold the executive accountable in the House of Commons' day-to-day activities. Questions are rigorously formalised in Appendix 1 of the SO. Most notably, a parliamentary question must either seek information ('what, how many, when...') or press for action ('if he will...') and not offer or seek expressions of opinion. Additionally, questions must be concise (i.e., not requiring a lengthy answer) and indicate the department towards which they are directed (Sandford, 2012: 5). Responsibility in other respects rests with the MP who proposes to ask the question and responsibility for answers rests with Ministers. In the United Kingdom, the Speaker is the final authority as to the admissibility of questions. However, the Speaker's responsibility in regard to questions is limited to their compliance with the rules of the House. MPs can discuss the admissibility of questions privately with the Speaker (Erskine, May 2011: 356).

Question Time has been transformed from a forum principally for use by backbenchers to a battle between the main parties with party

managers handing out suggested questions to backbenchers. Question Time takes place for one hour Monday to Thursday. While Prime Minister's Question Time (PMQT) is scheduled for 30 minutes on every Wednesday, other ministers answer oral questions under a rota system approximately once a month. With the exception of PMQT, half the time is spent on questions tabled three days in advance. However, not only supplementary, but also spontaneous topical questions ministers have no advance notice of may be asked on the spot during the debate. PMQT exclusively consists of topical questions, with a special role played by the leader of the opposition. Each MP is allowed only oral one question per Department and no more than two on a single day. The order of questions is subject to a random 'shuffle' procedure. Urgent questions need not be given notice of and can be asked immediately after question time given the Speaker's consent. Written questions can also be 'named', which means that they have to be answered within a specified time period (usually the second sitting day after the day on which they are handed in). Ministers are expected to answer ordinary written questions (which are not put down for a named day) within a working week of their being tabled (Erskine, May 2011: 355). There is, however, no formal sanction in case a minister has not responded the written questions within the prescribed time. However, MPs receiving no (or an allegedly insufficient) answer can complain to the Public Administration Select Committee (whose reports are treated seriously by the government, see below).

Two trends stand out with respect to the use of parliamentary questions: on the one hand, questions became more open through time (Giddings and Irwin, 2005) and, on the other hand, the number of questions asked increased considerably. 1966 was the first year in which the number of written questions exceeded those asked on the floor. However, as Table 11 illustrates, in the double-length 2010-12 session (lasting from 25 May 2010 to 1 May 2012), the number of questions fell back to the pre-2005 level. Between 2010 and 2012, a total of 9 484 oral questions were asked, of which 4 710 received an answer. Added with a total of 97 753 written questions (not to forget 73 urgent questions), the total number of questions was 107 310. The distribution of oral questions generally reflects the strength of the party groups, even though the opposition is allowed more supplementary questions. Numbers for the 2002-03 session (the only one for which a

detailed account is available) (Young et al., 2003) suggest that the opposition parties' questions are asked both by frontbenchers and backbenchers. Interestingly, a small number of MPs is responsible for a large number of questions: in the 2010-12 session, eight Members had more than 1 000 questions answered; the 20 Members with the most answers were responsible for 20% of all questions. Throughout the last five sessions, it was the Department for Health that received the most questions (9 023 in 2010-12) (Sandford, 2012).

The *efficiency of oral questions* has recently been jeopardised with respect to the fact that answers are prepared within the centralised parliamentary answering unit which allegedly fail to provide thorough answers (Sandford, 2012: 7). However, this problem primarily affects written questions. Ministers providing an insufficient answer to an oral question run risk of losing their reputation. In this respect, oral questions, and PMQT in particular, despite being a pre-orchestrated ritual, are efficient as they attract attention far beyond Parliament (Norton, 2013: 122, 144).

Adjournment debates are another opportunity for backbenchers to raise issues relating to his or her constituency or matters of public concern, to which a relevant minister will reply. The opportunities for adjournment debates were extended in 1999 when new opportunities for debate were created in the parallel sittings in Westminster Hall. This allowed for 500 additional adjournment debates of 90 minutes per year. In the chamber, approximately 30 minutes per sitting day (about 150 per session) are spent on adjournment debates.

Legislative scrutiny traditionally takes place in *Public Bill Committees* which consist of the minister in charge of the bill, party whips, and several backbench MPs adding up to a total of between 16 and 50 MPs. These committees usually provide stable majorities for the government and rarely substantially amend bills (which they are formally entitled to, even though their amendments can be overruled during the third reading on the floor). The weakness of Public Bill Committees largely goes back to their non-permanent character as members are appointed on an *ad hoc* basis, which ensures that the whips usually dominate proceedings. As a consequence, whips often find it difficult to motivate MPs to take part in time-consuming committee work (Giddings, 2005). Recently, the formal powers of

Public Bill Committees were strengthened. In November 2002, a new Scrutiny Unit was established in the Committee Office to assist committees examining expenditure and draft bills. When Standing Committees were renamed into Public Bill Committees in 2006, they were granted the right to take evidence. However, just like Question Time, Public Bill Committees largely remain a bipartisan ritual rehearsed by frontbenches. Even though the executive may well refer draft bills to committees, it only made use of this opportunity when legislation is cross-party (Staddon, 2007: 33). The default option remains to refer bills to Public Bill Committees only after the second floor reading.

It is worth pointing out that parliamentary scrutiny in the United Kingdom does not exclusively take place in the dualistic fashion outlined above. *Select Committees* can be regarded as genuine cross-party instruments where backbenchers are overseeing frontbench (government) activities. Select Committees were introduced in 1979. Their basic task is to conduct inquiries, take evidence, and publish reports (to which the respective departments have to react within 60 days). At the moment there are 19 departmental Select Committees shadowing a specific government department plus the Public Administration Committee, which strictly speaking is a cross-cutting one, but has become the departmental Select Committee for the Cabinet Office. Select Committees consist of a minimum of eleven backbenchers and usually work on an all-party basis. In 2002, their resources were extended and since 2004, Select Committee chairs receive an additional payment of 13 328 pounds per year. This latter reform is of importance since it created a new career path independently from entering the frontbenches of the House. In 2005-06, the total number of staff supporting Select Committees was 227, of whom 191 worked in the central Committee Office (Staddon, 2007: 22, 25). These reforms, together with more recent ones to be discussed below, increased the visibility of Select Committees. This was particularly noticeable during the initial stage of the 2009 financial crisis, when the Treasury Select Committee conducted a thorough review of the banking sector in the course of which its hearings received considerable media attention.

The first detailed cross-departmental investigation of the select committees' impact on government policy for many years concludes

that numerous committee recommendations are implemented by government, including many for major policy change. The overall success rate of Select Committee reports' recommendations was at almost 50% in the 1997–2010 period (Benton & Russell, 2012). However, the most important form of Select Committees' impact is is the threat of future evidence sessions and inquiries, especially since the ever-closer link between committees and the House (Norton, 2013: 143).

Post-legislative scrutiny of the implementation of legislation is a rare event in the United Kingdom and is usually only carried out if explicitly envisaged in the respective law (such as in the 2001 Anti-terrorism, Crime, and Security Act) or when the effects of laws were clearly unwanted (as with the 1991 Child Support Act). Since 2008, post-legislative scrutiny is regularly carried out by the respective ministries and sent to the respective Select Committees which then could undertake their own enquiry (Norton, 2013: 100).
Another important committee is the *Liaison Committee* which consists of all committee chairs. Since 2002, the Prime Minister appears twice a year in front of the Liaison Committee and answers questions (which are not tabled in advance). So far, it was rather the Prime Minister more than the committee members that performed better during these hearings, but with the increasing professionalization of committee chairs, this may well change in the near future. A general problem with all kinds of scrutiny activities discussed here is that the government can refuse to provide information on initiatives co-funded by private and public sector actors. In recent years, such initiatives (and subsequent refusals to provide information) occurred in a number of policy areas such as the National Health Service, schools, roads, and even prisons. As a consequence, 'quasi non-governmental organisations' (quangos) are almost excluded from control mechanisms. Here, as in any other policy area, parliament can only resort to its most fundamental right of censure: convention prescribes that the government resigns or requests dissolution of Parliament if it is defeated in a *vote of no-confidence*. This 'nuclear option' is, however, only chosen on rare occasion. The last vote of no confidence was (successfully) held in 1979.

Finally, British citizens enjoy the right to present *petitions*. This right arguably was at the origin of the history of the House of Commons.

As early as in the 14th century, Parliament started to promote petitions in order to expand its power (Norton, 2013: 18). However, in modern times, petitions became largely inefficient. They were usually sent to the local MP in the petitioner's constituency who then presented it to Parliament, often without any debate, always without any substantial debate. Governments usually ignored petitions altogether which is why citizens started to bypass Parliament and present petitions directly to the Prime Minister. Since 2010, citizens can also initiate online petitions (called e-petitions). Each petition gaining 100 000 signatures is automatically referred to the Backbench Business Committee for consideration in the plenary. Such consideration has so far always occurred if at least one MP supported the e-petition, sometimes even when the 100 000 supporters threshold was not met (Norton, 2013: 114-5, 236).

British governments can retain *confidential documents* from Parliament to protect national security and in the interest of collective responsibility. There are only two precedents mentioned in the House of Commons' manual (Erskine, May 2011: 446): First, on 10 August 1893, the Speaker ruled that confidential documents or documents of a private nature passing between officers of a department, cited in debate are not necessarily laid on the Table of the House, especially if the Minister declares that they are of a confidential nature. Second, on 16 February 2006, the Speaker ruled that, although a document was highly commercially confidential, a copy of the document should be placed In the Library with any sensitive material removed. This practice has been followed on subsequent occasions. However, secrecy remains a potent government weapon despite the new Freedom of Information Act, which came into force in 2005 (Grant, 2009: 138). Additionally, there is a convention of confidentiality surrounding the Sovereign's communications with his or her ministers (Cabinet Office, 2011: 3).

The term *impeachment* was originally developed in the United Kingdom and dates back to the 17th century. However, there has not been any case of political impeachment of cabinet members by the House of Commons in the United Kingdom for more than two hundred years, and some scholars argue that the whole institution has fallen formally out of use (*desuetudo*). For a long time now the legal responsibility of British cabinet members has in practice been subject

to the ordinary rules of criminal law, both as regards procedure and substance. Misconduct in public office is a common law offence committed by a public officer acting as such who wilfully neglects to perform his/her duty and/or wilfully misconducts him/herself to such a degree as to amount to an abuse of the public's trust in the office holder (European Commission For Democracy Through Law 2013: 10, 12).

To sum up, the House of Commons clearly disposes of routine instruments and *ex post* instruments to hold the executive accountable. It remains to be seen whether recent reforms of Public Bill and Select Committees – with the former more often altering government legislation and the latter aiming to raise attention to problem zones through their reports – will ensure a higher degree of *ex ante* scrutiny. With the exception of Select Committee reports, any 'fire alarm' control hardly exists; committees can be generally regarded as following the logic of 'police patrols'. Consequently, eliciting information is regarded as being more important than censuring the government. The latter is still seen as a breach of the doctrine of responsible party government. Rather, it is the backbenchers *vs.* frontbenchers division which underlies potentially successful attempts to hold the executive responsible.

Table 16: Questions and Emergency Debates in the House of Commons, 2010-12 and 2001-02

	2010-12*	2001-02**				
	total	Cons	Lab	LibDem	other	total
Oral questions answered	4 710	2 511	2 876	688	311	6 386
of which topical	*n.a.*	*1 873*	*1 649*	*469*	*231*	*4 222*
of which asked during PMQT	*n.a.*	*421*	*372*	*130*	*43*	*966*
Written questions	*102 527*	29 217	22 683	12 659	3 043	67 602

of which named for a specific day	*25 272****	*n.a.*
Urgent questions	73	n.a.
Total number of questions	107 310	79 126
Emergency debates	3*****	0
Top 5 departments which received most written questions (numbers)	Health (9 023) Business, Innovation, and Skills (7 690) Treasury (6 650) Defence (6 568) Work and Pensions (6 574)	Health (8 948) Transport, Local Government and the Regions (6 580) Environment, Food and Rural Affairs (6 344) Home Office (6 158) Trade and Industry (4 957)

** Source: Commons Sessional Returns, op. cit., p. 6. According to the House of Commons Information Service, numbers for questions per party are not available for any session after 2002. Note that the 2010-12 session was double-length, so to compare with 2001-02, one has to divide numbers of questions by two.*

*** Source: Young et al., op. cit., p. 18.*

**** Including 4 774 oral questions which received no answer on the floor.*

***** One Conservative frontbencher, two Labour backbenchers.*

Budgeting

The field of budgeting follows the pattern outlined above.
Here, *ex ante* control is particularly weak as a consequence of the fact that it is the majority which almost exclusively sets the parliamentary agenda. As the minority has no control of the legislative timetable, the majority often inflates the agenda with issues of minor importance to avoid debates on controversial topics. This explains why 'ways and means', i.e. taxes and duties, are hardly debated: during the 2000s, the annual average time spent debating the Finance Bill was five days (of about 150 annual sitting days). Even though the House of Lords' Economic Affairs Finance Bill Sub-Committee performs a closer scrutiny, its impact remains limited as it is not able to amend the Finance Bill. Similarly, the number of 'supply days' is limited. As the discussion of expenditure traditionally was the opportunity on which the opposition raised its topics – not necessarily related to economic issues at all – it was 'supply' which in 1982 was largely transformed into opposition days. This left only three days per year for the discussion of 'estimates' (as the money required for every department is referred to) (McEldowney and Lee, 2005: 79).

On the committee level, the Public Accounts (select) Committee (PAC) scrutinises both estimates and accounts. The PAC is the oldest and most prestigious of all committees, usually chaired by a senior opposition MP. However, it regularly complains that the budget is both too vague (on important issues) and too detailed (on minor issues). In the conclusion of its most recent report on budgeting published in March 2013, the PAC stated that:

"There is also too little external scrutiny in the budgetary process. Parliament does not examine spending proposals, which could help to drive up their quality. Select committees could do more to challenge departmental spending plans, but lack the information needed to undertake this role."
http://www.publications.parliament.uk/pa/cm201213/cmselect/cmpubacc/661/66104.htm
(last accessed 11 March 2013).

According to the summary of this report:

"There were gaps in data which made it difficult to compare options or benchmark spending proposals. There were no incentives for departments to collaborate on cross-government issues. There was no evidence of clear thinking on how one decision to save money in one budget area might lead to an increase in expenditure elsewhere. There was also evidence of game-playing."
http://www.publications.parliament.uk/pa/cm201213/cmselect/cmpubacc/661/66103.htm (last accessed 11 March 2013).

These two quotations are telling examples of the persisting self-confidence of the executive *vis-à-vis* parliament. Against this background it comes as no surprise that the National Audit Office faces the same problems as the Public Accounts Committee. Even though the close cooperation of both institutions has increased "almost exponentially both the quality and quantity of the financial information provided by the government" (McEldowney and Lee, 2005: 80), the NAO still is not entitled to report independently. Rather, its reports are cleared by the departments they touch upon and remain unpublished if the majority of House wants them to be.

EU Affairs

The 1973 EEC accession of the United Kingdom may be regarded as a "massive breach" (Watts and Pilkington, 2005: 106) to the constitutional convention of parliamentary sovereignty. Perhaps as a consequence, EU affairs developed into the only area where both Houses of Parliament are able to hold the government accountable to a comparable degree and have exerted *ex ante* "police patrols" from the outset. European committees were established in both Houses immediately after the United Kingdom joined the European Community. In the Commons, both a Public Bill and a Select Committee are responsible for EU affairs. The European Scrutiny Committee (ESC) enjoys all opportunities of Select Committees. Its main role, defined under SO 143, is to sift EU documents on behalf of the House of Commons, identifying those of political or legal importance and deciding which should be debated. Since 1998, its scrutiny also covers the intergovernmental aspect of EU politics, which means that the ESC also scrutinises soft law, the negotiating

position of UK ministers, and agreements within the European Council. The ESC consists of 16 members and a staff of 16, who mainly assess departmental documents (about 900 per year), each of which is accompanied by an explanatory memorandum (EM, including the government position on a proposal) and a regulatory impact assessment (RIA). The ESC publishes weekly reports on the evidence it has received and usually submits two reports to Parliament per year, each prompting a one-hour debate in the plenary (when possible preceding European summits) (Watts and Pilkington, 2005: 143). The aim of this clearly is to influence relevant ministers before they attend European Council meetings (see Table 12).
However, even though the House of Commons is formally entitled to *ex ante* control, its impact remains limited. A resolution adopted by Parliament on 17 November 1998 held that "no Minister should give agreement to any legislative proposal or any agreement under Titles V or VI [the pillars of security and defence and justice and internal security] which is still subject to scrutiny or awaiting scrutiny by the House". However, in reality documents and EMs are often delayed and, as the abovementioned resolution is no statute law, the government can chose an 'override' mechanism to avoid parliamentary scrutiny, which it does on a regular basis: override occurred 350 times between 2001 and 2008 (Grant, 2009: 152). In line with this, the ESC is one of the few European Committees which do not automatically have access to confidential documents (European Scrutiny Committee, 2014: 33). Another problem of European affairs scrutiny is the lack of willingness of MPs to serve on the Public Bill Committees. On average, the ESC confers 50-70 bills to one of the three European Committees per year. Tellingly, a 1997 Modernisation Committee had proposed to increase the number of these committees to five. However, only three – agriculture and fisheries, social security and home affairs, and trade and industry with 13 permanent members each – could be filled due to the lack of interest among MPs (Giddings, 2005: 224).

By contrast, the House of Lords' European Union Committee (EUC) faces no recruitment problem given the large number of former political office-holders among its membership with considerable EU experiences, which ensures interest in, and knowledge of, EU affairs within the committee. Like the ESC, the Lords' committee scrutinises draft legislation, Commission proposals and EU policies. It has about

20 members and six permanent sub-committees dealing with specific policy areas which involve an additional 50 co-opted peers. This ensures that roughly 10% of all EU proposals are scrutinised of which half are discussed on the floor of the House of Lords (Watts and Pilkington, 2005: 140-141). The EUC not only covers a wider area of responsibility than its Commons counterpart, it also enjoys a higher prestige as it concentrates on 'big issues' rather than day-to-day business. Accordingly, EUC reports are much more detailed and generally regarded as being characterised by profound expertise.

Since 2009, national parliaments can make use of new measures under the Lisbon Treaty. An early warning system was institutionalised which allowed parliaments to issue a 'yellow card' through 'reasoned opinions' indicating potential breaches of the principle of subsidiarity to the European Commission. So far, the new treaty has not prompted any institutional responses from either chamber of the British Parliament. However, since December 2009, the ESC has announced eight reasoned opinions and the EUC four. This is above the European average of 5.4 for all 38 EU national parliaments and is even more remarkable as 10 of the 38 national parliaments had not used reasoned opinions at all up to August 2011 and only 9 had used only one (see www.ipex.eu/IPEXL-WEB/search.do, last accessed 18 March 2013; and Bellamy and Kröger, 2012: 13). This level of involvement can be regarded as an indicator that recent changes in committee structure (to be discussed in the following section) seem to have rendered the ESC more (pro-)active.

Table 17: House of Commons' Public Accounts and European Scrutiny Select Committees, 2010-12 and 2001-02

	Public Accounts		European Scrutiny	
	2010-12*	2001-02**	2010-12*	2001-02**
Members	19	17	16	16
Attendance (% of sittings)	67.9	65.8	53.9	58.1

Budget (£, excluding staff)	261 260	55 147	377 252	97 756
Reports	90	68	65	41
Witnesses heard	316	291	45	54
Number of permanent staff***	n.a.	12	15	13

* *Source: House of Commons, Sessional Returns. Session 2010-12, London: HSMO 2012. Note that the 2010-12 session was double-length, so to compare with 2001-02, divide numbers for the budget, reports, and witnesses by two.*

** *Source: House of Commons, Sessional Returns. Session 2001-02, London: HSMO 2002.*

*** *Equivalents of full-time positions.*

Concluding Remarks

Two major reforms of executive oversight and control mechanisms were carried out in 2010: first, Select Committee chairs are now elected by the whole House through a secret ballot and, second, a Backbench Business Committee was institutionalised so it broke with the pattern of exclusive government agenda-setting. These reforms became possible primarily because of the 2009 expenses scandal, which triggered an inquiry by the Committee on Standards in Public Life into MPs' allowances. Consequently, a large number of MPs had to pay back expense claims and four were even sentenced to jail. Additionally, Speaker Michael Martin was forced to resign (the first Speaker to be expelled in more than 300 years). The ensuing crisis of the House's legitimacy prompted not only stricter regulation of parliamentary conduct, but also an extension of its autonomy *vis-à-vis* the executive. Prior to 2010, the Committee of Selection (which was dominated by the whips) appointed committee chairs. This explains why the election of Select Committee chairs released Committees from whip influence. It remains to be seen whether Select Committees now further develop from instruments of *ex post* scrutiny to origins of *ex ante* scrutiny and sources of inspiration of legislation. As Table 12 suggests, both the PAC and the ESC were more active in the 2001-02

session than in the 2010-12 (double-length) one. However, recent research suggests that Select Committees have recently become more independent from the frontbenches as they have established close mutual relations with their respective departments (Benton and Russell, 2012). In a similar vein, the institutionalisation of a Backbench Business Committee under SO 14 provides the Select Committees better access to the plenary of the House. The committee sets the agenda on approximately one day a week. However, for the time being, votes after backbench debates merely count as resolutions not binding on the government. This illustrates that despite recent reform initiatives, the doctrine of parliamentary sovereignty still exerts its paradoxical effects in the United Kingdom and sustains parliamentary actors' self-constraint.

2.5. Sweden: The Primacy of Transparency

Sweden is a party democracy with high levels of party cohesion. What distinguishes Sweden from the other countries under investigation in this report is an emphasis on parliamentary representation which clearly trumps that on oversight and control and especially on holding the executive accountable. From a Swedish perspective, collective representation and the related and equally important value of openness (both in the Swedish polity and the EU) are not only means, but ends in themselves. Accordingly, seating in the Swedish parliament, the *Riksdag*, is by region and not by party affiliation. The stress on collective representation explains why the opportunity to cast a personal vote was only introduced in 1998 and is still used by a relatively small minority of voters. In the 2010 general election, approximately 25% of all voters cast a personal vote (Widfeldt, 2011: 596). Openness is ensured by the Swedish Freedom of Information Act, the antecedents of which can be traced back to the 18th century. Accordingly, parliamentary oversight and control in Sweden largely aim at obtaining information in order to influence policies parallel to their formulation. In contrast, screening mechanisms and *ex post* sanctions hardly exist. The most important prerequisite for *ex ante* control activities are the tradition of minority government and the absence of a clear-cut distinction between government and opposition that is characteristic of Westminster democracies.

Legal Setting

The elaborateness and integration of the legal framework underlying executive-legislative relations in Sweden is exceptional. The 1974 Swedish Constitution puts special emphasis on the delegation of power from the people to parliament. This also explains why, in 1974, a unicameral legislature was institutionalised (with currently 349 MPs) as the sole bearer of responsibility. Constitutional rules are not subject to judicial review. Given the important role of collective representation, parliament and the executive are formally distinct from each other. Most important in this respect is the 'incompatibility rule', according to which MPs must resign their parliamentary seats when they become ministers. Up to 1974, members of the executive were not even allowed to attend committee meetings. Parliamentary control in Sweden is highly regulated in a well-integrated legal framework. The most important mechanisms of holding the executive to account are included in chapter 13 of the 1974 Constitution (*Regeringsformen*, RF). In fact, these mechanisms go back to the 1866 and 1809 predecessors of the current Constitution. Five constitutional mechanisms are of primary importance: the annual review of the Constitution Committee (RF Ch. 13, §§ 1-2), votes of confidence (RF Ch. 13, § 4), interpellations and questions (RF Ch. 13, § 5), the *Riksdag*'s Ombudsmen, and the National Audit Office (RF Ch. 13, §§ 6-7).

The constitutional instruments of executive oversight and control are further specified in the *Riksdag* Act (*Riksdagsordningen*, RO), which occupies a middle-position between constitutional and regular law. Changes to major RO stipulations (to which in fact all mentioned in this report belong unless stated otherwise) require the same supermajorities as constitutional changes, i.e. simple majorities in two *Riksdag* decisions between which an election has to take place. The RO can also be changed by a ¾-majority. However, it needs to be pointed out that the above mentioned oversight and control mechanisms are no 'parliamentary matter' in the RO sense as they do not contribute towards decision-making (the parliamentary function the RO is devoted to) (Bremdal, 2011: 82). For this reason, there is no legal obligation for ministers to answer questions, which, however, always happens by convention. Similarly, plenary debates on special affairs (*särskilda debatter*) are also only regulated in an additional stipulation to Chapter 2 of the RO (§ 14.2), which is subject to change

by simple majorities. This illustrates that parliamentary information features more prominently *than* accountability in Sweden's legal setting. Additionally, the *Riksdag* Act specifies the set-up of, membership in, and minority rights in committees (to be discussed below). After Sweden's accession to the EU in 1995, an additional chapter (10) was included in the RO which regulates scrutiny of EU affairs in relation to standing committees, the Committee on EU Affairs, and the plenary. After the ratification of the Amsterdam Treaty, the stipulation that governments need to inform parliament about EU affairs also became part of the Constitution (Ch. 10 § 10). Since Sweden's accession to the EU, administrative courts can repeal acts contradicting European law.

Political Setting

In Sweden, the (relatively small) government departments are principally responsible for the initiation of policies, whose implementation is overseen by a separate network of about 300 central administrative boards and agencies. This restricted ministerial power softens the dualism between government and opposition. Consequently, Sweden is often described as an ideal-typical consensus democracy based on a hierarchical elite culture (Esaisson and Holmberg, 1996). There is a tradition of minority government and Social Democratic dominance of the party system. Given that the Social Democrats governed for 69 out of 93 years between the introduction of universal suffrage in 1921 and 2010, consensus-orientation in Sweden was often regarded as an expression of Social Democratic dominance: "In our account, consensus is often a surface phenomenon produced by Social Democratic hegemony, a resulting construct rather than a way Swedish policy and politics work" (Heclo and Madsen, 1987: 30). These traditions clearly constrained parliamentary oversight and control.

However, recently, a growing emphasis on majoritarian government has begun to undermine the traditional pattern of minority government and selective (policy) inclusion of the opposition. The period between 1998 and 2006 was one of 'contract parliamentarism', in which the Greens and the post-Communist Left Party supported a Social Democratic minority government along policies and procedures outlined in a formal toleration agreement (Bale and Bergman, 2006).

The centre-right bloc accordingly also increased its coordination, and in the 2006–2010 period, a formal coalition of the four centre-right parties (Conservatives, Christian Democrats, Liberals, and the Centre) held office. However, when the Sweden Democrats became the eighth parliamentary party in 2010, the centre-right coalition lost its majority and currently forms a minority government seeking support from the centre-left parties.

Institutional Setting

In Sweden, parliamentary control exists in a variety of institutional forms. The most important mechanisms at the disposal of the *plenary* of the *Riksdag* are interpellations, questions, votes of confidence, and motions to the Constitution Committee (*Konstitutionsutskottet*, KU). Interpellations have existed since 1867, whereas oral parliamentary questions were only introduced in 1938 and written questions in 1995. Procedurally, interpellations and questions are not clearly separated from each other; the *Riksdag* Act only states that the former need to be motivated (Ch. 6 § 1). Since during the 20th century, interpellations became a means of expressing confidence in government or lack thereof (Bremdal, 2011: 73), questions were also introduced as a less formalised means of receiving information from ministers. There are procedural and practical differences between interpellations and questions even though both are often factually similar (Bremdal, 2011: 85). Procedurally, interpellations need to be motivated and approved by the Speaker (even though the chamber can overrule the Speaker's judgement), while questions are simply noticed to the Speaker who passes them on to the respective minister (no spontaneous questions). Ministers have six minutes to answer interpellations and MPs can then speak for up to four minutes each. Questions have to be tabled until Fridays and are answered during the weekly question time which usually takes place on Thursday (Holmberg et al., 2012: 839). Practically, interpellations often touch upon more general political matters while questions concern more technical subjects such as concrete measures government aims to take (Bremdal, 2011: 86–8). While interpellations receive a written answer additionally to the oral one given in the plenary, questions do not. However, MPs can ask ministers written questions throughout the year. Ministers have to reply to written questions within five working days (unless the Riksdag is in recess). Given that all procedures in the *Riksdag* rely on

informal coordination between party groups, there are no sanctions in case deadlines for responses to interpellations or written questions are missed. There are, however, no signs of any breaches of the rules outlined in the previous paragraph. Apart from the suspensive veto on interpellations mentioned above, the Speaker has no prerogatives with respect to questions.

Standing committees play a very important role in the *Riksdag*, but to a lesser extent with respect to oversight and control activities. There are currently 15 standing committees with 17 members each, which means that 255 out of 349 MPs are involved in committee work (the others only as substitutes). Committees explicitly shadow departments as there is a formal obligation to prepare all legislation in a committee before it can be passed on the floor (the so-called *beredningstvång*). Committees must deal with all parliamentary motions. Additionally, they can initiate legislation or ask the government to set up a commission of inquiry preparing legislative proposals. In contrast to what the name may suggest, public commissions of inquiry are primarily concerned with the pre-legislative stage of policy-making. MPs usually serve long terms on committees and can hence be regarded as policy experts. There is a special protection for minorities in committees: upon request of five members, consultations with the government have to be scheduled. Even individual members can insert dissenting opinions in committee reports (which usually weaken their political impact). Despite their key role in the legislative process, committees organisationally reflect the modest resources of the *Riksdag*: even the *primus inter pares* among all committees, the Constitution Committee, only had a staff of 13 in 2012. The Constitution Committee also plays the most important role because it performs *annual reviews* of the government (to be discussed below).

Committees are also the main actors with respect to the monitoring of the implementation of laws. Since 2001, each committee of the Riksdag is obliged to follow up and evaluate (‘*följer upp och utväderar’*) decisions taken in its policy area under Article 4:8 of the Instrument of Government (*Regeringsformen*) (Holmberg, 2012: 263-5). This reform was introduced in the wake of the adoption of new public management in the 1990s which delegated more powers to public agencies. Committees’ monitoring activities, which encompass both a descriptive and a normative element, primarily play a role in

their (compulsory) reports on new laws. Apart from that, committees may publish short (online) reports themselves. In the 2008-10 period, 35 such reports were published (Holmberg, 2012: 799). A thorough assessment of all laws is not envisaged. Committees themselves decide which topics or particular laws the follow up on and evaluate.

In Sweden, a simple majority of the Constitution Committee decides whether or not to initiate criminal proceedings against a government minister (European Commission For Democracy Through Law 2013). The decision then is directly referred to the Supreme Court (*Högsta domstolen*). According to Article 13:3 of the Instrument of Government, gross negligence on behalf of government ministers is a necessary condition and damage to third parties an aggravating circumstance. However, this procedure has not been used in modern times.

Furthermore, there are two additional institutions controlling the executive that report to parliament. There are currently four *Parliamentary Ombudsmen* (*Riksdagens Ombudsman*). These are elected by the *Riksdag* for a term of four years (re-election is possible and often takes place). The ombudsmen's major task is to ensure that the administration acts impartially and respects citizens' constitutional freedoms. The ombudsmen exercise control on the basis of complaints from the public. These complaints can concern central government agencies (excluding departments, but including courts of law), municipal agencies, and other public institutions (Mattson, 2009: 190). Their staff of currently 51 dealt with 7 312 letters of complaint in the 2013/14 parliamentary session, 8% of which resulted in a 'statement of criticism' (see http://www.jo.se/sv/Om-JO/Statistik/, last accessed 16 June 2015). The Ombudsmen have no powers to counteract misbehaviour but are entitled to legally charge officials. They submit one to two formal reports to parliament per year and about 15 more informal briefings to the *Riksdag* and its respective committees. Beyond the Ombudsmen, there is no instrument or body concerned with the protection of fundamental rights and freedoms of individual citizens. There also is no formal petition procedure. That is to say that citizens' requests and complaints rarely enter the parliamentary agenda but are usually reconciled, if admitted by the Ombudsmen, in an internal report. In 2013/14, 37% of all complaints were subject to a

review; 26% were relegated to another public body after initial review and 11% were fully investigated by the Ombudsmen.

The *National Audit Office* (*Riksrevisionen*) only became solely responsible to parliament when it merged with the *Riksdag's* Auditors in 2003. Led by three Auditor Generals, it currently has a staff of 320. Like the Ombudsmen, the Auditor Generals are appointed by Parliament. Up to 2011, a board with 11 MPs from all parliamentary parties monitored all NAO audit activities. Since then, this task is performed by a Parliamentary Council (*parlamentarisk råd*) with eight members (one from each party represented in the *Riksdag*). In contrast to the board, the Parliamentary Council has no oversight powers. It is not a steering body, but rather a clearing unit between the NAO and parliament. The Auditors General report directly to parliament and its committees. There is no equivalent of a special audit committee (like, for instance, the Public Accounts Committee in the UK). Rather, reports are considered by the committee in whose jurisdiction they fall. Like the Ombudsmen, they can freely decide on their investigations, but cannot take any binding decisions. Their main task is to ensure monies are spent reasonably. There are basically two forms of evaluations: first, annual audits, which primarily control for the reliability of budgets; second, performance audits, which control for cost-efficiency of state spending. Annually, the NAO produces around 30 'effectiveness reports', which are channelled to parliament and its committees through the Parliamentary Council. Upon parliamentary request, the government has to respond to these reports within four months.

Instruments of Executive Oversight and Control

As already pointed out, most parliamentary instruments of executive scrutiny and control are routine elements included in the ongoing process of policy formulation which primarily aim at gathering information rather than censure the government. The only significant exception to this rule are *interpellations*, which often intend to put political pressure on the government. Interpellations have to be approved by the Speaker (whose verdict can be overruled by the plenary. If an interpellation is not answered within two weeks, the respective department has to explain the reasons for this to the MP who submitted the interpellation. In the 2011/12 parliamentary

session, there were 358 interpellation debates, which usually lasted between 15 and 45 minutes.

Since 2003, the *Riksdag* holds a *question time* every Thursday. The Prime Minister attends question time every third week; otherwise a (rotating) panel of five ministers answers questions concerning their jurisdiction. Oral questions need not be tabled, they are asked on the spot (a one minute rule applies) and answered immediately. Follow-up questions are possible upon request. The parliamentary steering body, the Speaker's Conference, decides in advance about how many questions each party is entitled to ask. Even though the Swedish question time was modelled after the British prototype, the behavioural difference between the two is striking. Since most Swedish MPs emphasize legislation, question time *à la suédoise* arguably is "deferential and quietist" (Arter 2008: 135). Given the institutional opportunities for (and primary importance of) policy formulation, Swedish MPs strive for information in the first place. The focus of the Riksdag on legislation implies that the efficiency of oral questions (and interpellations) has been disputed since these instruments came into existence. Critics, on the one hand, argued that questions caused too much work for ministerial bureaucracies (for numbers, see table 13 below). Defenders, on the other hand, pointed towards the protracted procedure which meant that questions could not fulfil their function. However, there is general consensus that questions cannot be further restricted, especially since their number is modest when compared to other parliaments such as the House of Commons (Bremdal 2011: 91–4).

The only formal mechanism decidedly aiming at sanctioning government is the *vote of no confidence*, which is also possible against individual ministers. A vote of no confidence requires a minimum of 10% of all MPs (35). To be successful, no confidence votes need to be supported by more than half of all MPs (175). If a vote of no confidence is successfully directed against the Prime Minister, the whole government must resign. Five votes of no confidence occurred since 1974, all of which were unsuccessful. However, the threat of a vote of no confidence has triggered resignations on three occasions (1981, 1988, and 2006).

Another plenary instrument of executive oversight and control are *debates on special issues* (RO Ch. 2, § 14). These debates can take two forms: first, topical debates with fixed time slots such as free debates following government addresses, party leaders' debates (three per year), the annual debate on foreign policy, the debate on the special report from the Constitution Committee (see below) and the two general debates in combination with parliamentary recess in winter and summer. Second, debates on current affairs, six to seven of which usually take place per session. Such debates are guided by special rules. For instance, the ministers whose portfolio is concerned by the debate need to be present. Additionally, speaking time is restricted to a maximum of six minutes (for party leaders). Finally, every MP is entitled to forward *motions to the Constitution Committee* (*anmälningar*). Such motions aim to investigate the conduct of cabinet members and serve as the basis for the special reports of the Constitution Committee (see below). An assessment of 143 such motions between the 2002/03 and the 2006/07 sessions revealed a growing partisan use, with motions to the Constitution Committee being continuously less driven by informational demands (Wockelberg and Öberg 2008: 306-8).

It has already been mentioned that the standing committees are largely concerned with legislation. The only (partial) exception to this are *public committee hearings*. Such hearings were introduced in 1988 and they are officially acknowledged in the *Riksdag* Act since 2001 (additional stipulation to Ch. 4 § 13). Traditionally, such public meetings were rejected as contradicting the consensual policy style. They were only formally admitted when members of the Constitution Committee began leaking information on its sittings to the media (Arter 2008: 130). In the 2011/12 session, all committees together held a total of 44 open hearings. However, the cross-examination of witnesses is still widely rejected and two thirds of all committee meetings are closed to the public, with closed meetings still being the default prescribed by the *Riksdag* Act. Additionally, only about a third of all public hearings seem to serve scrutiny purposes, usually *ex ante* rather than *ex post*. Despite the growing dualism between the political blocs, a "party culture" and "committee culture" operate simultaneously (Arter 2008: 138).

The only committee activity deliberately aimed at scrutinising the government is the *Constitution Committee's annual review of government*. This instrument goes back to the 1809 constitution which already gave the committee the right of scrutiny, and, even more importantly, access to confidential government papers under Sweden's FOI Act. Since 1997, the annual review is performed in two parts which aim to separate procedural from political questions. The first is the autumn review on 'general matters'. Here, the KU investigates whether procedural rules of administration were observed, whether the executive responded to parliamentary resolutions and questions in time and whether it kept to its proposed schedule of legislation outlined in the annual policy statement of the government. The second and more important review is published in spring and concerns 'special matters'. This is a longer and more political review responding to MPs' motions put forward to the committee. Here, the most common topics are questions on weapons exports, gender equality, and foreign policy in general. The special review has grown ever more important since 1974. One consequence of this development is that the reports have become much longer, from about 50 pages after 1974 to more than 200 pages for the special report alone in 2012 (excluding appendixes). With the only exception of the periods of centre-right minority government (1982-83 and 1994-98), the share of unanimity on the usually 25-40 items covered by special reports nonetheless grew continuously to about 90% in 2005, but then fell to currently 70%, most likely due to increasing tensions between political blocs (Bremdal, 2011: 82).

The Constitution Committee can request confidential documents from the government upon majority decision; if minorities ask for such documents, majorities usually accept this (Holmberg et al., 2012: 583). With respect to special reports, the government can refuse to reveal confidential matters to the Constitution Committee only in case of matters enumerated in the Secrecy Act such as national security and matters related to other countries but not the EU (Holmberg et al., 2012: 685, 797, 929-30). Apart from the Constitution Committee, all parliamentary committees can request confidential documents under Article 4:11 of the *Riksdag* Act from all public bodies which, in this case, are exempt from secrecy obligations (Holmberg 2012: 785, 790). The only partial exceptions concern matters explicitly mentioned in

the Secrecy Act (see above) and public committee meetings, during which public bodies can refuse to give confidential information.

Without doubt, it is the Constitution Committee which provides the most important reports aiming to control the government. As for the effectiveness of these reports, there is evidence of some concern that the double nature of the Constitution Committee as an agency preparing both procedural and political reviews. This becomes clear in the number of reservations attached to the Constitution Committee's reports. Reservations were attached to a mere 5% of the subchapters of all 13 general report presented up to the 2009/10 session. This share rose to 3% in the special report which was of a more political character (Bremdal, 2011: 153). Paradoxically, the general reports are often more critical since they are presented unanimously which implies that the majority is less inclined towards restricting critical undertones. However, these criticism are often less political insofar as they are usually not directed towards a particular minister and rarely concern politically controversial matters. The general reports primarily aim at the executive and the bureaucracy at large while the special reports are explicitly directed towards the respective ministries. The general expectation is that the government follows the Committee's advice and explains itself if it does not regarding specific concerns (Bremdal, 2011: 168). However, critics maintain that the executive shows no signs of taking the Constitution Committee's reports into consideration when it comes to changes to decrees regulating the implementation of laws. One reason for this is the growth of legislative activity in the wake of Sweden's EU accession which, according to the government, renders it more difficult to react to the Committee's suggestions (Bremdal, 2011: 158).

Under exceptional circumstances, the Constitution Committee additionally submits *ad hoc reports* to parliament. The last *ad hoc* report was issued in the wake of the 2004 tsunami disaster in Southeast Asia, when the Prime Minister and the Foreign Minister came under severe pressure over alleged mismanagement with respect to aid to Swedish victims of the tsunami. This report had considerable consequences. The Foreign Minister resigned when, after the publication of the committee report in 2006, a vote of no confidence became likely. This illustrates that, especially with respect to institutions and procedures, the Constitution Committee's advice is

taken seriously by the government, even though the committee lacks any formal powers, which remain with the Chamber. Finally, the Constitution Committee can impeach a minister for breach of the Constitution. However, the last time this happened was in 1854. Since then, judicial responsibility of the executive has remained a "dead letter" (Bremdal 2011: 111).

Table 18 summarises the use of the control instruments outlined above as far as data are available (which is not the case for oral questions as these do not have to be tabled). Two sessions were chosen here: the last one of the Social Democrat minority government (2005/06) and the first of the four-party centre-right minority government (2011/12). Overall, the results illustrate the recent rise of tensions between the political blocs, which obviously were put on hold recently when the centre-right was forced to form a minority coalition government. The centre-right MPs currently make virtually no use of any control instrument with the exception of written questions as the most widely used instrument. In contrast, the Social Democrat minority government faced interpellations and motions to the Constitution Committee from across the political spectrum, even though tolerating parties (Greens and Left Party) were indeed more modest than opposition ones.

Table 18: Interpellations and Questions in the Riksdag*, 2011/12 and 2005/06*

	2011/12*		2005/06**		
	total	opposition parties (%)	total	opposition parties (%)	parties tolerating government (%)
Interpellations	443	99.3	479	81.6	14.4
Questions to Constitutional Affairs Committee	23	95.7	59	74.6	23.7
Debates on current affairs	9	100	6	n.a.	n.a.

Written questions	766	85.0	2102	76.1	10.7
Top 5 departments which answered most written questions (numbers)	Business (114) Foreign Affairs (114) Finance (113) Social Affairs (112) Justice (77)		Business (468) Justice (304) Foreign Affairs (300) Social Affairs (234) Education and Culture (215)		

Source: www.riksdag.se/sv/Dokument-Lagar/

and http://www.riksdagen.se/sv/Debatter--beslut/ (last accessed 15 March 2013).

** Four-party centre-right minority government (Conservatives, Liberals, Christian Democrats, and Centre).*
*** Single-party minority government (Social Democrats) formally tolerated by the Left Party and the Greens.*

The number of interpellations has risen almost uninterruptedly since 1974; starting from about 200 to a high of almost 700 in 2003/04. Since then interpellations have declined to about 400. Evidence from both parliamentary sessions under investigation suggests that interpellations are a clear-cut opposition instrument. The same is true for motions to the Constitution Committee and plenary debates on current affairs, both being virtually exclusively requested by the opposition. Written questions increased even more sharply from less than 500 in 1974 to above 2,000 in the 2005/06 session. However, their number then declined markedly. This fall might well reflect policy deals entered into between the centre-left opposition and the government. The top five departments to which most written questions were directed to remained more or less the same even though the distribution of questions between departments was far more equal in the 2011/12 session.

One can conclude that the parliamentary instruments for oversight and control are widely used, mostly to gather information, as a corrective function (most notably exerted by the Constitution Committee's special reviews), and, in third place, with the aim of holding the executive accountable. This explains why formal sanctions hardly

exist and why those that do are virtually never employed. However, both anticipatory effects and the informal scrutiny performed by policy networks, especially within the governing parliamentary parties, should not be underestimated. The Swedish executive is generally too weak to persistently ignore demands from the powerful parliamentary parties. However, the dominant pattern of hierarchical elite representation most likely serves as a check on such demands.

Budgeting

The budget is of major importance in the Swedish *Riksdag* and occupies a very prominent place on its agenda, especially with respect to the standing committees. The budget procedure was subject to a significant reform in 1996 in the wake of the severe economic crisis during the early 1990s. As the traditional procedures were regarded as being too much inclined towards fiscal indiscipline, a shift from decentralised *ex ante* influence towards centralisation and greater accountability for results occurred. The former procedure was prone to inflating the budget, because the final result only became visible in the end of the process, when all committees brought the budgets for 'their' departments together. In 1996, this "balkanised committee authority" (Wehner 2007: 318) was abolished and replaced with top-down budgeting in 27 'expenditure areas' and an organic budget law limiting opportunities for off-budget expenditure. Accordingly, the Finance Committee was granted the right to monitor all other committees. The latter were still able to discuss and amend the budget, but had to keep to the spending limits outlined at the outset of the budgeting process. The all-party consensus on fiscal discipline behind these reforms was also reflected by an extension of legislative periods from three to four years with the ultimate aim of avoiding incentives for log-rolling.

However, the higher degree of centralisation of budgeting also meant that all standing committees apart from the Finance Committee lost powers to monitor the ongoing budget process. Needless to say, the biggest winner of this reform was the Finance Department which sets the budget ceilings in the first place. Even minority governments profit from the new rules as they only need to strike deals with one opposition party in each policy area, whereas, due to the voting mechanism in committees, all opposition parties need to agree on one

specific alternative budget to be able to challenge the government (Bergman and Bolin 2011: 266-267). The *Riksdag* attempted to counteract this loss of parliamentary power by increasing *ex post* oversight and control through strengthening the powers of the NAO with respect to budgeting. Since 2003, the NAO reports to parliament ensuring that the chain of delegation remains intact. However, the lack of a parliamentary standing committee in charge of auditing the budget means that opportunities for *ex post* oversight and control are probably still not fully seized at the moment (Wehner 2007: 328).

EU Affairs

With respect to executive oversight and control in EU affairs, the major actors in the Swedish *Riksdag* are the standing committees, the Committee on EU Affairs, and the plenary. It is clear from the last section that the committees play a central role in all EU matters which require legislation (which necessarily needs to be scrutinised by the committee in whose jurisdiction it falls). Additionally, the committees also monitor EU activities in their policy area. The government is obliged to provide respective committees with all documents from the European Commission. Additionally, important European Commission proposals are accompanied by fact memoranda (*faktapromemorior*), stating how these proposals affect Swedish laws. In total, committees received about 1,000 documents and more than 100 memoranda per session throughout the 1990s. These numbers grew to 1,952 documents and 184 memoranda in 2011/12 (Hegeland 2001: 381-382; and http://www.riksdagen.se/sv/Dokument-Lagar/EU/Fakta-PM-om-EU-forslag (for the 2011/12 session) (last accessed 17 March 2013). Not surprisingly, the number of documents a committee receives increases with the degree of Europeanisation of the policy area it oversees. On EU matters, the committee has access to confidential documents without exception (Holmberg 2012: 785-6). Overall, about half of committee reports per session refer to the EU as well as 10% of all written questions and 15% of all questions to the Constitution Committee (Hegeland, 2001: 383-385).

As national governments are the key players in the European Council, the Swedish parliament additionally created a new committee exclusively in charge with maintaining government-parliament relations with respect to European matters, the *Committee on EU*

Affairs. Both the Constitution (Ch. 10 § 10) and the *Riksdag* Act (Ch. 10, § 5) state that the government shall keep the EU Committee informed about EU affairs. Like the other standing committees, it has 17 members which enjoy the same degree of minority protection. Organisationally, the Committee on EU Affairs is as weak as its standing counterparts, with a staff of currently nine. Meetings with the government are always closed, even transcripts of proceedings are secret by default. Open hearings are possible, but rare (only seven occurred in the 2011/12 session even though the committee meets on a weekly basis). Just like the other committees, the EU Committee serves as a 'police patrol' aiming to influence ongoing EU politics, largely relying on memoranda on European Council meetings (*ministerrådspromemorior*). These memoranda also include Swedish positions on major issues Council meetings deal with; they are followed by reports after the end of Council meetings (*återrapport*). Ministers attend roughly 80% of all committee meetings (Hegeland, 2001: 384). Even though there are no incidents of any outright rejection of government action at Council meetings, the committee's informal influence is considered to be significant. Similarly, the committee's role in negotiation processes of new treaties is comparatively strong. During the Amsterdam negotiations, the committee was consulted by the government on a weekly basis. Consequently, even committee members sceptical of European integration were content with the level of involvement (see Hegeland and Mattson, 1997: 86).

With respect to European affairs, the *chamber* can issue resolution, which are not formally binding but still may exert considerable political influence depending on context. The government produces an annual report to parliament which is taken as an opportunity for a more general debate on the EU, which usually takes place in May. Other plenary debates can be initiated via the oversight and control mechanisms outlined above, most importantly through interpellations, questions, and debates on current affairs. The peak in questions and interpellations related to EU affairs was reached prior to EU accession. The sharp decline after 1995 can be regarded as an indicator of a normalisation. In the early 2000s, between five and 10 per cent of all Chamber resolutions concerned EU matters (Hegeland, 2001). In general, EU accession has clearly increased the impact of parliament in what before was considered as foreign policy. Whether its

substantial information rights enable parliament to hold government accountable is more a behavioural than an institutional question. The comparatively high level of involvement of the *Riksdag* in EU affairs is reflected by the high number (37) of reasoned opinions issued by the chamber since the Treaty of Lisbon opened up this opportunity to criticise the European Commission in December 2009 (see http://www.riksdagen.se/sv/Dokument-Lagar/EU/Fakta-PM-om-EU-forslag (for the 2011-12 session) (last accessed 17 March 2013)). This number is especially impressive compared to the average of 5.4 for all 38 EU national parliaments. Accordingly, it can be regarded as a clear indicator of behavioural adaptation to institutional opportunities for scrutiny and control.

Concluding Remarks

A 2008 constitutional review found no reasons for general changes with respect to parliamentary oversight and control (see SOU, 2008: 286). This is also reflected by the current revision of the *Riksdag* Act, on which a commission of inquiry report is due in September 2013. Parliamentary oversight and control are not explicitly mentioned in the commission's official terms of reference. The only task touching upon oversight and control mechanisms is a review of the nomination procedure for both the Parliamentary Ombudsmen and the Auditors General of the NAO. The commission of inquiry is supposed to investigate whether these nominations can be carried out in a more transparent way. Another ongoing reform task is to strengthen the "follow-up and evaluation" (*uppföljning och utvärdering*) function of the *Riksdag*. Even though *ex post* oversight and control, especially by committees, became part of the committee tasks mentioned in RO (Ch. 4 § 18) in 2003, the constitutional reform commission proposed to further increase the importance of this activity by including it in the Constitution. This insertion was accordingly carried out in 2010 (RF Ch. 4 § 8). However, the remaining task in strengthening parliamentary *ex post* oversight and control is one of behavioural rather than institutional choice. Traditionally, most Swedish MPs (not only those belonging to the governing party) primarily see themselves as legislators, an orientation that is closely related to the frequency of minority governments facilitating policy agreements. As the recent trend towards majority rule and more dualistic politics came to a halt

in 2010, it remains to be seen whether a behavioural change towards more *ex post* oversight and control will occur.

2.6. Spain: An Emphasis on Opposition Activity

Comparative surveys of tools of parliamentary oversight and control carried out under the auspices of the Inter-Parliamentary Union (Yamamoto, 2007) and the World Bank (Pelizzo and Stapenhurst, 2012) show Spain to be amongst the countries that possess a differentiated set of institutions, instruments and procedures for the exercise of parliamentary oversight and control over the executive. The use of the powers has to be seen in a political context where, after a period of what has been described as a "hegemonic" parliament in the immediate aftermath of the transition to democracy (Capo Giol, 2003), a dominant executive developed. Accordingly, it has been noted that that the "main determinant of parliamentary accountability in Spain is primacy of the executive (…) One can say that the Spanish parliamentary model is the most pro-executive in Western Europe" (Sanchez de Dios, 2009: 8). This is not to argue, however, that parliament neglects its oversight and control role, since "opposition parties are able to control the government in a very competitive and adversarial way" (ibid.: 9). Thus, whilst successive governments have exerted tight control over the governing parliamentary parties, the opposition has made vigorous use of its rights. As a consequence, "Parliamentary accountability has steadily grown in Spain and it has become very precise and specialised with time thanks to a great variety of procedures which are clearly differentiated" (ibid.:9).

Legal Setting

The Spanish Constitution, adopted in 1978, establishes a parliamentary system. One of the main consequences is that Parliament has, among other functions, to control the actions of the Government. Section 66.2 of the Spanish Constitution establishes "2. The *Cortes Generales* exercise the legislative power of the State and adopt its Budget, control the action of the Government and have the other competences assigned by the Constitution". In order to achieve this goal, Parliament, consisting of the Congress of Deputies and the Senate, has several instruments at its disposal. Most of them are set

out and described in Part Six of the Spanish Constitution concerning "Relations between the Government and the *Cortes Generales*", which contains the main provisions about the oversight and control function. The Constitution also includes references to specific oversight and control instruments such as questions, interpellations and hearings of members of government. There are also two extraordinary mechanisms which usually are also considered as oversight instruments: motions of censure and questions of confidence (sections 113 to 115 of the Spanish Constitution).

The detailed regulation of the above mentioned mechanisms is developed in the Standing Orders of the two chambers and, in some specific aspects, in several resolutions adopted by the Bureau of the Congress of Deputies.

Institutional Setting

The control of the executive lies with the plenary or committees, depending on the instrument being used (see below). Regarding oral questions, they can be answered in the appropriate committee or in the plenary, depending on the request. Specifically, Section 187 of the Standing Orders of the Congress establishes that: "Unless otherwise stated, it shall be deemed that the person submitting the question requests a written answer, and if an oral reply is requested and nothing further is specified, it shall be deemed that such reply is to be given in the appropriate committee". On the other hand, according to Section 183.1 of the Standing Orders, interpellations shall always be dealt with in plenary sittings. With respect to other parliamentary instruments, such as hearings, they usually take place in the committees, although the members of the Government might appear before the full House as it happens for example after every European Council (see below).

Regarding motions, they can be discussed and voted in the plenary or in the appropriate committee. Section 194 of the Standing Orders states that "motions shall be submitted in writing to the Bureau of Congress, which shall decide as to their admissibility, cause them to be published, where appropriate, and resolve upon their consideration on the floor of the House or in appropriate committee, depending upon the intention expressed by the proposing group and the importance of the matter".

Therefore, in most cases, the oversight and control function is performed in the committees or in the plenary depending on the intentions expressed by its author and the decision adopted by the Bureau of the Congress. In practice, most of them are held in the appropriate committees, but the plenary has an important role to play regarding the control function.
Mention should also be made of the Ombudsman, the People's Defender, who upon the nomination of both chambers is appointed jointly by the Presidents of both chambers. His main task is to protect citizens' fundamental rights and liberties and in so doing, he has wide-ranging powers to investigate the activities of public authorities and office holders. As a high parliamentary officer, the People's Defender reports to a special joint committee of the two chambers.

Oversight and Control instruments

As already noted, ordinary mechanisms include, first of all, questions and interpellations. Section 111 of the Spanish Constitution establishes: **"**The Government and each of its members are subject to interpellations and questions put to them in the Houses. The Standing Orders shall set aside a minimum weekly time for this type of debate".

All questions must be submitted in writing to the Bureau of Congress, which is the body entrusted to decide upon the consideration of all parliamentary papers and documents in accordance with the provisions of the Standing Orders. Only questions that are exclusively of interest to persons submitting the same or to any other individual person, or questions involving strictly legal consultation, shall not be admitted.

There are two types of questions: written and oral questions. Oral questions can be answered in the appropriate committee or in the plenary, depending on the request. Specifically, Section 187 of the Standing Orders of the Congress establishes that: "Unless otherwise stated, it shall be deemed that the person submitting the question requests a written answer, and if an oral reply is requested and nothing further is specified, it shall be deemed that such reply is to be given in the appropriate committee".

Oral questions to be answered in committee are published and sent by the Bureau of the Congress to the competent committee depending on the issue. Agendas of committees are approved by the Bureau of each committee and oral questions may be entered in the agenda seven days after their publication.

Regarding the debate, after the question has been put concisely by the deputy, the Government shall reply. The deputy may then respond or ask a further question, and following the Government's further reply, the debate shall conclude. Ten minutes each are allotted to raise and reply to the question, and five minutes each for respective rejoinders. When the time allocated to any deputy has run out, the Chairman of the Committee shall automatically grant the floor to the next person entitled to speak or pass on to the next question.

Although oral questions in plenaries must be answered exclusively by Ministers, in committees they can be answered by Ministers, Secretaries of State or Under-Secretaries. Finally, at the end of a session, any outstanding questions shall be considered as questions for written reply to be answered prior to the beginning of the next session. Interpellations are related to the executive's conduct in matters of general politics, both the Government as a whole or any ministerial department, and are assumed to be reserved for subjects of general interest. In line with their larger scope, interpellations should be tabled in plenary sittings. Usually, they take place right after the "question time" on Wednesdays mornings' plenary sittings. The fact that interpellations must focus on matters of general policy is the main difference to oral questions, which usually concern specific issues.

The regulation of interpellations is established in Articles 180 to 184 of the Standing Orders of the Congress of Deputies and developed by the Resolution of the Presidency of 6 September 1983 on so-called urgent interpellations, which take place at every plenary sitting.

According to the Standing Orders of the Congress of Deputies, parliamentary groups or deputies may interpellate the Government or any of its members. The above mentioned Resolution of the Presidency gives priority to parliamentary groups, so that, in practice, only parliamentary groups table interpellations.

The interpellations must be submitted in writing and tabled in the Registry of the Congress between Tuesday and Thursday of the week before the plenary sitting takes place. The Standing Orders establish that the Bureau of the Congress examines the document and, if its content is not appropriate for an interpellation, it shall convey this fact to its sponsor for the conversion of the interpellation into a question for an oral or written answer. This is in line with the general practice according to which the Bureau of the Congress has to decide upon the consideration of all parliamentary papers and documents in accordance with the provisions of the Standing Orders. Nevertheless, it is the President of the Congress who usually admits interpellations and orders them to be sent to the Government. Only if the President considers the content inappropriate, a meeting of the Bureau of the Congress will be called to decide.

Three interpellations are included in each plenary sitting, with priority given to those tabled by parliamentary groups. At the beginning of a new parliament, a quota is established for each parliamentary group in line with the principle of proportionality.

Interpellations shall be dealt with in plenary sittings. An opportunity is given to the interpellant to explain the interpellation, to the Government to reply, and to each party to respond. Initial speeches must not exceed twelve minutes and rejoinders must be limited to five minutes. The Standing Orders establish that once the speeches by the interpellant and by the person who is to reply are over, a representative of each parliamentary group, except for the group moving the interpellation, may speak for five minutes to make the group's position known. However there is a parliamentary convention according which parliamentary groups do not use this right to speak.

Finally, each interpellation may give rise to a motion in which the Congress makes known its position according to Section 184 of the Standing Orders. The interpellation parliamentary group, or the group to which the signatory of the interpellation belongs, shall table the motion on the day following that on which the interpellation was debated on the floor. After admission by the Bureau, the motion shall be entered in the agenda of the next plenary.

Extraordinary mechanisms include motions of censure and questions of confidence. The approval of a motion of censure or the refusal of confidence are tools with which the Congress of Deputies can instigate the fall of the Government. In either case, these are testimonies to the rupture in the relation of trust that must exist between the Government and the Congress of Deputies inherent in Spain's parliamentary system.

The motion of censure is positive, in the sense that it must include the proposal of a candidate for Prime Minister (as in the German or Polish constructive vote of no confidence). Thanks to this stipulation, it is not possible for the Congress of Deputies to bring down a Government in the absence of an agreement as to the succeeding cabinet, thus avoiding the consequent danger of a period without Government. Such motions must be presented by at least one tenth of the Congress Members, and for its approval an overall majority is required.

As regards questions of confidence, only the Prime Minister, following the previous deliberation of the Council of Ministers, can raise the question of confidence. Its purpose is to confirm the endorsement of the Congress of Deputies, and it must be related to the Government's political programme or to a general political declaration. In contrast to what occurs with the motion of censure, only a simple majority is needed. If this is not reached, the Government must present its resignation, opening itself to the procedure of investiture.

Several additional mechanisms are also sometimes considered part of the oversight and control instruments of the Congress of Deputies. They include parliamentary hearings (appearances), motions or nominations of appointments of high civil officers. However, these are not specific instruments to control the government. For example, hearings can indeed be used as an instrument of oversight and control over the actions of the government, but also as a tool for parliament to be informed about any political or technical issue by a civil servant or a private citizen. Tables 19 to 22 provide data on key oversight and control activities for the IX legislature. They underline that the then largest opposition party – the Popular Party – accounted for the largest number of interpellation and questions.

IX Legislature[1] (2008-2011)

Table 19: Interpellations

Author	**Tabled**	**Withdrawn**	**Relinquished**	**Rejected**	**TOTAL**
Socialist Party Parliamentary Group					0
Popular Party Parliamentary Group	81	1			82
Convergencia i Unió Catalan Parliamentary Group	48		7		55
Basque Parliamentary Group (EAJ-PNV)	22				22
Republican Left - United Left – Initiative for Catalonia Green Parliamentary Group	45		8	1	54
Mixed Parliamentary Group	43	4	36	1	84
TOTAL	239	5	51	2	297

[1]*The data presented are official figures, prepared by the Legal Services of the House.*

Table 20: Oral Questions in Plenary

Author	Answered	With-drawn	Conver-ted	Relin-quished	Re-jected	Total
Socialist Party Parliamentary Group	367	43		2	1	413
Popular Party Parliamentary Group	813	6		66	1	886
Convergencia i Unió Catalan Parliamentary Group	82	5	2	6	1	96
Basque Parliamentary Group (EAJ-PNV)	79	2		2		83
Republican Left - United Left – Initiative for Catalonia Green Parliamentary Group	81	6		13	2	102
Mixed Parliamentary Group	82	3		3		88
TOTAL	1 504	65	2	92	5	1 668

Table 21: Oral Questions in Committee

AUTHOR	Answered	With-drawn	Converted	Accu-mulated	Extinct	Re-jected	Expired not quali-fied	Reli nquished
Socialist Party Parliamentary Group	147	26	279		6	3	85	1
Popular Party Parliamen-tary Group	1 056	75	644	3	28	23	576	1
Convergencia i Unió Catalan Parliamentary Group	59	3	136			1		
Basque Parliamentary Group (EAJ-PNV)	5	11	3			1		
Republican Left - United Left – Initiative for Catalonia Green Parliamentary Group	7	3	56					
Mixed Parliamentary Group	25	3	139					
Senate Parliamentary Groups	39	3	9					
TOTAL	1 338	124	1 266	3	34	28		

Table 22: Written Questions to the Government

	An-swered	**With-drawn**	**Con-verted**	**Ex-tinct**	**Ex-pired**	**Re-jected**	**Sub-sumed**
Socialist Party Parliamen-tary Group	5 007	18		54	331	9	
Popular Party Parliamen-tary Group	85 047	35	787	222	3 109	800	9
Convergen-cia i Unió Catalan Parliamen-tary Group	3 430	32	2		163	19	1
Basque Parliamen-tary Group (EAJ-PNV)	202	1	2		16	2	
Republican Left - United Left – Initiative for Catalonia Green Parliamenta ry Group	2 565	37	9	91	171	70	8
Mixed Parliamenta ry Group	1 801	34			181	28	
No Group assigned	10			7	2	1	
TOTAL	98 062	157	800	374	3 973	929	18

On the other hand, motions (also known as Non-Legislative Proposals) are often considered as an expression of the so-called "function of *indirizzo politico"* (political impetus). Motions are acts by which the Congress demonstrates its political position concerning a subject or specific problem, usually inviting the Government to adopt a political decision, a legal reform or suchlike.

Even though it is not explicitly regulated in the Standing Orders, it is becoming a common practice to include references to parliamentary oversight and control powers in ordinary legislation. Besides the hearings of the Government before parliamentary committees, there are increasingly frequent references that require other authorities to appear before the competent committees. The lines between information, oversight and control can be blurred in these cases, although some of the Acts clearly refer to "parliamentary control". To give but a few examples:

- The Chairperson of the Nuclear Security Council has to appear before the competent committee to present the annual report on the activities of the Council. The Nuclear Security Council has to report the Congress, the Senate and the regional parliament whose territory might be affected, about any circumstance or event that affects the security of nuclear premises.

- The Ombudsman has to appear before the plenary of the Congress to present its annual report. The day to day relation between the Ombudsman and Parliament is channelled through the Joint Committee of the Congress of Deputies and the Senate for the relations with the Ombudsman.

- International cooperation policy for development in Spain is laid down in the so called Steering Plans (adopted every four years) and Annual Plans (passed annually). Both steering and annual plans have to be conveyed to the Congress of Deputies for them to be discussed and reported before being approved by the Government. The Committee on International Cooperation for Development is to be informed about the level of implementation and compliance of the programmes, projects and actions included in these plans.

- The Spanish Parliament (responsibility lies with the Congress of Deputies) gives prior approval to the participation of the armed forces in all military operations abroad, except in cases of exceptional urgency when the government decision must be conveyed for its ratification to the Parliament as soon as possible. The National Defence Act also lays down that the government has to provide detailed information, at least once per year, about the development of military operations abroad.

- Within the first thirty days of the year, the Government must inform the Committee on Economy and Finance and the Committee on International Cooperation of the Congress of Deputies about the main guidelines and strategies in external debt management.

Budgeting

Since 2003, during the preparation of the budget for the next year, the Government has to submit to the *Cortes Generales* a document detailing the spending target and public debt limit for the next year. The figures included in that document have to be approved by both Chambers of Parliament. Should either reject the spending target and/or the public debt limit for the next year, the Government has the obligation to submit a new proposal within a month.

Organic Act 2/2012 underlines the significance of the spending target and public debt limit for the next year. Once fixed, these criteria are binding not just for the Spanish Government, but for the whole Spanish public sector. The referred Act establishes economic and political sanctions for those entities which do not comply with the objectives set by the *Cortes Generales*.

There is no Supreme Audit Institution in the Spanish constitutional system. The institution that comes closest is the *Tribunal de Cuentas* or Audit Court. According to Section 136 of the Spanish Constitution, the Audit Court is the supreme body charged with auditing the State's accounts and financial management, as well as those of the public sector. Therefore, the State Accounts and those of the State's public

sector shall be submitted to the Auditing Court and shall be audited by the latter.

Even though the Audit Court operates with independence, it is directly accountable to the *Cortes Generales* and discharges its duties by delegation of the same when examining and verifying the General State Accounts. It also conveys to the *Cortes Generales* an annual report informing of any infringements that may, in its opinion, have been committed or any liabilities that may have been incurred.

Relations between Parliament and the Court of Audits are usually conducted through the so-called Committee for the Relations with the Audit Court. This specific joint standing committee was created by an Act adopted in 1982.

There are two specific parliamentary proceedings regarding the work done by the Court of Audits. The final declaration about the General State Account is submitted to the Committee for an opinion. Usually this opinion includes several draft resolutions which are raised to the plenary sitting for discussion and voting. Any other audits as well as the annual report of the Court are discussed in the Joint Committee, which can adopt any resolution about them.

A very important institutional innovation is envisaged through the Budget Office of the *Cortes Generales*. Act 37/2010 created the Budget Office of the Spanish Parliament, and its first head has recently been appointed. It is attached to the General Secretariat of the Congress of Deputies in order to provide technical assistance to control the implementation of the budget. The main duties of the Budget Office include:

a) to follow up and exercise oversight over the implementation of the General State Budget and its settlement;
b) to summarise any economic and budgetary information provided by other private or public institutions;
c) to provide technical advice to deputies, senators and parliamentary groups on budgetary matters and public revenues and spending;
d) to follow up the legislative activity related to public revenues and spending;

e) any other duties entrusted by the Bureaux of the Chambers, on its own initiative or by request of the Committees on Budget.

Section 4 lays down that the Government shall provide the Budget Office with the following information:

a) monthly reports on the implementation of the General State Budget;
b) biannual reports on the implementation level of State Public Sector real investments;
c) annual reports on provisional settlement of the previous year's budget.

Requests for information from the Office should be made in writing and addressed to the Bureau of either of the two chambers. Requests from the Bureaux of the Congress or the Senate and those tabled by the Bureaux of the Committees on Budget in the Congress and Senate are accorded priority. Any information provided by the Office is to be transmitted via the Secretary-General of the Congress of Deputies.

The Office is expected to work under the principles of neutrality and independence. The regulations envisage that

- The interventions of the Office are determined by objectively established criteria.
- Its reports will be confined to all relevant data and all possible options, as well as all reasonable alternatives, but shall not include any proposal or any further assessments.
- The Personnel of the Budget Office will primarily be civil servants of the Cortes Generales. If recruitment of civil servants from other administrations is needed, a contractual relationship will be established to ensure that they will depend only on the Cortes Generales.
- The Office acts in a transparent manner.

The Director of the Budget Office is appointed by the Bureaux of both Chambers in a joint meeting, on the proposal of the President of the Congress of Deputies, after previous consultations with the Board of Spokesmen, from amongst professionals of acknowledged competence in economic, financial or budgetary affairs. The current Director of the Office had previously held several positions in parliament, including Director of Economic Affairs of the Congress.

The Office is divided into two units:

- The unit of budgetary tracking is responsible for tracking and monitoring the implementation of the General Budget of the State, as well as for providing technical and economic advice on budgetary issues. The unit works closely with the services on information, coordination and budgetary planning of the Ministry on Economy and Tax and has access to accounting and budgetary data, particularly the so so-called Accountable Information System (*Sistema de Información Contable, SIC)*. The Office is able to request, through the President of the Congress, any relevant information from the Government or other public entities, which have to respond within twenty days.

- The unit of evaluation and economic advice is responsible for tracking legislative activity that has an impact on public revenues and expenditures, as well as for collecting and systematizing budgetary and economic information developed by public and private institutions. At the request of the Bureau of a Committee, the Budget Office will evaluate the impact on public incomes and expenditures of any bill going through a Committee. In case of a Government Bill, the Bureau of the Committee has the right to ask the Office to analyze the so-called "economic memorandum" sent by the Government and attached to the draft bill. Finally, if the Government refuses to grant its assent to process a Private Member´s Bill due to the fact that it entails an increase in budgeted appropriations or a reduction in budgeted revenue, the Bureau of the Congress can also ask for the Office to draft a report on the budgetary impact of the draft bill. Regarding amendments tabled to any bill, the Bureau of a Committee can ask the Office to draft such an analysis.

This unit of the Budget Office is also able to draft papers on any economic or budgetary information which might be sent to the parliament. In particular, it may produce reports on the evolution of taxes collection based on the data provided by the State Taxing Authority. Such reports and papers will be sent to the Committees on Budgetary Affairs in the Congress and the Senate via the Secretary- General of the Congress of Deputies.

It is important to stress that the organization as well as the functioning of the Budget Office are still being developed. Nevertheless some steps have already been taken, such as the agreement with the Government which allows deputies and senators to have electronic access to information on the implementation of the budget.

EU Affairs

There are no special instruments regarding executive oversight and control in respect of EU related issues, except for a provision of Section 4 of Act 8/1994 regulating the work of the Joint Committee for EU Affairs, which states that the Government shall appear before the plenary of the Congress of Deputies after every ordinary or extraordinary meeting of the Council to inform about the decisions adopted and to have a discussion with the parliamentary groups. Section 203 of the Standing Orders of the Congress establishes that: "Members of the Cabinet, at their own request or by a resolution of the Bureau of the Congress and the Board of Party Spokesmen, shall appear before the full House or any of the committees to report on a given matter". Based on this provision, the Prime Minister shall inform the Congress about the debates, results and any agreement that might have been adopted during the European Councils. Usually, these debates take place one or two weeks after the Council meeting.

Following the provisions of Section 203 of the Standing Orders, the debate begins by an initial statement of the Prime Minister. Afterwards, all the parliamentary groups may take the floor to state their positions, with the subsequent reply by the Prime Minister. There is a second turn (much shorter) for the parliamentary groups and the appearance concludes with a final statement of the Prime Minister, without subsequent voting.

The Joint Committee for EU Affairs, made up of both deputies of the Congress and senators, usually deals with European affairs. This specific committee is responsible for assessing whether draft legislative acts emanating from the EU comply with the principle of subsidiarity. In this regard, the Spanish Parliament, by Act 24/2009, adapted Act 8/1994 of the Joint Committee for EU Affairs to the Lisbon Treaty. Likewise, the Bureaux of both chambers adopted a resolution developing the specific procedure (see Resolution of the

Bureau of the Congress of Deputies and the Bureau of the Senate of 27 May 2010, amending the Resolution of the Bureau of the Congress of Deputies and the Bureau of the Senate dated 21 September 1995, on the development of Act 8/1994, of 19 May, of the Joint Committee for EU Affairs, in order to adapt it to the provisions of the Lisbon Treaty and Act 24/2009).

Also, under the provisions of Act 8/1994 (Section 9), after every biannual presidency of the Council of the European Union, either the Minister of Foreign Affairs or the Secretary of State for the European Union, shall appear before the Joint Committee to inform about the progress achieved during the presidency.

Concluding Remarks

Oversight and control in the Congress of Deputies follow the model of a classical parliamentary democracy. Whilst the governing party (or parties) is tightly disciplined, the opposition parties make vigorous use of the oversight and control instruments available, and these instruments have become more numerous over time. The most recent major institutional innovation, the creation of a Budget Office, promises to make a further major contribution to enhancing the capacity of the Congress.

3. Comparative Conclusions

What picture emerges from the above analysis of executive oversight and control in six European countries? Arguably the single most important finding is that comparative analysis provides no support for the popular "decline of parliaments" thesis, according to which parliaments have been progressively weakened at the expense of national executives. On the contrary, we can observe important innovations – both in terms of institutions and instruments – aimed at strengthening parliamentary capacity for examining executive action and for holding executives to account. In two traditionally executive-dominated systems – France and the UK – major reforms have been undertaken to ensure that parliament is better able to gather information and demand explanations from the government for its actions than in the past. In Germany and Poland, with traditionally strong parliaments, the provisions for oversight and control have been further reinforced, including, but by no means limited to, EU-related policy-making. In Spain too, European integration has been an important driver of innovation. And even in Sweden, with its long-standing emphasis on transparency, parliament has acquired new rights of *ex post* control *vis-à-vis* the executive. Just as importantly, the data presented in the report shows that, on the whole, there has been a fairly steady increase in the actual use of oversight and control instruments made by parliaments. In sum, a central parliamentary function has gained in importance.

This growing prominence of oversight and control has been accompanied by a partial shift in the assumptions, motivations and substantive emphases of oversight and control practices. There continues to exist a clear demarcation of executive and parliamentary domains of action and responsibility in the countries under consideration. However, the idea has progressively gained ground that parliament can make a major contribution to enhancing the quality of public policy throughout the different stages of the policy process. Thus, involvement in the scrutiny of government bills before their adoption by parliament and *ex post* control, notably through the consideration of public accounts, have increasingly been complemented by attempts to monitor selectively the implementation of public policies and to develop parliamentary institutional capacities for policy assessment. The key – explicit or implicit – assumption

behind such reforms is that parliaments are capable of making positive contributions to the quality of public action across the policy cycle, including agenda-setting, policy formulation, decision-taking, implementation and evaluation.

In the context of this partial reorientation, the motivations underlying oversight and control have also evolved. The traditional overriding legal and political concerns are, of course, still very much present: to ensure that the executive acts within the law; and to make the government and public administration answer for their actions to the elected representatives of the people. These concerns reflect a focus on accountability, the "constitutive building blocks" of which include that "1. There is a relationship between an actor and a forum 2. in which the actor is obliged 3. to explain and justify 4. his conduct 5. the forum can ask questions 6. pass judgement, and 7. the actor may face consequences" (Bovens et al., 2010: 37). This emphasis on oversight and control as means of ensuring accountability continues to remain central in the countries under consideration. The predominance of opposition parties in the use of oversight and control instruments underlines the essentially political nature of accountability.

There are, however, indications that legal and political concerns are increasingly complemented by policy considerations. As regards the latter, the prime motivation is not to hold the executive to account, but improve the quality of public action. Accordingly, the performance of public institutions in the delivery of public policies and the question of whether the public policies adopted produce the intended results move centre stage. Economy, effectiveness, efficiency, equity, fairness and sustainability become key substantive emphases in such a policy-focused monitoring and assessment of public action.

As detailed in Section 2, parliaments have adjusted both their institutional settings of executive oversight and control and the instruments employed so as to reflect changing assumptions, motivations and substantive emphases. The processes through which these adjustments have been achieved have differed from country to country as has the extent of change. They have ranged from constitutional reform, as in France, to amendments in parliamentary rules of procedure and gradual changes in parliamentary standard operating procedures and conventions. But what emerges quite clearly

is that parliaments, notwithstanding different legal and political frameworks, regularly possess considerable scope for innovation provided there exists the political will to strengthen parliamentary oversight and control.

The most fundamental challenge posed to all of the parliaments considered in this report has been how to exercise oversight and control – both in the sense of classical political accountability and with a focus on institutional and policy performance – in the face of a growing dispersion of executive power and competences for public policy-making. This challenge has been much debated with reference to the concept of "multi-level governance", which draws attention both to (1) the progressive accumulation of policy-related powers and responsibilities at the level of EU, but also other international and supranational organisations and authorities, on the one hand, and (2) processes of federalisation, regionalisation and decentralisation that have occurred in several EU member states, on the other. In Germany, the Federal Government is confronted with 16 *Länder* governments and the administration of Federal legislation is largely the prerogative of *Länder* and local administrations. But other countries, too, have experienced major shifts in the territorial organisation of executive power, notably Spain, with its autonomous communities established under the 1978 constitution; and the United Kingdom. In the latter, long regarded as an archetypical unitary state, a fundamental reorganisation of political power took place through the creation of the Scottish Government and Parliament, the Welsh Government and National Assembly, and the Northern Ireland Assembly and Executive in the late 1990s.

The more public policies are designed, decided upon, and implemented within complex multi-level systems encompassing subnational, national, international and supranational governments, administrations and assemblies, the more traditional oversight and control mechanisms, focused on national executives and their actions in a domestic context, reach the limits of their effectiveness. As regards the challenge arising from progressive European integration, parliaments have employed a diverse set of arrangements, procedures and instruments to keep themselves fully informed of their governments' actions at the EU level; to influence and, in some cases, even mandate their governments' positions in the EU decision-taking

bodies; and to obtain explanations when national positions preferred by a parliamentary majority are overridden in the EU bodies. In case of the German parliament, for example, this has even included the opening of a *Bundestag* Liaison Office in 2007, through with both the *Bundestag* as an institution and the individual parliamentary party groups in the *Bundestag* have a direct representation in Brussels. These initiatives have helped many parliaments to move from the position of observers of integration to active participants, a development also bolstered by the Lisbon Treaty, which has explicitly acknowledged the role of national legislatures in the political architecture of the European Union.

However, whilst intergovernmental co-operation in the European multi-level system is intense, inter-parliamentary co-operation, as a prerequisite for effective oversight and control under conditions of intensified multi-level governance, is still comparatively weak. There are, of course, several bodies designed to improve inter-parliamentary co-operation in Europe, notably the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC). Such bodies have proved helpful in exchanging information about legislative, oversight and control practices amongst EU member states, but they cannot in themselves overcome a systemic hurdle to executive oversight and control across levels: the dynamic of majority and opposition that drives oversight and control in the domestic context. As the country experiences reported in Section 2 show, holding the executive to account in parliamentary systems is principally a function exercised by opposition parties. It is possible that the partial shift to greater policy and performance orientation may be accompanied by a gradual shift in culture through which the government-opposition divide becomes less central in parliamentary oversight and control. But, for the moment, it remains constitutive. As a consequence, the domestic, essentially conflictual logic of oversight and control is difficult to reconcile with a multi-level co-operative culture. Finding effective institutional solutions to this challenge will largely determine the long-term future of parliamentary oversight and control in Europe.

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SIGMA RAPORUNUN TÜRKÇE ÖZETİ

Yasama Meclisleri ve Yürütmenin Gözetim ve Denetimi

(Yürütmenin Gözetimi ve Denetimi: Sorumluluk, Saydamlık ve Performans)

1. Çalışmanın Genel Çerçevesi

- Yürütmenin gözetimi ve denetimi demokratik yönetim sistemlerinde parlamentoların en eski işlevlerindendir. Bununla birlikte bu işlevi yerine getirirken parlamentoların karşılaştıkları zorluklar, başvurdukları araçlar ve kurumlar ve belki de en önemlisi parlamenterlerin gözetim ve denetim yetkilerini ne şekilde kullanacaklarını açıklayan temel mantık değişiklik göstermektedir. Avrupa Birliği üyesi ülkelerde büyük önemdeki yegâne işlevsel güçlük, ulusal parlamentoların geleneksel gözetim ve denetim düzenlerini, Avrupa Birliği'nin çok düzeyli yönetimini bütünüyle dikkate alacak şekilde, nasıl uyarlayacağı sorunundan kaynaklanmaktadır. Daha somut ifade edilirse, parlamentolar; AB hükümetler arası kilit karar organlarındaki – Avrupa Birliği Konseyi ve Avrupa Konseyi- karar mercilerinin uygulamalarını, ulusal anayasalar ve Avrupa antlaşmalarıyla çerçevelenen ulusal hükümetlerin haklarına saygı içinde denetleme ve bu uygulamalardan dolayı onlardan hesap sormaya elverecek bir yöntem bulma ihtiyacıyla karşı karşıyadır. Parlamentoların yasama gücü yerel siyasal sistemden AB organlarına aktarılırken, bu yasama gücündeki kısmi azalışı telafi etmek için parlamenter denetime yapılan vurgu artmıştır.
- Raporda parlamenter demokrasi ve parlamento - yürütme organı ilişkileri açısından farklı geleneklere sahip Almanya, Fransa, Polonya, Birleşik Krallık, İsveç ve İspanya ülkeleri incelenmiştir.
- Raporda şu sorulara cevap aranmaktadır:

i. Parlamenter gözetim ve denetim normlar hiyerarşisinin hangi seviyesinde (anayasa, kanun, içtüzük, yönerge vb.)

düzenlenmiştir. Farklı parlamento uygulamalarına dair ilk bulguyu ortaya çıkardığından bu soru önemlidir.

ii. Parlamenter gözetim ve denetimde hangi araçlar kullanılmaktadır? Bu araçlar hangi sıklıkla ve parlamentodaki hangi gruplar tarafından kullanılmaktadır? Son yıllarda esaslı bir yenilik yaşanmış mıdır? Bu çerçevede, soru gibi rutin olarak kullanılan araçlarla daha nadir kullanılan meclis araştırması önergelerine; yürütmenin sona ermiş faaliyetlerini hedefleyen araçlarla, sürmekte olan faaliyetlerine yönelik araçlara; yürütmenin başarısızlıklarına dair belirtilerin tetiklediği "yangın alarmlarıyla" yürütme faaliyetlerinin sürekli gözden geçirilmesini hedefleyen düzenli raporlanma zorunluluğu gibi *"polis devriyesi"* araçlarını ve bilgi edinmeyi amaçlayan araçlara mukabil yaptırım ve yerinden etmeyi amaçlayan araçların her birini eşit derecede dikkate almak önemlidir.

iii. Yürütmenin gözetim denetiminde parlamento içindeki kurumsal sorumluluk paylaşımı nasıldır? Özellikle genel kurul ile komisyonların ve kamu denetçiliği kurumu gibi diğer organların her birine düşen görevler nelerdir? Parlamento ve Yüksek Denetim Kurumu (Sayıştay) arasındaki ilişki nasıldır?

2. Örnek Ülke Uygulamaları

2.1. Almanya: Federal Sistemde Gözetim ve Denetim

- Almanya'nın federal yönetimi klasik parlamenter hükümet niteliklerini taşımaktadır. Hükümetin başı federal şansölye milletvekili olmak zorundadır. Şansölye ve bakanlar Bundestag'a, komisyonlara ve bireysel olarak milletvekillerine karşı sorumludur. Şansölye güvensizlik oyuyla düşürebilir ve çoğunluk oyuyla halefi seçilebilir.

- 16 eyaletten oluşan Almanya'da kamu politikalarının oluşturulması merkezi değildir. Federal kanunların uygulanmasında eyalet yönetimlerinin geniş özerkliği bulunmaktadır. Bu durum kamu politikalarındaki sorunların sorumlusu görülen federal hükümeti zor durumda bırakmaktadır. Zira federal hükümetin eyalet yönetimlerini kontrolü bir tarafa gözetim ve denetim (*"supervise"*) yetkisi dahi mevzuat tarafından sınırlandırılmıştır. Bu nedenle siyasi

sorumluluk ve hukuki ehliyet arasında bir gerilim bulunmaktadır.

Yasal Çerçeve

- Bundestag'ın yürütmeyi gözetim ve denetim yetkileri Anayasa, İçtüzük, Araştırma Komisyonlarının İşleyişinin Çerçevesine İlişkin Kanun, Avrupa Birliği ve Bütçe süreci gibi konuları içeren Bundestag'ın haklarına temas eden kanunlar ve Anayasa Mahkemesi kararları önemli metinlerdir.

Siyasi Çerçeve

- Avrupa'daki pek çok parlamenter demokrasinin aksine Almanya'da muhalefetin gayri resmi veya üstü örtük desteğine dayanan azınlık hükümeti geleneği bulunmamaktadır. Federal hükümetler parlamentodaki çoğunluğu sağlayan parti koalisyonlarından oluşmaktadır. Bu sebeple hükümet eden parti ile muhalefet partileri arasındaki ayrım keskin ve açıktır. Hükümeti oluşturan partilerdeki yüksek disiplinin de sayesinde hükümetin tasarılarının Bundastag tarafından kabul edilmemesi oldukça nadirdir.[2] Muhalefet partileri bu nedenle yürütme organının faaliyetlerinin denetlenmesine yoğunlaşmaktadır.

Kurumsal Çerçeve

- Bundestag'da parlamenter gözetim ve denetime ait bazı kilit araçlar Genel Kurul tarafından kullanılırken bazıları sayısı 23 olan komisyonlar tarafından kullanılır. Genel Kurul çalışmaları televizyondan yayınlanmaktadır.
- Bakanlıkların çalışmalarını izleyen Bundestag'daki ihtisas komisyonları yasamanın gözlenmesinde de kilit rol oynarken bakanları ve bürokratları sorgulayarak parlamenter denetim faaliyetlerinde de bulunur. Kamu hesapları ve Bütçe Komisyonu'nun Alt Komisyonu ile Dilekçe, Dışişleri ve Savunma Komisyonlarında denetim faaliyetleri yasamanın

[2] Hükümet tasarıları 16 eyaletin temsilcisinden oluşan Bundesrat adlı üst mecliste kabul görmeyebilir.

önündedir. Savunma Komisyonu aynı zamanda araştırma komisyonu olarak da işlev görebilmektedir.

Gözetim ve Denetim Araçları

- Temelde bilgi edinmeyi amaçlayan rutin araçlar:

i. Yazılı sorular: Her milletvekili hükümete ayda en fazla 4 yazılı soru yöneltebilir. Bu soruların 5 gün içerisinde yazılı olarak cevaplandırılması gerekmektedir. Sorular ve cevapları parlamento dokümanı olarak basılır.

ii. Sözlü sorular: Parlamento oturumlarında hükümet tarafından sözlü olarak cevaplanan her milletvekili haftada en fazla iki sözlü soru sorabilir.

iii. Genel görüşme (topical time): Milletvekillerinin en az %5'i veya parlamentoda temsil edilen bir siyasi parti tarafından soru-cevap bölümünün hemen ardından ve Çarşamba günkü kabine toplantısından sonra gerçekleştirilebilir.

- Grup milletvekilleri tarafından kullanılabilen araçlar:

i. Küçük gensoru (minor interpellation): Milletvekillerinin en az %5'i veya parlamentoda temsil edilen bir siyasi parti tarafından belirgin bir alana ilişkin taleplerin iki hafta içinde hükümet tarafından yazılı olarak cevaplanması gerekmektedir.

ii. Büyük gensoru (major interpellation): Milletvekillerinin en az %5'i veya parlamentoda temsil edilen bir siyasi parti tarafından ana politik meselelere ilişkin liste hâlinde detaylı sorulardan oluşmaktadır. Hükümetin yazılı olarak verdiği cevaplar Genel Kurulda sıklıkla görüşülmektedir.

- Bilgi talep etmede diğer önemli araç dayanağını kanun veya parlamento kararından alan kapsamlı düzenli rapor zorunluluğudur.

14'üncü, 15'inci ve 16'ncı Yasama Dönemlerine İlişkin Bundestag'ın Faaliyet İstatistiği			
	1998-2002	2002-2005	2005-2009
Araştırma Komisyonu	1	2	2
Araştırma Komisyonu Toplantıları	125	62	172
Dilekçeler (kitlesel/toplu başvurular hariç)	69421	55264	69937
Büyük Gensoru	101	65	63
Küçük Gensoru	1813	797	3299
Sözlü Sorular (Soru için ayrılan zamanda)	3229	2550	2703
Acil Sorular	80	37	111
Yazılı Sorular	11838	11073	12705
Genel Görüşme	141	71	113
Hükümet Politika Açıklamaları	60	23	34
Haftalık kabine toplantısı sonrası gerçekleştirilen soru oturumu	61	42	59

- Siyasi profili yüksek ve daha seyrek kullanılan tamamlayıcı araçlar:

i. Araştırma Komisyonları: Bu komisyonlar kamu otoritesi faaliyetlerinde gözle görülür büyük aksamalar olması durumunda istisnai olarak kurulmaktadır. Bu nedenle *"yangın alarmı"* türünde bir parlamenter gözetim ve denetim aracıdır. Yarı yargısal (quasi-judicial) bir görevi bulunan bu

komisyonlar milletvekillerinin en az %25'inin desteğiyle oluşmaktadır. Komisyon belge isteyebilir, tanık dinleyebilir, uzmanların görüşlerine başvurabilir, mahkeme ve idari otoriterlerden yardım talebinde bulunabilir.

ii. Güven oylaması[3]: Güvensizlik oyu ile şansölye makamından edilip yerine parlamentonun salt çoğunluğu ile yeni şansölye seçilebilir.

Bütçe Komisyonu

- Bütçe Komisyonu 41 milletvekili üyesiyle Bundestag'ın en büyük komisyonudur. Bütçe Komisyonu'nun başkanı teamül gereği parlamentodaki en büyük muhalefet grubundan seçilir. Bütçe Komisyonu kamu hesapları ve AB işlerine bakan iki alt komisyondan oluşur. Kamu hesaplarının denetimi Sayıştay (Federal Court of Audit) raporları üzerinden gerçekleştirilmektedir.

2.2. Fransa: "Rasyonelleştirilmiş Parlamentonun" Ötesinde

- Uzun yıllar süren siyasi istikrarsızlıktan sonra 5. Cumhuriyet, yürütme kanadının baskın olduğu "rasyonelleştirilmiş parlamenter sistemi" benimsemiştir. 1958 Anayasası parlamentonun yetkilerine ciddi kısıtlamalar getirmiştir.

i. Fransa'da yasamanın genelliği ilkesi yoktur. Kanun yapımı Anayasada sayılan belirli alanlar dâhilinde mümkündür.

ii. Cumhurbaşkanı yasama organına karşı sorumlu değildir.

iii. Hükümet kanun tekliflerini güvenoyuna dönüştürebilir veya *"bloklama"* gibi yöntemlerle engelleyebilir.

[3] Yürütme organını denetlemede en güçlü araç güvenoyuna başvurmak olsa da bu yolun Almanya tarihinde şansölyenin yerinden edilmesiyle neticelenmesinin tek örneği 1982 yılında gerçekleşmiştir. Bu nedenle gözetim ve denetim araçlarının asıl vurgusu bilgi edinme, saydamlığı sağlama ve hükümetin performansı hakkında tartışma açmaktır. Parlamenter gözetim ve denetim araçları ağırlıklı olarak muhalefet partisi üyesi milletvekilleri tarafından kullanılmaktadır.

iv. Hükümet kanun tekliflerini yasama mali nedenleri ileri sürerek kabul edilemez ilan edebilir.

v. Hükümet genel kurul gündemini kontrol eder.

vi. Yasama organı parlamento kararı kabul edemez.

- Her ne kadar 1958 Anayasası gözetim ve denetimi *"zayıf"* bir parlamento öngörse de bu durum son yirmi yıldır değişim göstermektedir. 1970 ve 1990 ortaları ile 2008 yılında kabul edilen anayasal değişikliklerle gözetim ve denetim alanında parlamento güç kazanmıştır.[4]

Yasal Çerçeve

- Fransız hukuk geleneğiyle uyumlu bir şekilde parlamento ve yürütmenin yetkileri bir hayli kodifiye edilmiştir. Anayasa'nın nasıl uygulanacağına ilişkin pek çok mevzuat vardır. Bütçe ile ilgili konular bir temel kanunda düzenlenmiştir. 1959'da kabul edilen İçtüzük 31 kez değişiklik geçirmiştir.

Siyasi Çerçeve

- Fransa'da yarı başkanlık sistemi vardır. Cumhurbaşkanı doğrudan halk tarafından seçilir ve parlamentoya karşı sorumlu değildir. Cumhurbaşkanı tarafından atanan başbakan alt meclisin güvenoyunu almalıdır. Cumhurbaşkanının görev süresinin 5 yıla indirilmesi ve cumhurbaşkanı seçiminin genel seçimlerin 1 ay öncesinde gerçekleştirilmesi cumhurbaşkanı ve başbakanın farklı partilerden olması durumunu (kohabitasyon) önlemektedir. Fransa siyasetinde sağ ve sol parti hükümetlerinin sırayla başa geldiği iki kutupluluk hâkimdir.

Kurumsal Çerçeve

- 1958 Anayasasının kurduğu sistemde parlamenter gözetim ve denetim ağırlıklı olarak genel kurulda yapılmaktaydı. Komisyonların bu konuda sınırlı yetkileri bulunuyordu. Son 50

[4] 1958 Anayasası kabulünden bu yana toplamda 58 kez değişiklik geçirmiştir.

yılda genel kuruldaki gözetim ve denetim genişlerken, komisyonlara da bu konuda yetki aktarımı gerçekleştirilmiştir.

Gözetim ve Denetim Araçları

i. Geleneksel Araçlar:

Gensoru

- Gensoru önergesi milletvekillerinin 1/10'u tarafından verilebilir, bir milletvekili yasama yılı boyunca en fazla 1 önergeye imza atabilir. Sadece güvensizlik oylarının sayıldığı oylamada önergelerin kabulü için salt çoğunluk sağlanmalıdır. 1958 yılından bu yana sadece bir önerge başarılı olmuştur. 1995 yılındaki değişiklikle yasama yılında bir milletvekilinin 3 gensoru önergesi vermesi mümkün olmuştur.

Soru

- Sözlü sorular için haftada iki gün iki oturum belirlenmiştir. Her oturumda 15 sorunun cevaplanması mümkün olmaktadır. Bu oturumlar televizyondan yayınlanmaktadır. Yazılı soruların iki içinde cevaplandırılması gerekmektedir. Eğer sorular bu sürede cevaplanmazsa, siyasi parti grubu liderleri durumdan Genel Kurulu haberdar eder. Bu durum resmî dergide yayınlanır ve hükümetin 10 günde içinde cevap vermesi gerekir. 2014 yılında internet ortamında milletvekillerine soru sorma imkânı tanınmıştır. 13'üncü Yasama Döneminde (2007-2012) hükümete 132.810 yazılı soru yöneltilmiştir.
- Yazılı soruların sayısı Danışma Kurulu'nun kararıyla yasama yılları bazında sınırlandırılabilir.

Araştırma **Komisyonu**

- Araştırma komisyonlarının tahkik konusu savcılık soruşturmasıyla örtüşmemelidir. Bir araştırma komisyonu kurulması önergesi üye sayısının 3/5 çoğunluğu ile reddedilebilir. 1958'den bu yana her yıl ortalama birden fazla araştırma komisyonu kurulmuştur. Araştırma komisyonları 6 ay

için kurulur. Komisyonun başkanı veya raportörü muhalefet partisi üyesidir.

- Araştırma komisyonu tanıkları[5] gerekirse kolluk marifetiyle çağırıp dinleme, belge (milli güvenliğe ilişkin gizli belgeler hariç) talep etme, Sayıştay'ı harekete geçirme ve kamuya açık oturum (hearing) gerçekleştirme yetkilerine sahiptir.

***Daimi* Komisyon**

- Daimi komisyonlar istedikleri kişileri çağırarak görüşüne başvurma yetkisine sahiptir.
- Daimi komisyonlar bünyesinde vaka inceleme görevleri için en az iki milletvekilinden oluşan bir heyet kurulabilir. Heyetin iki kişiden oluşması hâlinde bir milletvekilinin muhalefet partisinden olması zorunludur.
- Birden fazla komisyonun görev alanına giren işlerin görüşülmesi 36 üyeli Kamu Politikaları Değerlendirme ve Denetim Komisyonu tarafından gerçekleştirilmektedir. Üyelerin seçiminde parlamentodaki sandalye dağılımı ve daimi komisyonların dengeli bir şekilde temsiline dikkat edilmektedir.

***Bütçe* Süreci**

- Milletvekilleri bütçe görüşmelerinde gelir azaltıcı gider artırıcı tekliflerde bulunamamaktadır. Sayıştay'ın çalışmaları parlamentoya bütçe üzerinde derinlikli gözetim imkânı sağlamaktadır. Bütçe görüşmeleri en fazla 70 gün içinde sonlandırılmalıdır. Aksi hâlde hükümet idari mevzuatla bütçeyi yürürlüğe koyabilir.

Dilekçe

- 1986-2012 tarihleri arasında yasama dönemlerinde 27 ilâ 84 arasında dilekçe başvurusu yapılmıştır. Başvurular parlamento başkanına hitaben yapılmaktadır. Başkan bunları Hukuk Komisyonuna havale etmektedir. Hukuk Komisyonu dilekçelere

[5] Tanıklar yemin ederler ve yalancı şahitlik durumunda cezai müeyyide uygulanır.

yapılacak işlemleri görüşmek üzere yılda bir veya iki kez toplanmaktadır.

Değerlendirme

- Bu çalışmada analiz edilen 6 ülke içinde son yirmi yılda parlamenter gözetim ve denetimin kapasitesi ve uygulamaları açısında en çarpıcı değişiklikler Fransa parlamentosunda yaşanmıştır. 2008 yılı anayasa değişikliğiyle zirveye ulaşan bir dizi reform sonrasında parlamentonun gözetim ve denetim alanındaki etkisi artmıştır.

2.3. Polonya: Parlamentonun (Sejm[6]) Gücünü Artırmaya Devam Etmesi

- 1980'lerin sonlarında başlayan demokratikleşme sürecinde Sejm'in rolü büyüktür. Son on yıldır parlamenter gözetim ve denetim alanındaki yeni araçlarla Sejm'in gücü artmıştır. Diğer yandan aynı dönemde parlamentonun yasama sürecindeki rolü temelde iki nedene bağlı olarak görece azalmıştır.

i. Siyasi partilerin artan kurumsallaşması ve büyüyen parti içi disiplin.

ii. 1990 sonlarında yapılan değişikle gündemin belirlenmesinde meclis başkanına yetki verilmesi ve başkanın bu yetkiyi hükümet partilerinden yana kullanması.

Yasal Çerçeve

- Polonya'da kodifiye bir hukuk sistemi vardır. 1997 yılında yürürlüğe giren yeni anayasa dışında 1999 tarihli Araştırma Komisyonu Kanunu, 1996 tarihli Milletvekili ve Senatör Görevleri Kanunu, 2004 tarihli AB İşlerinde Hükümet ve Parlamento İşbirliği Kanunu ve 2005 tarihli Lobicilik Kanunu önemli yasal metinlerdir.

[6] Çift meclisli Polonya parlamentosunda Sejm alt meclisi ifade etmektedir.

Siyasi Çerçeve

- 2005 yılında bu yana merkezde yer alan liberal PO ve sağ kanat muhafazakâr parti PİS parlamentoda baskındır. Bunlar dışında daha az temsili olan post-komünist partiler parlamentoda yer almaktadır.

Kurumsal Çerçeve

- Hükümet sadece alt meclise karşı sorumludur.

Gözetim ve Denetim Araçları

Gensoru

- Gensoru en az 46 milletvekili tarafından verilir. Gensorunun kabulü için parlamento mutlak çoğunluğunun bu yönde oy kullanması gerekmektedir. Kabul edilmemesi hâlinde 115 milletvekili tarafından verilmedikçe üç ay içinde yeniden verilemez. 1992-1997 yılları arasında Sejm iki kez gensoruyu kabul etmiştir. 1997 yılındaki değişiklikle gensorularda düşürülmek başbakanın yerine yeni isim önerilmektedir.

Hükümet Açıklamaları ve Özel Konulu Görüşme

- Hükümetin bilgilendirme şekli geçmiş ve planlanan icraatlarına ilişkin Sejm'e politika açıklamaları ve rapor sunmasıdır. Yapılan açıklamalar ve sunulan raporlar sonrasında genel kurulda görüşme açılmaktadır. Görüşme sonrasında hükümetin sunduğu raporların daha ayrıntılı tartışılması için komisyonlara havalesi mümkündür. Hükümetin yanı sıra Sayıştay (Supreme Audit Office), Ombudsman, Anayasa Mahkemesi, Radyo ve Televizyon Üst Kurulu ve Merkez Bankası gibi kurumlar parlamentoya rapor sunmaktadır.
- Özel konulu görüşme 2003'de hayata geçirilmiş bir uygulamadır. 90 dakika ile sınırlı görüşme konusu her hafta meclis başkanı tarafından belirlenmektedir. Görüşme kapsamında parlamento grupları ve milletvekilleri bir önergeyle

hükümetten bilgi sunmalarını isteyebilir. Şimdiye kadar bu şekilde yılda ortalama 22 önerge kabul edilmiştir.

Parlamento Kararları

- Bir konu hakkında parlamentonun duruşunu belirleme veya hükümetin uygulamaya geçmesini talep etmeye ilişkin kararlar alınabilmektedir. Parlamento kararları 1992 yılından beri bağlayıcı değildir. Şimdiye kadar yasama dönemi başına 200-300 arasında karar alınmıştır.

Daimi Komisyonlar

- Daimi komisyonlar 1989 öncesinde dahi gözetim ve denetim açısından güçlü görünümde olmuştur.
- Daimi komisyonlar bakanlıklardan bilgi talep edebilir, bakanın komisyon toplantısına katılmasını isteyebilir, alanına giren konularda Sayıştay temsilcisinin katıldığı gözetim toplantıları düzenleyebilir, kurum ve kuruluşlara bağlayıcı olmayan talep ve görüşlerini iletebilir.[7]

Araştırma Komisyonları

- Araştırma komisyonları yargılama veya polis soruşturmasına benzer bir çalışma yürütür.
- Araştırma komisyonları tanık dinleyebilir[8], konunun uzmanlarını istihdam edebilir, belge talep edebilir, kamu savcısından belirli bir konuda harekete geçmesini talep edebilir (kamu savcısına komisyon üyesinin eşlik etmesi mümkündür), kamuya açık toplantılar düzenleyebilir (devlet sırrı veya mesleki sır harici konularda) ve toplantılar medya aracılığıyla yayınlanabilir. Araştırma komisyonunun çalışmalarında süre sınırı yoktur.

[7] Bu talep ve görüşler meclis başkanı tarafından gönderilmektedir. İlgili kurum veya kuruluşun 30 gün içinde cevap vermesi gerekmektedir.

[8] Yalancı şahitlik için ceza öngörülmüştür.

Soru

- İki tür yazılı soru vardır. Önemli kamu politikalarına ilişkin yazılı sorular 21 gün içinde cevaplanmak üzere bakana veya başbakana yöneltilen sorulardır. Sorunun cevabından tatmin olmayan milletvekilinin meclis başkanlığından genel kurulda söz talep etmesi mümkündür. Üye soruları adlı yazılı soru türü genel nitelikte olmayıp sınırları çizilmiş daha özellikli konularda bilgi talebi içerir. Diğer yazılı sorudan farkı cevaba ilave bilgi istenememesidir.

Sayıştay'la İlişkiler

- Sayıştay kamu tarafından finanse edilen veya kamu malı kullanan kurumları denetlemektedir. Başkanı Sejm tarafından 6 yıllığına atanır. Sejm ve birimleri (Başkanlık, komisyonlar) belirli alanlarda araştırması için Sayıştay'ı görevlendirebilir.

Bütçe

- Bütçe görüşmeleri için 90 günlük süre ayrılmıştır. Sayıştay'ın da görüşlerini sunması gerekmektedir. İlgili tüm daimi komisyonlar Kamu Maliyesi Komisyonuna görüşlerini sunar.

Dilekçe

- Anayasa gereği alınan dilekçeler 3 ay içinde cevaplanmaktadır. Bu 3 aylık sürenin yetmemesi durumunda 3 aylık ek süre kullanılabilir. Dilekçe Komisyonu kurulmasına ilişkin İçtüzük'te bir taslak çalışma sürdürülmektedir.

Değerlendirme

- Avrupa Birliği entegrasyonu yasamayı kısıtlasa da Polonya'da parlamentonun kamu politikalarının gelişimine katkı sunması kayda değerdir.

2.4. İngiltere

Parlamento Denetimi

- İngiltere'de parlamenter denetim görevi genel kurul ve parlamento komisyonları olmak üzere iki alanda yürütülmektedir. Genel kurulda en sık başvurulan parlamenter denetim aracı *soru*dur. Sorular kısa olmalı ve muhatabını belirtmelidir. Sorunun kabul edilebilir olup olmadığına nihai olarak Meclis Başkanı karar verir. Başbakana yöneltilen sorular için haftada bir gün yarım saatlik bir süre ayrılırken bakanlara yönelik sorular yaklaşık bir aylık süre içerisinde sıra ile sözlü olarak cevaplanır. Her milletvekili, her bir bakanlık için ancak bir soru ve her bir gün için en fazla iki sözlü soru sorabilir. Acil sorular herhangi bir önerge verilmeksizin Başkan'ın izni ile sorulabilir. Yazılı sorular, cevaplanmaları beklenen belirli bir süre öngörmüş olabilir. Bakanların bu sürede bu sorulara cevap vermeleri beklenir. Ancak cevap vermedikleri takdirde resmi bir müeyyide bulunmamaktadır. Sorularına cevap alamayan milletvekilleri bu durumu raporları hükümetçe ciddi olarak dikkate alınan Kamu İdaresi Araştırma Komisyonu'na bildirebilirler. Bir denetim aracı olarak sorulara verilen önem ve sorulardan beklenen denetim verimliliği istenen seviyede olmasa da, parlamento dışında da yankıları olduğu için etkili oldukları söylenebilir. Soru dışında, herhangi bir konuyu görüşmek üzere *meclis görüşmesi* (adjournment debate) ve ayrıca herhangi bir önerge verilmeksizin gerçekleştirilebilen ancak meclis çoğunluğu gerektiren *acil görüşmeler* (emergency debates) düzenlenmektedir.
- İngiltere'de yürütmeyi denetleyen iki tür komisyon bulunur: Genel olarak yasa yapım sürecine nezaret eden ve kanun tasarılarını görüşen geçici *Kanun Tasarısı Komisyonları* (Public Bill Committees) ile belli bir konuyu araştırmak ve rapor hazırlamak üzere kurulan, daimi araştırma komisyonlarına benzeyen *Özel Komisyonlar*dır (Select Committees). Kanun Tasarısı Komisyonlarında kanun tasarılarında nadiren önemli değişiklikler yapılır. Bu komisyonların yasama üzerindeki denetim etkinliği sınırlıdır. Özel Komisyonlar, ilgili olduğu bakanlığın faaliyetleri ile ilgili olarak araştırma yapmak,

bulgularını bir araya getirmek ve rapor düzenlemekle görevlidir. Yasama sürecinin tamamlanmasından sonra, kanunların icrasına odaklanan bir denetim faaliyetine İngiltere'de nadiren rastlanmaktadır. Özel Komisyonların bilgi taleplerine karşılık vermeyen hükümet hakkında parlamentonun başvurabileceği yegâne hukuki yaptırım bir güven oylamasında güvenoyu vermeme olup buna nadiren başvurulmaktadır. Hükümet, ulusal güvenlik ve menfaatler için gizli belgeleri Parlamentoya vermeyebilmektedir.

- Bütçe sürecinde Bütçe Komisyonunun etkili olamadığı, iktidar kanadının komisyon gündemini belirleme ve komisyon iradesini şekillendirmede baskın olduğu görülmektedir.
- Vatandaşların belli bir konuda parlamentoya dilekçe ile başvurması şeklindeki *dilekçe yolu* bir denetim aracı olarak mevcut olsa da izlediği prosedür ve sonuçları itibariyle son derece etkisiz kalmaktadır.
- Sonuç olarak, parlamenter denetim fonksiyonu icra eden parlamento birimlerinin bu fonksiyonu, hükümeti dizginlemek ya da bir yaptırım uygulamak şeklinde değil, daha çok politikaların uygulanmasını gözetlemek ve bir konuyu aydınlığa kavuşturmak ya da bilgi toplamak şeklinde tezahür etmektedir.

Parlamento Dışı Denetim

- Parlamento dışı denetim, Hükümet tarafından aday gösterilen ve Kraliçe tarafından atanan Parlamento Ombudsmanı'nın başkanlığını yaptığı *Parlamento ve Sağlık Hizmetleri Ombudmanlığı* ile Bütçe Komisyonuna rapor hazırlayan *Sayıştay* (National Audit Office) aracılığıyla yürütülmektedir. Her iki kurum da düzenledikleri raporlarla Parlamentoyu bilgilendirmektedir.

2.5. İsveç

- İsveç'te beş anayasal denetim mekanizması bulunmaktadır: Anayasa Komisyonu, güvenoyu, soru, parlamento ombudsmanı ve Sayıştay.

- Bakanların sorulara cevap verme yükümlülüğü bulunmamakla beraber, genellikle sorulara cevap verilmektedir. Sorular, haftada bir gün genellikle Perşembe günleri cevaplandırılmaktadır.
- İhtisas komisyonlarının denetim ve gözetim işlevleri ve etkinlikleri sınırlı olmakla birlikte bu komisyonlar yasama konusunda tekliflerde bulunacak bir araştırma komisyonunun kurulmasını hükümetten talep edebilmektedir. Araştırma komisyonları, bir konuyu denetim amacıyla araştırmaktan ziyade yasama faaliyetine hazırlık niteliğinde çalışmalar yapmaktadır. İhtisas komisyonları, daha çok yasaların uygulanmasına ilişkin gözetim faaliyetinde bulunmaktadır.
- En önemli komisyon olan ve özellikle denetim fonksiyonu ile öne çıkan tek parlamento birimi olan Anayasa Komisyonu, hükümete ilişkin yıllık inceleme/değerlendirmelerde bulunur. Bu değerlendirmelerin yer verildiği raporların hükümet tarafından dikkate alınması beklense de hükümetlerin genellikle bu raporları yeterince dikkate almadığı yönünde eleştiriler yapılmaktadır. Ancak bu raporlarda hükümete yöneltilen tenkitler, söz konusu komisyonun yaptırım yetkisi bulunmamakla birlikte, nadiren bakanların istifasına yol açabilmektedir. Anayasa Komisyonu, salt çoğunlukla hükümetten gizli belgeleri talep edebilmektedir. Ulusal güvenlik ile AB dışındaki ülkelerle ilgili gizli bilgiler dışında hükümet, bu taleplere olumlu cevap vermektedir. Anayasa Komisyonu, ayrıca, bir bakanın Yüksek Mahkeme'de yargılanmasını gerektirecek bir cezai sorumluluğunun olup olmadığına salt çoğunlukla karar verebilir. Bu prosedüre, modern zamanlarda hiç başvurulmamıştır.
- İsveç'te parlamento denetimi yürütmeye hesap sormak veya bir yaptırım uygulamak şeklinde değil; ağırlıklı olarak, hükümetten bilgi almak ve yasama sürecine hazırlık yapmak üzere bilgi toplamak şeklinde gerçekleşmektedir. Parlamenter denetim faaliyetlerinin bir yaptırımı olmayıp Anayasa Komisyonu'nun bir bakanı Yüksek Mahkeme'ye sevk etmesi ya da güven oylaması yapılması gibi hukuken başvurulabilecek yaptırımlar da uygulamada ya hiç kullanılmamakta ya da nadiren kullanılmaktadır.

Bütçe

- Bütçe sürecinin hükümet içinde yüksek seviyede merkezileştirilmesinden sonra Bütçe Komisyonu dışındaki komisyonlar gözetim imkânlarının çoğunu kaybetmiştir. Bütçenin uygulanmasını takip görevi Sayıştay'a verilmiş olsa da Parlamento genel olarak bütçenin uygulanması sürecini denetleme yetkilerinin çoğunu kaybetmiştir.

AB ile İlişkiler

- Parlamentonun en etkili olduğu alan hükümetin AB ile ilişkileri hakkındaki politikalarıdır. Genel Kurulun ve AB İle İlgili İşlerden Sorumlu Komisyonun hükümetin AB ile ilişkileri konusunda önemli etkinliği olduğu söylenebilir. Komisyon, AB ile ilgili tüm gizli belgeleri herhangi bir istisna olmaksızın isteyebilmekte, hükümetin AB politikası üzerinde belli bir etkinlik sağlayabilmekte ve özellikle yeni anlaşmaların görüşülmesi sürecinde ağırlığını koyabilmektedir.

2.6. İspanya

Parlamenter Denetim Araçları

- Soru, hükümetin tüm üyelerine yazılı veya sözlü olarak yöneltilebilmektedir. Sorunun ilgili bakan tarafından cevaplanması üzerine soruyu soran milletvekili başka bir soru sorabilmekte ya da cevaba karşılık verebilmektedir. Genel Kurul'daki sözlü sorulara sadece bakanlar cevap verebilirken komisyonlardaki sorulara bakanlar ya da müsteşarlar cevap verebilmektedir.
- Yazılı soru hükümetin genel politikalarına ilişkin olup genellikle kamu yararını ilgilendiren konularda verilmektedir. Yazılı soru, Genel Kurul gündemine alındıktan sonra Çarşamba günleri sözlü sorulardan sonraki oturumda görüşülmektedir. Kongre Başkanı yazılı sorunun uygun olup olmadığına ve hükümete gönderilip gönderilmeyeceğine karar vermektedir. Yazılı sorulara ancak Genel Kurul'da cevap verilir. Yazılı soru sahibine sorusunu açıklama, hükümete de cevap verme ve

bunlardan sonra her iki tarafa da birbirlerine karşılık verme fırsatı tanınır. Bundan sonra, yazılı soruyu veren milletvekilinin mensup olduğu parti grubu hariç diğer parti gruplarının da yazılı soru ve cevabı hakkında kendi görüşlerini açıklamak için beşer dakika konuşma hakkı vardır. Ancak, parti grupları teamül gereği bu haklarını kullanmamaktadır. Yazılı sorular, soru hakkındaki görüşmelerin neticesine göre gensoruya da kapı açabilmektedir. Gensoru önergesi, kabul edildikten sonra bir sonraki Genel Kurul gündemine alınmaktadır.

- Olağanüstü denetim araçları arasında gensoru ve güvensizlik oylaması bulunmaktadır. Her iki yolla da hükümet düşürülebilmektedir. Gensoru uygulamasında gensoru önergesinde Başbakanlık için bir aday teklifi yer almalıdır. Bu durumda, mevcut hükümetin yerine geçecek bir hükümet üzerinde anlaşmaya varılmış olmadıkça gensoru verilememektedir.
- Bütçe denetimi, kurumsal olarak bağımsız olsa da Kongre'ye karşı sorumlu olan Sayıştay ile Kongre bünyesinde oluşturulan Bütçe Ofisi tarafından yapılmaktadır. Sayıştay, bütçe ile ilgili ihlallere yer verdiği yıllık bir raporu Kongre'ye sunmaktadır. Bütçe Ofisi, Bütçenin uygulanmasını takip etmek, kongre üyelerine bütçe uygulamaları ve kamu gelirleri hakkında teknik bilgi ve danışmanlık hizmeti vermek ve kamu gelirleri ve harcamaları ile ilgili yasama faaliyetlerini izlemekle görevlidir.

AB ile İlişkiler

- Kongrenin her iki kanadından milletvekili ve senatörlerden oluşan AB İle İlişkilerden Sorumlu Karma Komisyonu, hükümetin AB ile ilişkili politikalarını değerlendirmek üzere toplanır ve hükümetin ilgili temsilcisini dinler. AB Konseyi toplantılarından sonra Başbakan Genel Kurulu Konseyin aldığı kararlar ve Konsey toplantılarının neticesi hakkında bilgilendirir.
- İspanya Parlamentosunun denetim ve gözetim faaliyetleri klasik parlamenter demokrasi modeline uygundur. İktidar partisi parti içi disipline sahip olup denetim araçları genellikle muhalefet tarafından işletilmektedir.

3. Sonuç

- Bu mukayeseli analizin ortaya koyduğu en önemli sonuç, parlamentoların yürütme karşısında giderek zayıfladıklarını öne süren *"parlamentoların çöküşü"* tezini destekleyecek bir veriye ulaşılamamış olmasıdır. Aksine, parlamentoların gözetim ve denetim imkânlarını arttıran kurumsal gelişmeler gözlenmektedir. Yürütmenin geleneksel olarak güçlü olduğu iki ülke olan İngiltere ve Fransa'da parlamentoların yürütmeden bilgi alma ve tasarruflarına ilişkin açıklama talep etme imkânlarının geliştirilmesine yönelik önemli reformlar yapılmıştır. Almanya ve Polonya'da da AB ile ilişkiler alanı dâhil olmak üzere parlamentoları güçlendirecek düzenlemeler yapılmıştır. İspanya'da Avrupa ile entegrasyon süreci parlamenter denetimin güçlendirilmesine yönelik önemli bir motivasyon sağlamıştır. İsveç'te de parlamentonun geleneksel şeffaflık vurgusu doğrultusunda yürütme karşısında önemli gözetim ve denetim imkânları elde edilmiştir. Parlamenter denetim ve gözetim araçlarının kullanım sayısında bir artış gözlenmekte olup sonuç olarak parlamentoların fonksiyon bakımından önem kazandığı bir süreç yaşandığı söylenebilir.
- Parlamenter denetim ve gözetim fikri önemli bir değişim geçirmektedir. Parlamenter denetimin hükümetin faaliyetlerini gözetim altında tutmak anlamındaki fonksiyonu geçerliliğini sürdürmekle birlikte parlamenter denetim giderek politika yapım sürecinin çeşitli aşamalarında kamu politikalarının kalitesinin iyileştirilmesine bir katkı olarak da değerlendirilmektedir. Bu değerlendirmenin temelinde parlamentoların sadece yasama faaliyetleri sonrasında kanunların hükümet tarafından uygulanmasını denetleme işleviyle yetinmemesi gerektiği, gündem oluşturma, politikaların formüle edilmesi, karar alma, uygulama ve değerlendirme aşamaları dâhil olmak üzere, kamu faaliyetlerinin kalitesinin geliştirilmesi amacıyla söz konusu faaliyetlere her aşamada müdahil olması gerektiği şeklindeki yaklaşım güçlenmektedir. Bu minvalde parlamenter denetim araçlarının daha çok muhalefet partileri tarafından işletilmesi ve geleneksel hesap sorma ve kanun uygulayıcılarını sorumlu tutma yaklaşımının devam etmesine rağmen, denetim araçları siyasi

muhalefet gösterme aracı olmaktan çok kamu politikalarına katkıda bulunma ve politikaların performansının arttırılması arayışı olarak tezahür etmektedir. Bu yaklaşımda, ekonomi, verimlilik, etkinlik, hakkaniyet, adalet ve sürdürülebilirlik gibi ilkeler eksene alınmaktadır.

- Avrupa parlamentolarının denetim ve gözetim fonksiyonlarını yürütürken karşılaştıkları güçlüklerden biri de pek çok Avrupa ülkesinde giderek yaygınlaşan çok katmanlı idare olgusudur. Avrupa ülkelerinin çoğunda yürütme, farklı kanallar aracılığıyla icra edilmektedir. Federalizm, bölgeselcilik, adem-i merkeziyetçilik gibi olgular idari yönetim katmanlarını çoğaltmakta ve idari faaliyetlerinin yürütülme biçiminde farklılıklar yaratmaktadır. Bu durum, tek parçalı bir yürütme organına karşı yürütülegelen klasik parlamenter denetimin belli bir merkezde odaklanmasını imkânsızlaştırmaktadır.

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