

How are Parliaments involved in the European Semester?

Cristina Fasone (Assistant Professor of Comparative Public Law, Department of Political Science, LUIS)

Abstract

The article argues that the European Semester represents at the same time a challenge and an opportunity for national parliaments and the European Parliament as budgetary authorities. During the annual budgetary cycle that is designed by the "six-pack" and the "two-pack" the European Parliament is mainly involved through the tool of the economic dialogue and by exercising the information rights acquired, while national parliaments participate mainly indirectly, by scrutinizing national governments and inviting the competent European Commissioners for hearings. Very important has become the development of interparliamentary cooperation throughout the European Semester thanks to national MPs and MEPs attendance of European Parliament and national parliament's committee meetings and through Interparliamentary Conference on Stability, Economic Coordination and Governance in the European Union. However, the main challenge for democratic representation in this domain comes from the use of enhanced oversight and accountability powers of parliaments in an increasingly asymmetric context, given the Eurozone v. non-Eurozone divide. With this regard, at the end of the article some recent proposals for the democratization of the Euro Area are analysed.

The origins of the European Semester: the "six-pack" and the "two-pack"

The European Semester was built up in two steps. The first was the adoption of the legislative package called "six-pack" in 2011, which designs the interplay between EU institutions, in particular the Commission, and domestic institutions, especially the governments, on budgetary and macroeconomic procedures in the first half of the financial year.¹ The "six-pack" regulates, for example, the transmission to the European Commission of national reform programmes and national stability programmes as well as the issuing by the Commission of country-specific recommendations and the common timeline. The "two-pack", of 2013, represents the second step in building up the European Semester, as it mostly focuses on the second half of the financial year, and is addressed only to Eurozone countries.² The "two-pack" strengthens the fiscal and budgetary requirements for the States of the Euro area, for both the so-called preventive and corrective arms on excessive deficits and macroeconomic imbalances.

¹The "six-pack" is composed of Regulation (EU) 1173/2011 *on the effective enforcement of budgetary surveillance in the euro area*, Regulation (EU) 1174/2011 *on enforcement action to correct excessive macroeconomic imbalances in the euro area*, Regulation (EU) 1175/2011 *amending Regulation 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies*, Regulation (EU) 1176/2011 *on the prevention and correction of macroeconomic imbalances*, Regulation (EU) 1177/2011 *amending Regulation 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure* and Directive 2011/85/EU *on requirements for budgetary frameworks of the Member States* (OJEU, L306, 23 November 2011).

²The "two-pack" is composed of Regulation (EU) 472/2012 *on the strengthening of economic and budgetary surveillance of Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability* and of Regulation (EU) 473/2013 *on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area* (OJEU, L140, 27 May 2013).

The stages of the annual budgetary cycle called “the European Semester”

In November the Commission sets the priorities for the next financial year – for instance, through the Annual Growth Survey -, the scoreboard of indicators to identify the countries that will be subject to in-depth review and the recommendation for the Euro area. In February the Commission publishes national reports with an economic and social assessment of the domestic situation. In March and until 15 April all Member States submit their national reform programme and the stability (of convergence for non-Euro area states) programme. From May to July the Commission, with the approval of the Council, transmits country-specific recommendations to the States based on the analysis of the national programmes. The Eurozone countries, in particular, have a short period of time to implement them, as by mid-October they have to send to the Commission the annual draft budgetary plan, according to a common budgetary framework defined in the “two-pack”. The “dialogue” between national and EU institutions take place also on draft budgetary plans, on which the Commission sends an opinion on the overall compliance with the standards set by the two legislative packages. However, a Commission’s letter is delivered to an Eurozone country, before the final opinion, if a problem with the medium term objective, the debt/GNP ratio and the macroeconomic situation is detected. In this case, the government concerned must respond to these remarks and recommendations by the deadline fixed by the Commission. Finally national budgets are approved by December, but meanwhile the cycle starts again in November with the publication of the new Annual Growth Survey.

Where do Parliaments stand in this complex Euro-national budgetary process?

On economic policy the EU has the power to coordinate national economic policies ([Art. 5 TFEU](#)), while a strengthened coordination is in place for Eurozone countries ([Art. 136 TFEU](#)). It would follow, when looking at the corresponding parliamentary level, that the European Parliament cannot be particularly powerful given the nature of the competence. Yet, the “six-pack” and the “two-pack” have stretched the European Parliament’s powers at the highest level, given the legal basis in the Treaty. The European Parliament has no decision making power though, except for the adoption and modification of the two legislative packages, for which the ordinary legislative procedure is prescribed (except for the “six-pack” Directive). Beyond this, the Parliament can participate in the economic dialogue with the Commission and the representative of the States that are under the threat or within an excessive deficit procedure or a macroeconomic imbalance procedure.³ Moreover, the information duties of the Commission vis-à-vis the European Parliament have been reinforced. What the European Parliament finds rather difficult, however, is to scrutinize the action of body such as the Eurogroup or the Euro Summit – whose President has to report to the European Parliament after every meeting and where the President of the European Parliament can be invited to be heard without voting rights (Art. 12.5 of Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, TSCG) – which have an asymmetric composition compared to the Parliament, representing European citizens within and outside the Eurozone. The Eurogroup, in particular, takes important decisions within the European Semester.

The power of national parliaments in the European Semester, instead, are exercised mainly at domestic level, when approving the reform and stability programmes drafted by the governments, the budgets and the related documents.⁴ Despite the reference in the “six-pack” and the “two-pack” to the need to protect national parliaments – in the whereas – they do not have any direct interaction with the Commission in contrast with the political dialogue and the early warning system ([Protocol 1](#) and [Protocol 2](#) annexed to the Treaty of

³See JANČIĆ, D. Parliamentary Involvement in the Economic and Monetary Union after the Euro Crisis. In: LUPU, Nicola and FASONE, Cristina (eds.). *Interparliamentary Cooperation in the Composite European Constitution*. Oxford: Hart Publishing, 2016, p.183 et seq. Available at: [Publisher](#) | [GoogleBooks](#) | [WorldCat](#) | [a-z.lu](#)

⁴See KRÖGER, Sandra and BELLAMY, Richard. Beyond a Constraining Dissensus: The Role of National Parliaments in Domesticating and Normalising the Politicization of European Integration. *Comparative European Politics*, 2016, vol. 14, No. 2, pp.131-153 et seqq. Available at: [Publisher](#) | [a-z.lu](#)

Lisbon). Commissioners and MEPs can be heard before national parliamentary committees and, indeed, these hearings have taken place more and more often.⁵ Moreover, national MPs can attend the meetings of parliamentary committees in the European Parliament and especially the German and Portuguese MPs have used this opportunity frequently with regard to the ECON Committee. Therefore for national parliaments is crucial to oversee national governments both at domestic and EU level. Only a minority of parliaments, depending on constitutional provisions (e.g. Austria) and case law (e.g. Germany and Estonia), are really able to take the control of the budgetary process and to give directions to the government.⁶ Most parliaments are given very limited time to scrutinize crucial documents such as draft reform and stability programmes before the deadline for sending them to the Commission expires. Moreover, governments tend to present to parliaments country-specific recommendations and opinions on draft budgetary plans as diktat from the EU, while their bindingness remains unclear, with the consequence of limiting any margin of manoeuvre of the legislatures. There are of course exceptions to this trend. For example, in Italy, according to [Law no. 243/2012](#) the Parliament – both Houses – must give the authorization, by absolute majority, to depart from the medium term objective. This has already happened six times for what concern the debt/GDP ratio since 2014.⁷

A further perspective remains to be explored, that of the cooperation among national parliaments and between them and the European Parliament. Under EU law and the “six-pack” and the “two-pack” interparliamentary cooperation is not specifically regulated in the framework of the European Semester. It is an international agreement, the TSCG, that provides in its Article 13 for the creation of an interparliamentary conference composed of MPs and MEPs, members of Committees on budget and financial affairs, for discussing together budgetary policies and other issues relevant to this agreement. Despite being signed by 25 Member States – Croatia, Czech Republic and the UK have never adhered to it – and being addressed mainly to Eurozone countries – the interparliamentary conference which has been subsequently established not only comprises MPs from non-Eurozone states but also MPs from the three countries which have never signed the agreement, as its denomination confirms: Interparliamentary Conference on Stability, Economic Coordination and Governance in the European Union.⁸ Such inconsistency has undermined the functioning of this new body, which was able to agree on its rules of procedure only in November 2015 leaving open many questions, such as the size of the delegation that can be autonomously decided by each Parliament. Moreover, because of its composition, by any means this interparliamentary conference is entitled nor able to oversee the activity of intergovernmental bodies such as the Eurogroup and the Euro Summit.

What can we expect from the future?

By far one of the most controversial issue surrounding the role of Parliaments in the European Semester – that applies differently to Eurozone and to non-Eurozone countries – is how to enforce the greater oversight and accountability powers they have been given,⁹ individually and collectively, within the asymmetric legal context emerging in reaction to the financial crisis. With an highly fragmented executive between the EU and the Member State, also because of the new intergovernmentalism,¹⁰ the destiny of Parliaments is deeply

⁵See CRUM, Ben and CURTIN, Deirdre. The Challenge of Making European Union Executive Power Accountable. In: PIATTONI, Simona (ed.). *The European Union, Democratic Principles and Institutional Architectures in Times of Crisis*. Oxford: OUP, 2015, p.63 et seqq. Available at: [Publisher](#) | [GoogleBooks](#) | [WorldCat](#) | [a-z.lu](#)

⁶FASONE, Cristina. Eurozone, non-Eurozone and “troubled asymmetries” among national parliaments in the EU. Why and to what extent this is of concern. *Perspectives on federalism*, 2014, vol. 6, No. 3, p.17-22.

⁷See IBRIDO, R. and N. LUPO, Nicola. Le deroghe al divieto di indebitamento tra Fiscal Compact e articolo 81 della Costituzione. *Rivista Trimestrale di Diritto dell’Economia*, 2017, forthcoming.

⁸See, amongst many, KREILINGER, Valentin. Inter-parliamentary Cooperation and Its Challenges: The Case of the Economic and Financial Governance. In: FABBRINI, Federico, HIRSCH BALLIN, Ernst and SOMSEN, Han (eds.). *What Form of Government for the European Union and the Eurozone?* Oxford: Hart Publishing, 2015, p.271 et seq. Available at: [Publisher](#) | [GoogleBooks](#) | [WorldCat](#) | [a-z.lu](#)

⁹See ALLEMAND, Frédéric and MARTUCCI, Francesco. The democratic legitimacy of European economic governance. Change in the role of Parliament. *Revue de l’OFCE*, 2014, vol. 134, p.115 et seq.

¹⁰POLLAK, Johannes and SLOMINSKI, Peter. The European Parliament: Adversary or Accomplice of the New Intergovernmentalism? In: BICKERTON, Christopher J., HODSON, Dermot, and PUETTER, Uwe (eds.). *The New Intergovernmentalism. States and Supra-national Actors in the Post-Maastricht Era*. Oxford: OUP, 2015, p.245 et seq. Available at: [Publisher](#) | [GooglBooks](#) | [WorldCat](#) | [a-z.lu](#)

affected by the asymmetries amongst the Member States and by the future of the Euro area governance.

Although the existing divide between Eurozone and non-Eurozone states can gradually become less problematic, because of Brexit and of the accession of Eastern countries to the euro area, it is unlikely that it will finally disappear. In fact, Denmark (besides the UK) has a permanent opt out, Sweden has a de facto opt out and at least some of the countries in the convergence process, like Hungary and Poland, at present do not appear in the mood of strengthening their participation in the EU integration process. This status quo nurtures the existence of asymmetries within an already asymmetric situation. Indeed, not all the Member States outside the Eurozone are alike.

This notwithstanding it is clear that, under the current circumstances, the democratic legitimation of the new European economic governance, including the European Semester, remains largely unsatisfactory.¹¹ Several proposals have been advanced in order to improve the existing accountability mechanisms and to set up new ones. Most recommendations deal with enabling differentiated parliamentary representation at EU level, in particular for what concerns the European Parliament.¹²

A new interesting idea has been put forward by the [Draft Treaty on the Democratization of the Governance of the Euro Area](#) proposed by the socialist candidate in the French presidential elections, Benoît Hamon, and by a team of academics, like Antoine Vauchez and Thomas Piketty supporting him: to set up a Parliamentary Assembly of the Euro Area composed for the fourth fifths of national MPs delegated by national parliaments taking into account the size of national parliamentary groups and for one fifth of MEPs, delegates of the European Parliament in proportion to the European political groups. Such a proposal appears to be backed, at least in part, by the new French President, Emmanuel Macron, after his election, when he declared to be in favour of an Euro area budget voted by an Euro area Parliament and executed by an Euro area Finance Minister.¹³

Although any proposal aiming to establish a new parliamentary institution/body next to the European Parliament certainly sidelines the authority of this Parliament in fields like the Eurozone governance, which so far it has taken within its remit, the idea of the Parliamentary Assembly of the Euro Area, as presented, seems to balance the strong interest of the European Parliament to be involved (albeit from a minority position, just one-fifth) and the will of parliaments from Eurozone countries to enjoy a special status compared to the remaining parliaments in shaping the governance of the Euro area. Such a Parliamentary Assembly could enjoy mainly oversight and scrutiny powers over the intergovernmental stances ruling the Eurozone, the Eurogroup and the Euro Summit, given the inability of the Interparliamentary Conference on Stability, Economic Coordination and Governance to perform these functions. Moreover, the Assembly could actively intervene, perhaps even exercising decision-making powers, in particular during the second stage of the European Semester, when there is a closer look by the Commission to Eurozone countries in the implementation of country-specific recommendations through draft budgetary plans. Under these conditions and stretching the legal basis of Art. 9, Protocol 1 – on the co-determination, by the European Parliament and national parliaments, of the organization and promotion of effective and regular interparliamentary cooperation within the Union - and of Art. 13 TSCG at most, maybe there is no need to promptly amend the Treaties. Indeed, these two provisions, and especially Art. 9, Protocol 1, have the merit to be drafted in such a way as to allow a great variety of different arrangements for interparliamentary cooperation.

By contrast, if the Parliamentary Assembly aims to be, from the beginning, a permanent institution, with law-making powers and the authority to adopt an Euro area budget, and to be the direct interface of an Euro area Minister of Finance, (new) President of the Eurogroup, then there is no way to escape a Treaty revision, which might not be easy to be agreed upon under the present political circumstances.

Otherwise, given the current Treaty framework, the only alternative to a Parliamentary Assembly for the Euro area, as devised under Article 9, Protocol 1 and Art. 13 TSCG, would be to make the existing European

¹¹See, lately, EUROPEAN COMMISSION. *Reflection Paper on the Deepening of the Economic and Monetary Union*. Brussels, 31 May 2017, COM(2017) 291 final, p.17 and 27. Available at: [Publisher](#)

¹²For an overview and assessment of some of those proposals, see CURTIN, Deirdre and FASONE, Cristina. Differentiated Representation: is a flexible European Parliament desirable? In: DE WITTE, Bruno, OTT, Andrea and VOS, Ellen (eds.). *Between Flexibility and Disintegration. The Trajectory of Differentiation in EU Law*. Edward Elgar, 2017, p. 118 et seq. Available at: [Publisher](#) | [GoogleBooks](#) | [WorldCat](#)

¹³See WOLFF, Guntram B. What could a euro-area finance minister mean? *Bruegel Blog*, 17 May 2017.

Parliament work under a sort of “differentiated representation” despite its mandate being to represent all European citizens regardless of their country of origins within the EU (Art. 14 TEU). Indeed, this is one of the fundamental pillar of any Parliament, the very fact that once an MP/MEP is elected s/he cannot be asked to act just on behalf of the constituency of election.¹⁴

A very easy but possibly unsatisfactory response to the asymmetry between Eurozone and non-Eurozone countries within the European Parliament would be to allocate the role of Chairs, Vice-Chairs, Rapporteurs, Shadow Rapporteurs and Group Coordinators within the Committees that are most involved with the governance of the Euro-area, first of all the ECON Committee, to MEPs elected within Eurozone countries only. The second possible response within the European Parliament would be to make an internal arrangement within political groups, better if amending also the rules of procedure of the Parliament, to prevent the participation of non-Eurozone MEPs in votings concerning Euro area exclusive measures. This would be basically very similar to what happens in the UK House of Commons with the “English Vote for English Laws” procedure (EVEL) starting from 2015 for the approval of legislation affecting only England as to solve the famous West Lothian Question. Bills deemed to be English-only, according to the Speaker of the House, are first approved by a majority of MPs from English constituencies and then, at third reading, must be passed by a majority of all MPs. However, this new procedure has been subject to substantive criticism for its implications on political representation, for the ambiguous role assigned to the Speaker¹⁵ and for the political problems it may create with a change in the seats of the majority, like that experienced after the General Election of 8 June 2017.¹⁶ Similar critiques could be extended to the European Parliament, should a differentiation among MEPs by constituency be put in place in the voting procedures. In addition to this, this tool would not counter the argument of those who claim as equally important a direct involvement of national parliaments from Eurozone countries in the adoption of Eurozone-only decisions.

The European Commission, very proactive in the completion of the EMU, however, has never put forward any concrete proposal on how to improve the democratic accountability of the Euro area in the Presidents’ Reports of 2012 and 2015 nor in its recent Reflection Paper, where the Commission just recommend to formalise the “very effective regular dialogue with the European Parliament on these matters, including on matters related to the European Semester and the Stability and Growth Pact”.¹⁷ That is a very modest proposal that, while acknowledging the existence of a problem, does not support any real solution, in contrast to demands and specific recommendations coming from Member States at least since 2012. The activism of (some) Eurozone countries in contrast to the inertia of the Commission and the other EU institutions on this point risks to further undermine the fragile democratic legitimation of the Euro-area governance. It would be desirable, instead, for the Commission and the other institutions to define a roadmap also to solve this problem in parallel and consistently with the concrete proposals for completing the EMU. Indeed, without much democratic substance, the EMU is at risk of remaining a weak project.

Cristina Fasone is assistant Professor of Comparative Public Law, Department of Political Science, LUISS Guido Carli University, Rome.

¹⁴See BURKE, Edmund. Speech and the Conclusion of the Poll, 3 November 1774. In: ELOFSON, Warren M., WOODS, John A. (eds.). *Writings and Speeches of Edmund Burke, vol. 3: Party, Parliament and the American War 1774-1780*. Oxford: OUP, 1996. Available at: [Publisher](#) | [WorldCat](#) | [a-z.lu](#)

¹⁵See GUASTAFERRO, Barbara. Disowning Edmund Burke? The Constitutional Implications of EVEL on Political Representation. *UK Constitutional Law Blog*, 2 May 2016. Available at: [Publisher](#); and ELLIOTT, Mark and TIERNEY, Stephen. House of Lords Constitution Committee Reports on ‘English Votes for English Laws’. *Public Law for Everyone Blog*, 2 November 2016. Available at: [Publisher](#)

¹⁶See BRETT TAYLOR, Robert. The West Lothian Question, EVEL and the 2017 General Election. *UK Constitutional Law Blog*, 13 June 2017. Available at: [Publisher](#)

¹⁷See EUROPEAN COMMISSION, *cit*, p.27-28.