

The Europeanization of National Parliamentary Scrutiny:

Theoretical Models and Empirical Evidence from Germany and The Nether

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Abstract

The national parliaments of the member states of the European Union (EU) began after treaty revisions in the late 1980s and early 1990s to increase the power of their institutional structures, in an attempt to improve parliamentary scrutiny over the decision-making of their governments over EU matters. Parliamentary scrutiny is important to maintain democratic representation and legitimacy within the emerging system of multi-level governance within the EU and the member states.

The essay proposes two theoretical models which hypothesize the critical variables which explain differences in the power of the institutional structures for parliamentary scrutiny, and the political processes which occur within these institutions, in the member states. The main argument is that the structures and processes of parliament scrutiny are dependent on the strategic incentives of parliamentary party groups to create and effectively utilize these institutions for their own purposes. These incentives are dependent on the risks and opportunities which the EU poses to government stability and re-election of a political party.

The essay uses these models to compare national parliamentary scrutiny over EU matters in Germany and the Netherlands. The German institutional system for European scrutiny is characterized by greater centralization and channeling of power emanating from its parliamentary party groups, beginning in the parties' working groups reaching an internal party position which is then asserted in a single strong EU affairs committee. Here there are clear roles among loyal coalition partners and opposition political parties. The Dutch system is characterized by a diffusion of scrutiny by sub-parts of the EU affairs committee, with decisions taken by appointed party spokespersons by issue area, typically without prior consultation with others in the party, with occasional (but rare) disloyalty among governing coalition parties to amend the government proposal toward a party's own preferences.

In Germany the governing coalition cooperates to perform scrutiny in order to protect the government from making costly political mistakes, whereas in the Netherlands the governing coalition parties scrutinize the government position to be sure the compromise in the cabinet sufficiently protects the party's interests. The study concludes that it is not only the formal institutional procedures which determine the characteristics of scrutiny over EU issues in a given member state, but the organization of its parliamentary party groups and the interaction between governing and opposition parties which are critical.

Scholars who take an institutional approach to studying the European Union (EU) have focused on the distinction between the inter-governmental and supranational decision-making mechanisms within the EU. Yet, important national political processes precede the kind of inter-governmental bargaining which one witnesses in the Council of Ministers. These national political processes may in turn influence the supra-national decision-making in the European Commission. The Commission does not reach its decisions within a vacuum, but often reacts to the swirl of political activity surrounding it in order to maximize its ability to steer a compromise through the Council of Ministers. Thus, more light needs to be shed on the national decision-making processes which precede the bargaining which occurs between member states in the Council of Ministers and which also may influence the decisions of the European Commission.

National parliaments, and the interaction between governing and opposition political parties within these institutions, are central to the system of democratic representation and legitimacy in the member states. Political parties are the premier mass-elite linkage institution in parliamentary democracies which link the object of voter choice in periodic elections to the decision-making processes of government and ultimately to public policies. The emergence of multi-level governance in the EU has impacted the national parliaments of the member states in two fundamental ways. First, increasing proportions of sovereign decision-making in important policy areas are being transferred to the EU level, decreasing the independent decision-making capability of the nation-state. Secondly, to the extent that the authority which has been transferred to the EU resides in the European Council or the Council of Ministers, there has been a transfer of decision-making authority from the parliamentary level to the member states' executive. The power to reach decisions in policy areas which have traditionally been vested in national parliaments now rests in part either in the supra-national decision-making institutions of the EU (European Parliament, European Commission, European Court of Justice, and European Central Bank) or in national governments when they vote in the inter-governmental decision-making institutions of the EU (European Council and the Council of Ministers). This study addresses the question of how national parliaments of the member states have responded to the diminishment and transfer of a portion of their powers since the late 1980s and early 1990s, and attempts to hypothesize and investigate the critical variables which account for differences in parliamentary scrutiny over EU issues across the member states. This research may be viewed as part of what Cowles, et. al. refer to in *Transforming Europe: Europeanization and Domestic Change* (2001) as the fourth phase of EU research in which European structures have assumed "enough causal mass to affect domestic structures and relationships," and the resulting Europeanization of national institutions are studied.

Parliaments throughout the EU have responded to the challenge of multi-level governance by creating new institutional structures in an attempt to better control and monitor the decision-making of national governments over EU issues. These new structures, consisting of formal rules and procedures of parliament, but also of informal processes and procedures of parliamentary party groups, hold the promise of better linking governmental decisions to the electorate and improving democratic representation and legitimacy. The approach focuses on the strategic actors competing in the parliamentary realm and their incentives for establishing control and monitoring mechanisms at both the formal parliamentary institutional level and within their parliamentary party groups.

It is likely that variations in the levels of parliamentary control, influence, or monitoring over EU issues in the member states can be explained by analyzing the strategic incentives of parliamentary party groups to invest in efforts to exert influence. These strategic incentives to act are dependent on the competitive environment which parties are operating within, an analysis of which includes considerations of the electoral system, the party system, and public opinion in a given country.

The Democratic Deficit

Commentators for years now have bemoaned the democratic deficit existing within the European Union (EU). Pointing a finger at the supranational institutions of the EU, critics complain about the excessive amounts of decision-making made by civil servants in Brussel's bureaucratic labyrinth, the lack of accountability of the European Commission to elected officials, and the ineffectiveness of the European Parliament in overseeing and legitimizing the processes of European government. The EU and the member states thus face a democratic-deficit, eroding the tradition of parliamentary democracy in Europe and undermining the sense of representativeness and legitimacy in the political system.

But increasingly, many of the most important and far-reaching decisions are taken within the inter-governmental institutions of the EU, the European Council and the Council of Ministers. It is in these institutions in which the prime ministers (or head of state) and other cabinet ministers gather to stake out their positions and negotiate with their counterparts from other member states. The process of decision-making in the member states preceding these meetings is often the subject of scrutiny by the national parliament.

Parliamentary scrutiny is the exercise of power by the legislative branch to control, influence, or monitor government decision-making. These three terms refer to various degrees of influence that parliament may have on the government. Dahl defines the term "influence" as "a relation among actors such that the wants, desires, preferences or intentions of one or more actors affect the actions, or predispositions to act, of one or more other actors" (Dahl 1999, p. 32). Dahl furthermore states that this influence may either be "manifest," in which parliament explicitly acts to achieve a given outcome, or "implicit," in which parliament is successful in achieving a given outcome without taking any overt actions because a government may act in anticipation of reactions from parliament.

Parliamentary scrutiny may occur publicly in the formal institutions of parliament, such as committees, public hearings, the submission of written or oral questions, and plenum debate. These activities may also occur privately within the various institutions of parliamentary groups, such as parliamentary party group meetings, committees or working groups of the party groups, and informal consultations between specialists in the party group and government ministers. The actual degree of influence which a parliament has over a given issue will depend on the constitutional and legal relationship between parliament and government, the traditions of parliamentary - government relationships in a given country, and the incentives of the parliamentary party groups to act on a given issue.

To analyze how national parliaments of the member states of the EU have adapted to the emergence of multi-level governance in the EU, models are proposed which identify the key variables which may explain variation in the power of institutional structures and the processes of scrutiny over EU matters. It is argued that the power of the institutional structures of parliamentary scrutiny over EU matters are dependent on the incentives of parliamentary parties as well as external pressures faced by parliament as an institution. The ability of a parliament to effectively adapt to multi-level governance and engage in parliamentary scrutiny is constrained by a country's existing democratic structures, such as the electoral system, party system, and traditions of parliamentary -government relations.

The processes of parliamentary scrutiny, which refers to the goals and methods of the parliamentary party groups in conducting scrutiny, are dependent on the pattern of competition and cooperation among the governing parliamentary party groups and the interaction between governing and opposition parliamentary party groups. Parliamentary scrutiny is seen as strategic action by a parliamentary party group because the actions of one parliamentary party group are dependent on the expected actions of other parliamentary party groups, and there is an expectation of a positive reward for the party to engage in the activity. The rewards for the parliamentary party group differ depending on whether the parliamentary party group is a governing party group or in opposition, and are related to government stability and re-election. All parliamentary party groups have an interest in preserving a positive evaluation of the party by the electorate with a view toward maintaining or increasing the party's electoral support during the next election. Although parliamentary party groups are organizations with an internal dynamic between ambitious individual MPs, they are for most purposes of this research treated as unitary actors. The parliamentary party groups are able to maintain cohesion because of powerful constraints and incentives on the

individual MPs necessary for the electoral success of the party and the MPs (see Cox and McCubbins 1993; Laver and Schofield 1990; Mueller and Strom 1999).

The main argument of this essay is that the power of the institutional structures for parliamentary scrutiny and the political processes which occur within these institutions are largely dependent on the strategic incentives of the parliamentary party groups within a given parliament. These strategic incentives are shaped by the risks and opportunities faced by the party groups when considering EU matters and the patterns of competition and cooperation between governing coalition and opposition party groups.

This research is important to better understand the functioning of the new institutional mechanisms that are being created within the parliamentary democracies of Europe to scrutinize governmental decision-making in the multi-tiered governance pattern emerging in the EU. The analysis places political parties and parliamentary party groups, as the object of vote choice in most European parliamentary democracies and thus the basis for democratic accountability, at the fore-front. Involvement by parliament in the decision-making processes of national governments, considered the institution in a democracy closest to the people, assists in democratizing the entire multi-level governance system of the EU. It means that a part of the decision-making process moves from the civil servants in the ministries and closed cabinet meetings to a wider circle of representatives of both governing and opposition parliamentary party groups. Opening the decision-making process may at a minimum bring involvement of MPs with a specialized interest in a particular topic, a smattering of interest groups, and members of the public with a heightened interest in the topic, but at other times may bring entire parliamentary party groups, a wide range of competing interest groups, and media attention to carry the debate to the wider public for debate and consideration. These processes reduce the democratic deficit in the EU and the member states, improve representation, and increase a sense of democratic legitimacy among the European electorates in the evolving system of multi-level governance.

Discussion

Many of the parliaments of the member states began to adopt new rules and procedures to better influence and control their own national decision-making processes in the late 1980's and early 1990's in response to a series of treaties deepening the impact of the EU on the member states. The Single European Act, signed in 1986, brought the EU into policy areas not included in the original Treaty of Rome (including the environment, health and safety, and economic and social cohesion) and set an ambitious goal for the completion of the internal market by 1 January 1993. The treaty also extended qualified majority voting to the decision-making processes of the Council of Ministers, which meant that increasingly member states could be bound by decisions they had not explicitly agreed. This shift of power from national institutions to the Community was further strengthened in the Treaty on European Union (Maastricht Treaty), signed in 1992, with the decision to create a common currency.

The Maastricht Treaty, however, also reflected a greater awareness and sensitivity to the interests of the member states through the introduction of the concept of subsidiarity and a call for a greater role for the national parliaments in the decision-making processes of the EU. This reflected in part treaty language calling for an ever-closer union that had set in motion a sense of uneasiness and uncertainty in the minds of nationally elected elites and their electorates. "The political debate on the ratification of the Treaty on European Union has led to a growing awareness of the reality of European Unification, both among the mass public and national political elites, and has ended the "permissive consensus" that characterized European unification as a political issue in most member states (Thomassen 1998b:1)."

Existing research has begun to document the differing responses of national parliaments to the evolving system of European governance (Norton 1996, Rometsch and Wessels 1996). Norton states that by 1994, national parliaments were faced with three challenges 1) an increasing amount of law-making occurring at the EU level, 2) an explicit invitation to be more involved in the decision-making processes of the EU found in the declarations appended to the Maastricht Treaty, and 3) the creation of two new pillars of the Community - foreign and security policy, and justice and home affairs - in which decision-making was to occur at the inter-governmental level (Norton 1996:8). Norton was concerned with how national parliaments adapted to these challenges posed by the move toward greater integration and hypothesized that they responded by undertaking institutional change to better control the decision-making processes of their own national government.

To understand why parliaments have structured their parliamentary scrutiny in a certain way, we must understand the incentive structures of the strategic actors in a parliamentary system - the competing parliamentary party groups. Governing parliamentary party groups are concerned with the stability and maintenance of their government during a parliamentary period and the party's reelection at the end of the period. These two considerations, government stability and reelection, form the perception of risk and opportunity faced by a governing parliamentary party group and provide an incentive for such groups to control and monitor their government in important areas of decision-making. The perception of risk and opportunity faced by a party group toward governance and reelection is important for electoral accountability in a representative democracy.

Opposition party groups also have an incentive to attempt to control and monitor their government's decision-making over important issues. These parliamentary party groups may be successful at pushing government policy closer to their own preferences, they may destabilize the government and bring about early elections, or they may make points with the electorate which could be beneficial to the party during the next election. Indeed, the degree of accountability perceived by a government and the governing parliamentary party groups rests a great deal on the ability of competing parties to publicly criticize governmental decisions during a parliamentary term and during the election campaign heading into the next election.

This analysis of parliamentary scrutiny is centered on the incentive structures of party groups not only because they are the strategic actors in the system, but also because they are the representative actors linked directly with the electorate through periodic elections. In the evolving political structure of the EU, sovereign decision-making at the national level is combined with inter-governmental and supranational decision-making at the EU level. These political processes are organized into a single mass-elite linkage structure in each country, namely political parties and their parliamentary party groups. The degree to which a parliamentary party group in a given country is concerned about EU issues is influenced by public attitudes in the country toward the EU. The transfer of decision-making authority to the EU, poses a degree of risk to each member state that decisions will be at times against their interest. This is especially true since the new decision-making procedures in the EU contained in the Single European Act and the Treaty on European Union, designed to deepen the EU and preventing a single country from blocking the EU's decision-making powers.

Sartori (1987) presents a decision-making theory of democracy in which the concept of risk within a democracy plays a central role. It may be fruitful to take this concept developed primarily in the context of democracy in nation states and apply it to the inter-governmental and supranational system of governance emerging in the EU. "Whenever an area of decision is collectivized, we thereby create a) a deciding body; and b) a risk exposed out-group" (Sartori 1987: 217). Applying this to the EU context, we see that whenever decisions are collectivized at the European level, member states always face being a risk exposed out-group. Thus, more concretely in terms of the preferences of national parliaments and their parliamentary party groups: membership in the EU exposes a member state to the risk that decisions taken by the EU (under qualified majority voting in the Council of Ministers, Commission directives, and European Court of Justice decisions), will be other than the national parliament's and parliamentary party groups' optimal preference. It is expected that public support for the EU will have an impact on the behavior of parliamentary party groups and that parliamentary party groups will have a greater incentive to control and monitor governmental decision-making when faced with a public skeptical of the EU.

Parliaments and parliamentary party groups have a variety of ways they may attempt to control and monitor governmental decision-making on EU issues that go beyond controlling the plenary agenda (Doering 1994: 225; Laver and Shepsle 1994: 295). Parliamentary scrutiny of government decision-making over EU issues may occur publicly within the formal, institutional procedures of parliament or in a process more likely to be away from the public eye, within parliamentary party groups. The formal institutional tools parliaments have to attempt to control, influence, or monitor the government may be grouped into three main types: 1) committee deliberations, 2) parliamentary questioning, 3) plenum debate. These types of discussions and deliberations usually occur in full view of the public eye. But parliamentary party groups often have their own informal rules, procedures, and conventions for controlling and monitoring the government which may be out of the public eye. Parliamentary party groups have various tools which may be used to control and monitor the government, which may be grouped into four main types: 1) consultation by individual policy experts in a parliamentary party group with government ministers or officials, 2) parliamentary party group committees or working group deliberations (organized by policy area, usually parallel to the formal committee structure), 3) full parliamentary party group deliberations, 4) and going public, raising issues for public discussion. Each of these opportunities for raising and discussing issues,

either privately within the parliamentary party group or publicly, must be considered to evaluate the full efforts of a parliament and its parliamentary party groups to control, influence, or monitor government decision-making over EU matters.

Research Design and Methodology

Two models are offered in this essay which hypothesize the critical variables which explain differences in the power of institutional structures and the political processes of parliamentary scrutiny over EU matters across the member states. Empirical research on selected parliaments has been completed in four countries, the Netherlands, Germany, the United Kingdom, and Denmark, and preliminary results from the first two countries are presented here. The four countries have been selected based on their expected power of institutional structures for parliamentary scrutiny based on two key variables: support for European Union membership in the country and the type of government formation in the country - whether majoritarian, coalition, or minority. In **Appendix A**, the information from government stability and the attitudes of the electorates have been combined in a single diagram. Selected member states are thus located in a matrix based on the theoretical perception of risk toward government stability and re-election for EU issues faced by their parliamentary party groups. Within this framework, it is expected that parliamentary party groups in countries with majority governments and a low re-election risk based on EU issues (because of a high degree of public support for membership in the EU) will have the least incentive to attempt to control and monitor their government's EU decision-making. On the other hand, parliamentary party groups in countries with a low degree of government stability due to minority governments and a high degree of electoral risk due to an electorate skeptical of membership in the EU, have the greatest incentive to attempt to control and monitor their government's decision-making on EU issues.

In countries such as Denmark and the United Kingdom, which face an electorate skeptical of the benefits of the EU for the country, it is expected that parliamentary party groups have a greater incentive to scrutinize their government concerning EU issues than a country like the Netherlands with a higher level of support for the EU. In terms of the second factor related to the incentives to invest in parliamentary scrutiny, it is speculated that countries with a minority government tend to have more incentive to scrutinize the government to assure the stability of the government in office, whereas majority governments with one party comfortably in office would tend toward less parliamentary scrutiny.

The incentives of parliamentary party groups in countries with coalition governments should lie somewhere between that of minority and majority governments, with those coalitions which tend toward stability being closer to the majority type and potentially unstable ones closer to the incentives of minority governments. When considering countries position on both variables simultaneously, it is expected that parliamentary groups in Denmark and Germany have the most incentive to engage in parliamentary scrutiny over EU issues, followed by those in the United Kingdom, with the least incentive faced by those in the Netherlands.

The countries also provide variation on variables important in explaining processes of parliamentary scrutiny. Here a country's existing institutional structures of democracy, whether tending toward more majoritarian or more consensus oriented decision-making, and the resultant pattern of competition and cooperation between parliamentary party groups is important. This ranges from the very consensus oriented decision-making processes in the Netherlands and Denmark, a combination of consensual and majoritarian oriented decision-making in Germany, to clear majoritarian decision-making processes in the United Kingdom.

The prime source of information for the study comes from in-depth personal interviews with members of the parliaments conducted by the author with a leading member of each parliamentary party group serving on their parliament's EU Affairs Committee. Additional interviews were made with party representatives serving on one of two specialized policy committees, the economic and the environmental committees, which may also deal with EU issues at times. Approximately 10-12 interviews were conducted in each country.

Model 1 - Power of Institutional Structures for Parliamentary Scrutiny

What factors are important in explaining differences in power of the institutional structures for parliamentary scrutiny over EU matters? Three factors are discussed that influence the motivation of parliaments to adapt their institutions to the challenge of multi-governance in the EU, and a final factor, the existing democratic structures and

tradition of parliamentary-government relations, which serve as a constraint on the ability to adapt and assert parliamentary power in changing circumstances. Cross-national variation on these factors and the existing democratic structures are hypothesized to account for the differences in the power of the institutional structures of parliamentary scrutiny observed in the member states.

See Model 1 in Appendix B

Factor 1 - Incentives of Governing Parliamentary Party Groups for Government Stability

There is greater incentive for parliamentary party groups to increase the power of the institutional structures for parliamentary scrutiny of their government over EU matters in countries where the perception of risk and opportunity which the EU poses to government stability is greater. The perception of risk and opportunity for a parliamentary party group based on government stability during the legislative term is dependent on the type of government formation in the country. The type of government formation in the country, whether majority, coalition, or minority, has a great deal of impact on the stability of a government. In general parliamentary party groups which hold a majority in parliament have little risk of government dissolution over EU issues, those in coalition face more risk, and those supporting minority governments face the most risk that EU issues may lead to the downfall of the government. However, constitutional or other legal features of a country (such as requirements for a constructive vote of no confidence, which requires a parliament to agree to a new government before it is allowed to dissolve the current one) may add stability to a government.

Factor 2 - Incentives for Governing Parliamentary Party Groups for Re-election

The perception of risk and opportunities faced by a parliamentary party group over EU issues is also dependent on the impact of such issues for a parliamentary party group's goal of attracting votes in the next election. Here, a secondary analysis is performed on the 1999 Eurobarometer survey of the electorates in the member states concerning support for membership in the EU. Parliamentary party groups in countries with an electorate skeptical of the EU have more incentive to increase the power of the institutional structures to scrutinize the government on EU matters.

Factor 3 - External Pressures

Parliaments as institutions are subject to external shocks and pressures which may force them to respond and adapt to change. These external pressures may be important decisions made by other national institutional actors, often a decision by the country's constitutional court. A parliament may also be faced with demands to reform the institutions of government caused by international events. For example, reunification in Germany began a wide-ranging reappraisal of how the country's democratic decision-making processes should be structured.

Factor 4 - Existing Democratic Structures

The existing democratic structures of a country serve as a constraint on the ability of a parliament to adapt its institutional structures and processes to multi-level governance. Differences in democratic structures across countries, beginning with the electoral system, and moving through the party system, cabinet system, and the traditional parliamentary-government relations, shape and constrain how parliamentary institutions and processes are adapted to the new realities posed by the EU.

There are many ways in which a democracy can be organized in a country and the various institutions may be usefully examined from the perspective of how majoritarian or how consensual their rules and practices are (Lijphart 1999, p. 1). Lijphart analyzes a wide range of democratic institutions as tending toward majoritarian or consensual decision-making. These institutions range from the electoral system which determines how voters' choices will determine who will act as representatives, to the powers and interactions of the representatives in the various decision-making institutions of parliament and government. His discussions include majority versus proportional electoral systems, two- versus multi- party systems, concentration versus division of legislative power, executive dominance versus balance of powers in executive-legislative relations, and concentration versus sharing of executive power in cabinets. Institutions which are created to emphasize the will of the majority are first past the post electoral systems, two-party party systems, concentration of legislative power in the majority, executive dominance over the

legislature, and concentration of the executive power in the majority within a cabinet or the prime minister. On the other hand, democratic institutions which would further a consensus oriented democracy are proportional representation electoral systems, a multi-party party system, dispersal of legislative powers, significant powers of the legislative vis a vis the government, and consensus decision-making by the cabinet in government. A country's electoral system and party system impacts the concentration versus division of legislative power in the parliament, and the relationship between parliament and government. These features of the democratic system impact the processes of parliamentary scrutiny in a given country.

Model 2 - Processes of Parliamentary Scrutiny

It was predicted in the previous section that four factors - the incentives of governing parliamentary party groups for government stability, the incentives of governing parliamentary party groups for re-election, external pressures, and the constraints provided by the existing institutional structures of the democracy in a country, shape the adaptation of the institutional structures for parliamentary scrutiny over EU matters. We now turn our attention to the processes of parliamentary scrutiny which occur within those institutional structures created by parliament to consider EU matters. These processes are dependent on the particular mode of parliamentary - government relations for a given issue, either non-party, inter-party, or cross-party. The goals and methods pursued by the parliamentary party groups in performing parliamentary scrutiny over EU matters is dependent on the patterns of competition and cooperation among the governing parliamentary party groups and the relationship between governing and opposition parliamentary party groups.

See Model 2 in Appendix C

Factor 1 - Institutional Structures

The processes of parliamentary scrutiny over EU issues, that is the goals and methods pursued by the parliamentary party groups are dependent on whether the existing institutional structures of parliament are majoritarian leaning or consensus leaning.

Factor 2 - Mode of Parliamentary - Government Relations

The interactions between members of parliament and government ministers have been commonly analyzed under the rubric of 'executive-legislative' relations, a term developed in the American context. Here it is referred to as parliamentary - government relations, a term more appropriate for the parliamentary democracies in Europe. Traditionally, the governing parliamentary party groups and the government have been seen as essentially one entity belonging to two different constitutional bodies, a perspective referred to as 'monism.' But increasingly scholars have begun develop a richer look at the variations in interactions between parliament and government (e.g. Polsby 1975; Steffani 1981; Davidson and Oleszek 1985). Indeed, a whole range of possible interactions between individual MPs, governing and opposition parliamentary party groups, and between parliament and government ministers are possible.

Anthony King has created a typology of executive-legislative relations (King 1976), which has also been applied by others to specific countries (Germany - Saalfeld 1990; the Netherlands - Andeweg 1992; and to Austria - Mueller 1993). Here, I will present a modification of King's typology proposed by Doering (1995), setting out three basic types of parliament-government relations, a non-party mode, an inter-party mode and a cross-party mode.

1) Non-Party Mode - members of 'the' government interact with members of 'the' parliament. This mode conforms to the two-body image and relations between the two are viewed in terms of the fulfillment of their constitutional roles.

2) Inter-Party Mode - ministers and MPs from one parliamentary party groups interact with ministers and MPs from another parliamentary party groups. Here parliament is seen an arena in which the ideological competition between political parties is played out.

Within this mode, two submodes can be distinguished:

2a) Intra-Coalition Mode, in cases of multi-party government, in which ministers and MPs from one governing parliamentary party group interact with ministers and MPs from another governing parliamentary party group.

2b) Opposition Mode - in which ministers and MPs belonging to the governing parliamentary party groups interact with MPs of opposition parliamentary party groups.

3) Cross-Party Mode - in which ministers and MPs combine to interact on the basis of cross-party interests. Here parliament is seen as a marketplace where sectoral interests which supersede party boundaries are traded.

The mode of parliamentary-government relations applicable to a given issue arising in parliament is a factor in the choice of goals and methods pursued by governing and opposition party groups pursued when conducting parliamentary scrutiny.

Factors 3 and 4 - Incentives of Governing and Opposition Parliamentary Party Groups

The incentives of parliamentary party groups to engage in parliamentary scrutiny varies by the mode of parliamentary - government relations for a given issue. There are times when parliamentary-government relations involving parliamentary scrutiny over EU matters may function in a non-party mode. Parliaments act as a whole at times to press their right for timely information concerning decision-making over EU matters. For example, after German reunification the German parliament amended the Basic Law to give parliament and the Laender enumerated powers in the country's decision-making process over EU matters. Because the issues involved were mainly seen as procedural ones, and constitutional revision required a 2/3 vote in the Bundestag, the parliamentary party groups were forced to work together to increase the power of parliament vis a vis the government. In these cases, parliament may be seen as acting as an institution, in a non-party mode, to define and defend what it perceives are its rightful constitutional powers within the democratic system of government in the country.

There also may be examples when parliamentary scrutiny over EU matters takes on the character of the cross-party mode. Here MPs from various parliamentary party groups unite to press a government minister to consider sectoral or geographic interests of the MPs. However, while such cross-party activity may be successful at influencing government, it usually occurs through channels other than the exercise of the formal powers of parliament. The formal exercise of parliamentary power across party lines poses a severe threat to the cohesiveness of party parliamentary party groups and the stability of governments in parliamentary systems.

Most of the interactions between parliament and government occur in the inter-party mode. Here parliament is seen as an arena in which the competition between the various parliamentary party groups is played out. The processes of scrutiny in the inter-party mode are much more dependent on whether the institutional structures for engaging in parliamentary scrutiny are majoritarian leaning or consensus leaning, than was the case for the processes occurring during the non-party or cross-party mode. It is in issues which emerge as inter-party issues where the incentives of governing and opposition parliamentary party groups vis a vis the government diverge along party lines, and where differences in the goals and methods of the parliamentary party groups in engaging in parliamentary scrutiny differ. Here, distinctions may be drawn between the various parliamentary party groups' goals in engaging in parliamentary scrutiny on a given issue, whether to protect and defend the government, protect and defend the parliamentary party group's position, oppose the government, or persuade and bargain other parliamentary party groups to modify the government proposal. A distinction may also be drawn between the methods used by the parliamentary party groups to pursue their goals, whether privately within the parliamentary party group and government, or publicly with other parliamentary party groups and perhaps with the broader public.

In majoritarian leaning systems, the goal of governing parliamentary party groups on typical inter-party issues is to engage in parliamentary scrutiny over EU matters to protect the government from making mistakes. A majority parliamentary party group considers government proposals in light of their insight into the interests and preferences of the society to make sure the government proposal has support in the parliamentary party group to maintain government stability and is beneficial for the party's re-election. Their method for pursuing this goal is private scrutiny of the government proposal, either by individual parliamentary party group experts appointed to handle certain issues, parliamentary party group committee meetings or meeting of the entire party group. This type of scrutiny allows the government to amend the proposal before proceeding. Opposition parliamentary party groups in

majoritarian leaning systems, on the other hand, have the goal of winning a profile as an alternative governing party when engaged in parliamentary scrutiny. Their method for doing so is to publicly criticize government policy.

The goals and methods of parliamentary scrutiny of parliamentary party groups in consensus leaning systems is considerably different. The goal of governing parliamentary party groups in such systems is to protect and defend the party position in the government compromise; their method for doing so is to scrutinize the government's position in private and to consider taking their criticism public. The goal of opposition parliamentary party groups in such systems is to bring the final policy decision closer to their own position; their method of doing so is to publicly or privately persuade other parliamentary party groups to modify the government's proposal.

Comparisons of Parliamentary Scrutiny in Two Member States: Germany and the Netherlands

The aim of this section is to begin to examine national parliamentary scrutiny of decision-making over EU issues in two countries, Germany and the Netherlands. The information presented is based on a preliminary review of interviews completed with members of parliament in Berlin and the Hague. The idea is to analyze the strategic incentives which exist for parliamentary party groups, the *Fraktionen* of the German Bundestag and the *fracties* of the Dutch Tweede Kamer (hereafter usually referred to collectively as parliamentary party groups), to invest in efforts to monitor, influence, or control government decision-making over EU issues. Here, a preliminary analysis of the independent variables presented in model 1 – power of institutional structures for parliamentary scrutiny - and model 2 - processes of scrutiny - will be presented after a brief introduction to parliamentary-government relations in Germany and the Netherlands.

Model 1 - Power of Institutional Structures for Parliamentary Scrutiny – Germany and the Netherlands

See Appendix D

The dependent variable in model 1 is the power of institutional structures to perform parliamentary scrutiny of their government's decision-making over EU issues. Both parliaments have established effective European affairs committees which draw on the expertise and knowledge of their specialized policy committees. However, the structure of the German EU Affairs committee assures a more powerful, unified parliamentary voice on European issues.

The German committee is more powerful because, while it draws on other committees for its membership, it nevertheless meets as a single committee. The Dutch European Affairs committee, in contrast, meets less often as a whole. The Dutch committee, while utilizing overlapping membership, fractures the power of a unified group by not often meeting as a committee of the whole, but formally in a joint meeting with the relevant policy committee. In practice, this meeting does not consist of everyone serving on the two committees, but a representative from each party who serves on both committees. The meeting is thus formally described as a joint committee meeting of the European Affairs Committee and the relevant policy committee, but in practice can be better described as a kind of joint sub-committee of the European Affairs Committee and the policy committee. This means that there are very specialized members of the Dutch parliament, usually one member from each of the larger parties, who deal with European issues in a specific policy area (i.e. economics and the EU or agriculture and the EU), but who have less opportunity to gain an overview of all the EU issues confronting the government. This diminishes the power of the parliament to present a unified voice on European issues to the government.

The Committee of the whole in the Netherlands meets two or three times a month with the Prime Minister, the minister for Foreign Affairs, or the State Secretary for Foreign Affairs. In the committee of the whole, the agenda of any upcoming European Council meeting is discussed, as well as that of two different configurations of Council of Ministers: the General Affairs Council and the Justice and Home Affairs Council. The other configurations of the Council of Ministers, such as economic affairs, transport, finance, social affairs are discussed with the relevant minister in the joint-committee format.

Model 1 identifies the critical variables which explain why the German parliament has created a more powerful institutional structure to control, influence, and monitor their government's decision-making over EU issues than the Dutch parliament. One will see that although the Dutch system of coalition governments might give the Dutch parliament a greater incentive to scrutinize the government in order to maintain government stability (Factor 1 in the model), the incentives of political parties for re-election (factor 2), external pressure on the German parliament from the German constitutional court (factor 3), and the existing democratic structures in the countries (factor 4), explain the incentives provided to the parliamentary party groups in Germany to create more powerful institutional structures for parliamentary scrutiny over EU matters.

Factors 1 and 2 - Incentives of Governing Parliamentary Party Groups for Government Stability and Re-election

One of the incentives faced by parliamentary party groups to invest in efforts to influence decision-making over EU matters relates to the type of government which has formed in the country. The governing parliamentary party groups in Germany and the Netherlands face broadly similar incentives to preserve government stability through involvement in EU matters because both have coalition governments. Thus, neither faces the situation of a minority government, where a decision may easily threaten the stability of the government, nor the high degree of stability offered by majority government. However, it may be expected that Germany's typical government coalition of a large party with one small coalition party, is somewhat more stable than the typical Dutch government of three medium size parties. Thus, the Dutch governing parliamentary party groups may have a somewhat larger incentive to monitor EU decision-making to preserve government stability than the parties of the Bundestag.

The situation is reversed regarding the incentives to monitor based on support for EU membership in the country. Here, the lower percentage of the electorate supporting EU membership in Germany (44% in 1999, see Diagram A) compared to the Netherlands (73%) clearly provides a greater incentive to the German parliamentary party groups to monitor their government decision-making over EU matters.

Factor 3 - External Pressures

External developments may force parliaments to adapt and respond to the challenges of multi-level governance within the EU. These external pressures may be important decisions made by other national institutional actors (or the EU or international institutions) or to political events and developments in the world.

The German Bundestag has had a strong institutional response to the challenges facing it from the evolving system of multi-level governance in the EU. The opportunity emerged from the discussions which followed the events surrounding the fall of the Berlin wall in 1989 and the reunification of the country a year later. Additionally, an extremely important decision by a powerful actor in the German political system, the German constitutional court (*Bundesverfassungsgericht*) was issued which forced the Bundestag to act and increase its powers of parliamentary scrutiny concerning EU decision-making. The prospect of reunification brought about a wide ranging discussion among elites and the broader society concerning the constitutional and legal foundations of the country. Eventually the decision was reached not to draft a fundamentally new constitution to replace the provisional basic law that had governed the country's institutions since the creation of the Federal Republic in 1949. Instead it was decided that the German Democratic Republic would accede to the Federal Republic under Article 23 of the Basic Law. The many meetings on revising the constitution included a wide-ranging discussion on the democratic institutions and democratic processes of the country. There was discussion among competing elites, interest groups, and members of the public as to how to increase the public's involvement and participation in political decision-making. The idea of adding more participatory forms of direct democracy through such mechanism as initiatives and referendums were discussed but rejected in favor of strengthening the representative institutions.

In 1992 the German constitutional court issued a very important decision with wide ranging consequences for both the German national political institutions as well as the EU. The Court held that further transfers of German sovereignty to the EU would not be constitutional unless the German parliament strengthened its role in the decision-making process of the German government related to EU issues. The result of this decision was the German parliament added a new constitutional provision setting out the formal right of parliament to be consulted on EU matters (a new paragraph 23, replacing the one previously used for reunification) and a law spelling out in detail the procedures to accomplish this goal. Thus, constitutional revision necessitated by reunification and a decision by the German constitutional court drove the institutional reform of the German parliament.

The Dutch political system lacked the great upheaval and stimulus to reconsider its democratic institutions that the German political system faced at reunification. Additionally, the Dutch Supreme Court plays a much narrower role within its political system and has a very different relation to the government and parliament. The Dutch supreme court does not have the right of judicial review; the constitution explicitly denies it the right to review the constitutionality of Acts of Parliament or of treaties. However, it should be noted that Article 94 of the Dutch constitution gives treaties and resolutions by international institutions such as the EU precedence over national legislation. Thus the court has annulled Acts of Parliament that infringe on human rights, but did not do so on the basis of fundamental rights enshrined in the Dutch constitution but on the European Convention on Human Rights. In the particular circumstances of the case, it struck down provisions of Dutch social insurance laws which provided lower levels of benefits to women (Andeweg and Irwin, 1993, p. 135). Thus because of the much greater external shocks to reform present in the German case, we would expect a greater adaptation and reform of parliamentary institutions and procedures than in the Dutch case.

Factor 4 - Existing Democratic Structures

There are differences in the operation of democratic institutions in Germany and the Netherlands which emerge in part as a result of the differing electoral laws in the two countries. If we compare the operation of the democratic structures along the majoritarian-consensus axis, we see that the institutions in the Netherlands are more consensus building, whereas the German ones are more majoritarian leaning. These differences begin at the most basic level of the electoral system and proceed through the decision-making processes and procedures of parliament and government. These differences are perhaps not obvious at first glance, judging by the fact that both countries have versions of a proportional electoral system. These differences are also certainly not comparable to the difference which exist between these two countries with the United Kingdom, with its plurality voting system and concentration power in the cabinet and the prime minister.

In Germany, the electoral system is one which combines some features of a winner take all plurality system with proportional representation and is usually referred to as a personalized proportional representation system. Voters in national elections are given two ballots, one in which they are entitled to vote for a candidate running in their electoral district (*Wahlkreis*), and another for one of the national parties. Approximately half of the members of the Bundestag are elected by this method directly, and the remaining seats are filled by candidates appearing on party lists in a way in which represents their proportion won on the second ballot.¹ Additionally, a party is denied representation in the Bundestag if it does not receive 5% of the votes cast in the election (although there is an exception - parties which receive three directly elected candidates on the first ballot, receive their percentage of the seats won on the second ballot). This eliminates many small parties from winning representation in the Bundestag. In the Bundestag, approximately half the members have been directly elected from a geographical area, and half from party lists assembled at the Land level.

The Dutch have a true proportional representation system and the number of representatives which a party has in the Tweede Kamer closely mirrors their percentage of the vote. There is no minimum threshold to receive a seat as in Germany. A party needs only approximately 60,000 votes to win a seat, depending on voter turnout. Although there is no geographic representation built into electoral law, the larger parties attempt to select representatives from different regions and with different expertise that they can bring to bear on their work in parliament.

The difference in the German and Dutch electoral system is a reflection of the different choices made in their democratic institutions and results in differences along the majoritarian versus consensus continuum. To begin with, the minimum threshold for party representation in the Bundestag eliminates many small parties and forces interests and groups in the society to build larger alliances and address a wider range of issues to be a successful party. This one feature of the electoral system, because it determines which representatives are elected and which excluded, pushes the other democratic institutions (parties, parliament, government) which are made up of elected

¹ At times, extra seats are added to the Bundestag, depending on the particular outcome of the first and second ballots in the *Laender*. If a party within a given *Land* wins more seats in an election than it would be awarded based on the second ballot, it is entitled to hold these seats. These are called *ueberhangsmandate*. These seats can at times be quite important. For example, the CDU at the beginning of the last Bundestag had 10 extra seats under this provision of electoral law, which brought its narrow 2 person majority coalition with the FDP to 12.

representatives, slightly away from the consensus model of democracy because it excludes narrow or extreme viewpoints from any parliamentary representation. The lack of a minimum vote threshold in the Dutch case means that narrow interests can form into a party, campaign for electoral support, and win a seat or two in parliament. This means the initial base which all the other democratic institutions are built includes representatives from all interests and viewpoints in the society.

The German two-ballot system of personalized proportional representation also has the effect of moving the institutions more toward the majoritarian pole on the majoritarian versus consensus pole. Because the candidate with a plurality of the vote on the first ballot in a given electoral district wins the seat, candidates from one of the two largest parties (CDU/CSU and SPD) usually wins these seats. (It is only rarely possible for the smaller parties, the FDP or the Greens to win a seat on the first ballot. On the other hand, the PDS has been successful at winning at least three directly elected seats in Eastern Germany.) The high visibility of candidates from the two largest parties in the electoral districts during an election campaign, and the tendency for most people to vote for the party on the second ballot of the candidate they voted for on the first, has the effect of concentrating votes on one of the two largest parties.

These differences in the electoral systems of the countries which yields different outcomes as to who are elected representatives has a cascading effect on the other democratic institutions - party system, parliamentary decision-making, parliament-government relations, and cabinet decision-making. The German party system is dominated by two large parties, who will normally enter into a coalition with a much smaller partner. The Dutch party system has four medium size parties, PvdA, D66, CDA, and VVD, and a wide range of smaller parties, SP and GL on the left, and a grouping of small Christian parties on the right. Differences in the typical governing coalition patterns between the two countries results in quite different interactions between governing and opposition parties when performing parliamentary scrutiny.

Model 2 - Processes of Parliamentary Scrutiny – Germany and the Netherlands

See Appendix E

The political processes involved during parliamentary scrutiny are dependent on the relationships between governing and opposition parliamentary party groups. In Germany at present, the Social Democratic Party (SPD), a large broad-based *Volkspartei*, is in coalition with the much smaller Alliance '90/The Greens (Greens). Although frictions in the coalition emerged publicly during the SPD/ Greens first-year in office, that has lessened considerably after that period of adjustment. In the previous coalition in Germany, the Christian Democratic Union (CDU) under the Chancellorship of Helmut Kohl did not tolerate much public dissent and controversy during their 13 year long coalition with the much smaller Free Democratic Party (FDP).

Members of the Bundestag reported that the process of parliamentary scrutiny over decision-making of EU issues begins very early for the governing parliamentary party groups. Contacts in the ministries are often asked about positions being developed by the government. Also, officials within the ministries will often consult with key experts among the MPs of the governing parliamentary party groups in the Bundestag. Members of the Green parliamentary party group expressed the existence of especially good contacts in the ministries which are headed by Green ministers.

The monitoring of the government by the governing parliamentary party groups occurs primarily privately, within each parliamentary party group. Although particular controversial issues or issues which cross the jurisdiction of the committees of the Bundestag might be discussed in a meeting of the entire parliamentary party group, normally it occurs in the parliamentary party working groups (called *Arbeitsgruppe* or *Arbeitskreis*, depending on the parliamentary party group) which are made up of parliamentary party members who sit on a given committee, and normally meet the day before the full committee meetings. Although the SPD and Green parliamentary party groups usually meet in their separate working group meetings, at times the two working groups come together to hammer out a compromise prior to a committee meeting. Intractable differences between the two governing parliamentary party groups would have to be solved in a meeting of the leadership of the parliamentary party groups, with reference often made to the original coalition agreement. This means that the committee structure of the Bundestag, the formal institutional structure of the parliament, is not typically used by the governing parliamentary

party groups to control and monitor the government. Instead, the committee meetings are seen as the opportunity of the opposition parliamentary party groups to raise issues and attempt to scrutinize the government's EU positions.

The relationship between the Dutch parliamentary party groups in government is quite different than the German case. The current coalition consists of the Labor Party (PvdA), the Liberal Party (VVD), and the Democrats '66 (D66). The parties in opposition are the Christian Democratic Appeal (CDA), a party with a long tradition of being in the government coalition, as well as the Green-Left (GL), the Socialist Party (SP) and a grouping of small Christian parties. What is rather unusual for a parliamentary democracy in which the government depends on the continued support of the coalition in parliament to remain in office is that different coalitions emerge occasionally (although rarely) to offer amendments to bills submitted by the government.

Members reported that the biggest clashes between the parliamentary party groups in parliament do not occur between the governing parliamentary party groups and those in opposition, but between the VVD and PvdA. This means that the government proposes a bill based upon the support from the ministers representing the different governing parliamentary party groups, but the bill at times is subsequently amended by a different coalition of parliamentary party groups in parliament. The Dutch parliament may at times have a slight left majority (MPs from SP, GL, PvdA, and D66), so that a coalition of parliamentary party groups on the left can often successfully amend a government bill. This of course creates tensions within the governing coalition, because in such cases the PvdA in parliament is supporting amending a bill that had been agreed to with the VVD by the ministers in government. This kind of unfaithfulness in coalition behavior is not tolerated in situations where the coalition agreement between the PvdA, VVD, and D66 speaks clearly on the issue. A violation in voting behavior of the parliamentary party groups on these issues would certainly be grounds for the government to lose the confidence and support of the parliament for its continued existence. But measures seen as not explicitly discussed in the coalition agreement are open to new coalitions temporarily forming to support an amendment or parliamentary resolution. EU issues are often not regulated in the coalition agreement, because it is difficult to foresee these issues in advance at the time the agreement is signed at the start of the legislative period.

Factor 1 - Institutional Structure

It was seen in the discussion of Model 1 that certain features of the existing democratic system, beginning with the electoral system, in the two countries push the parliamentary party groups towards certain types of interaction. In the Dutch parliament, these institutional features push the parties toward consensus and compromise, whereas the German system is more marked by competition between two main blocs of parties. Thus the German system leans toward an interaction among the parties in parliament that leans somewhat toward the interaction typical of more majoritarian institutional systems, such as Great Britain.

Factor 2 - Mode of Parliamentary - Government Relations

Dutch constitutional scholars and historians of the parliament have discussed the question of the relationship between the government and the States-General, the bi-cameral Parliament of the Netherlands, in terms of whether the relationship is 'monistic' or 'dualistic' (Andeweg and Irwin, 1993, p. 134). Monism refers to the absence of a clear distinction between government and parliament, and stresses the unity of the two entities. On the other hand dualism emphasizes the distinctive roles and responsibilities of government and parliament, and has been described as more akin to a presidential system. Two features of the Dutch system are considered indicative of the dualistic relationship - first that MPs who are recruited as ministers to serve in the cabinet must resign their seats in parliament, and secondly because no formal vote of investiture is required, the cabinet is considered relatively independent. All of the members of parliament I spoke with explicitly referred to parliament's role in the Dutch government as based on dualism. I do not find it helpful to describe the system as more akin to a presidential system, in which a congress has independent constitutional powers and a balance of power is built into the system to check executive power.

Others have attempted to classify the Dutch parliament in terms of the role it plays in the law-making process. Polsby draws a distinction between parliaments as transformative institutions, with the power and will to take an active role in the process of writing laws, and parliaments as arenas in which the various political parties and outside forces have a platform to be heard (Polsby, 1975, pp. 292, 296). Only in a transformative institution are the institutional structures of the parliament itself able to affect the outcome of the legislative process. In an arena

parliament, the ensuing discussion in parliament may provoke the government to react and modify its plans of action, but the government itself then modifies its proposal. Polsby describes the U.S. Congress as a transformative institution, and the British House of Commons as an arena. The Dutch system, seen by some as combining a Presidential and parliamentary system, is seen as a moderately transformative institution. Andeweg and Irwin argue that there has been a long-term development in the Dutch parliament from a transformative institution to an arena, but that this process is incomplete and that the contemporary States-General has elements of institution, arena, and market (p. 137).

Debate in the Dutch parliament has historically been seen to be mainly between parliament and government. This perspective is emphasized in the design of the Tweede Kamer, in which ministers are seated at a separate table, facing the MP's. The seating structure during parliamentary committee meetings is somewhat different, with ministers and their assistants at one side of a curved table and members of parliament at the other, with both the ministers and the MP's facing those members of the public in attendance.

The characteristic lines of conflict in the Dutch parliament are now between parties, rather than between the institutions of Parliament and government. Parliament is now less an institution confronting other institutions and more an arena in which political parties try to influence government policy (Andeweg and Irwin, p. 148). Of these conflicts, traditionally the sharpest conflict would be expected between ministers and MP's of the governing coalition versus opposition fractions. But conflicts between the governing parliamentary party groups, both in government and in parliament, are also common and may directly affect government policy.

In terms of the three basic types of parliament-government relations presented from King's typology, the Dutch parliament most often behaves as an inter-party arena. Parliamentary party group discipline is strong, so normally the interaction within the parliament can be analyzed in terms of the interaction which occurs between the parliamentary party groups, not between individual MP's. But the behavior of the Dutch parliamentary party groups is unusual, in that some activity is seen outside of the two submodes of inter-party bargaining, the intra-coalition and opposition modes. There is a certain, limited amount of activity in the current Dutch parliament which consists of interactions between different combinations of governing and opposition parliamentary party groups, which are able to temporarily coalesce to pass an amendment to a government offered bill or to pass a resolution on a given issue, without apparently threatening the stability of the coalition in government. While this normally does not happen where the coalition parties already reached agreement and compromise on an issue and the agreement appears in the coalition agreement (*regeerakkoord*) entered into by the parties after the election, on issues not dealt with in this agreement, including many European issues, some of the governing parties feel free at times to form temporary coalitions with opposition parties to modify the government's proposal. This must be considered a separate mode of inter-party behavior, which I will label the "floating party mode."

The behavior of the German Bundestag is most often consistent with King's inter-party arena mode. There is strong discipline within the parliamentary party groups, and the interaction of the parliamentary party groups are clearly either intra-coalition, or between the governing coalition and opposition parliamentary party groups. One does not see the kind of floating parliamentary party group behavior seen currently in the Dutch parliament. Such interaction would be seen as a severe crisis within the governing coalition and a vote of no-confidence would be a real threat to the continued existence of the government.

There are times when the Bundestag is considering institutional changes to the relationship between parliament and government and in these times a non-party mode of interaction between the parliamentary party groups emerge. In particular, during the discussions surrounding constitutional revisions after reunification and the German Constitutional Court decision on the proper role of the Bundestag vis a vis the government on EU matters, the Bundestag as an institution acted across parliamentary party group lines to increase its role in the governments decision-making process over the EU.

Factors 3 and 4 - Incentives of Governing and Opposition Party Groups During Inter-Party Interaction : Goals and Methods of Monitoring

The goal that a parliamentary party group in the Bundestag has in monitoring and controlling their government depends on the parliamentary party group's position in government. The SPD and Green parliamentary party groups explained that they viewed their role as protecting the government from making political mistakes in EU decision-

making. They explained that sometimes policies emerge from the ministries without the civil servants and the minister really realizing the political implications of the position. Additionally, they explained that at times the ministries are still under the influence of the long tenure of the CDU and FDP in government, so that they may not propose the kinds of policies favored by the SPD and Greens. The members of the parliamentary party groups in parliament see themselves as having especially good eyes and ears in the society and have a feeling of how positions may play out politically. The goal of opposition parliamentary party groups in scrutinizing the government may vary from embarrassing the government, pointing out especially poignant consequences of a decision for a constituency close to the party, or to be seen as an alternative governing party by the electorate.

The Dutch governing parliamentary party groups did not view their role as protecting the government as a whole from making mistakes, but in protecting their own party's interests within the coalition. With three parties in the government, and with no party being clearly dominant in parliament, one must always scrutinize a proposal to see if one's own party's interest or viewpoint is being sufficiently protected in the compromise that was reached in the cabinet. Opposition parliamentary party groups in the Netherlands may have additional motivations to the ones of embarrassment, highlighting consequences, or being seen as an alternative governing party. Because of the unfaithfulness of the parliamentary party groups in the governing coalition, the opposition parliamentary party groups may be successful in attracting support for its point of view from one of the governing parliamentary party groups and can successfully pass an amendment or resolution to push public policy toward its preferences.

Governing parliamentary party groups can best attain their goal of protecting the government from making mistakes by conducting their scrutiny away from the public and the media spotlight. Thus, in Germany the SPD especially attempts to conduct their scrutiny of government decision-making over EU issues in the privacy of the parliamentary party group meetings or the working group meetings of the parliamentary party groups. The Greens also attempt to scrutinize within the parliamentary party group and behind close doors with their coalition partner, but will use public pressure to attempt to move the government toward their position when especially important issues to the party's public profile are at stake. On the other hand, opposition parliamentary party groups use the opportunity of the committee meetings to scrutinize the government and may go public with their critique if they believe they can win public support.

The Dutch parliamentary party groups have less opportunity to conduct their scrutiny in private. Parliamentary scrutiny is strengthened when the coalition parliamentary party groups act together in parliament, so scrutiny usually happens most effectively in conjunction with the other governing parliamentary party groups in the committee meetings of parliament.

Conclusion

National parliaments have been responding and adapting to the system of multi-level governance emerging in the EU and the member states since the enactment of the Single European Act and the Treaty on European Union in the late 1980s and early 1990s. They have adapted their institutional structures to conduct parliamentary scrutiny over the decision-making processes of their own national government and in so doing have begun to address the double-democratic deficit. Parliamentary scrutiny over EU matters holds out the promise of increasing the representativeness of the political system and increasing the sense of legitimacy among European electorates. This essay has offered two models for identifying the critical factors which account for observed differences in the power of the institutional structures and the political processes of parliamentary scrutiny over EU matters in the member states. The approach focuses on the strategic incentives of parliamentary party groups to engage in scrutiny based on the risks and opportunities which EU matters pose for government stability and re-election. These strategic incentives also impact the processes of parliamentary scrutiny. While the actions of the parliamentary party groups are hypothesized to be driven by their strategic incentives, their actions are molded and constrained by a country's existing democratic institutions.

At this point, a preliminary analysis of the independent variables hypothesized to be related to the power of institutional structures (model 1) and the processes of parliamentary scrutiny (model 2) in Germany and the Netherlands has been possible. In terms of the strategic incentives of the parliamentary parties, it was seen that the German and Dutch parliamentary party groups face similar incentives to invest in efforts to control decision-making over EU issues based on government formation, with both governments being coalition governments, and not

majority or minority governments. Perhaps the Dutch coalition formation, consisting of three parties of similar weight, gives the parliamentary party groups a slightly larger incentive to monitor decision-making than the potentially more stable coalition pattern in Germany of a dominant party and a smaller party. On the other hand, we also saw that the governing parliamentary party groups in Germany face greater incentives to control and monitor their governments decision-making over EU issues than those in the Netherlands, because the German electorate is more skeptical about membership in the EU than is the Dutch electorate. In terms of external pressures faced by the two parliaments, differences in institutional adaptation to better control, influence, or monitor governmental decision-making is also likely due to the external pressures faced by the German Bundestag after reunification and the decision of the German Constitutional Court forcing the Bundestag to play a greater role in EU decision making within the country. The Dutch Tweede Kamer was not faced by this external upheaval or pressure by another strong institutional actor in the system of government.

All in all, it appears that the governing parliamentary party groups in Germany have faced greater incentives to create powerful institutional structures to influence government decision-making over EU matters. These incentives were caused by a desire to better assure re-election from an electorate somewhat skeptical of the country's membership in the EU and strong external pressures during the reunification process from the constitutional court to increase parliament's role.

We have also seen that the political processes of scrutiny - the goals and methods of the parliamentary party groups when engaged in scrutiny - differ across the two countries. The German governing parliamentary party groups generally meet privately in their working group or meetings of the entire *Fraktion* to attempt to protect their government from making costly political mistakes in EU policy. They believe that they have a better political sensibility as to how decisions will be received by the various sectors, regions, interests, and publics across the country than the bureaucracies of the ministries which are responsible for preparing most proposals. The opposition parliamentary party groups in the Bundestag, on the other hand attempt to use the formal parliamentary committee meetings and occasionally parliamentary questioning or debate to publicly criticize the government and offer their alternative vision to the electorate.

The Dutch governing parliamentary party groups see their goal as protecting their own party's interest in the government, and scrutinize government decision-making toward the EU on this basis. If they believe that their own party's interest was not sufficiently protected by the government's compromise on a given issue, they will seek out the support of other parliamentary party groups in parliament, even those in opposition, to attempt to amend the government's proposal. This means that opposition parliamentary party groups can play a larger, more immediate role in the decision-making over EU issues than is possible in the German case.

In summary, the German system of European scrutiny is characterized by greater centralization and channeling of power emanating from its parliamentary party groups, which begins in the parties' working groups reaching an internal party position which is then asserted in a single strong EU scrutiny committee, with clear roles among loyal coalition partners and opposition. The Dutch system is characterized by a diffusion of scrutiny by sub-parts of the EU Scrutiny Committee, with decisions taken by appointed party spokespersons by issue area typically without prior consultation with others in the party, with occasional disloyalty among governing coalition parties to amend the government proposal toward a party's own preferences. Thus it is not only the formal parliamentary institutions which determine the characteristics of parliamentary scrutiny over EU issues in a given member state, but the organization of the parliamentary party groups and the interaction among governing and opposition parties which are critical.

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Incentives to Increase Parliamentary Control

Incentives to increase parliamentary scrutiny of governmental decision-making over EU issues based on two types of perception of risk: 1. government stability which is dependent on government formation, and 2. re-election risk, based on level of public support for the country's membership in the European Union.

Incentive to increase control increases as one moves from the upper right part of the matrix (high support for membership and majority government) toward the lower left (low support for membership and minority government).

	Support for Membership in the European Union*		
	Low	Mid	High
Government stability:			
High			
Majority - inherently stable	United Kingdom		(least incentive to control)
Coalition - relatively stable	Germany		Netherland
Minority - potentially unstable		Denmark	
Low	(greatest incentive to control)		

*Analysis from Eurobarometer survey, fieldwork March-April 1999. Percentages replying that European Union membership is a "Good thing" for the country: High -Netherlands 73%, Medium – Denmark 51%, Low – Germany 44% and the United Kingdom 31%.

Model 1
Power of Institutional Structures for Parliamentary Scrutiny
over EU Matters

Power of Institutional Structures = for Parliamentary Scrutiny	F ₁ Incentives of Governing + Party Groups for Government Stability	F ₂ Incentives of Governing + Party Groups for Re-election	F ₃ External Pressures +	F ₄ Existing Democratic Structures
	low	low		
	*majority governments	*electorate supportive of the EU	*constitutional court decisions	*majoritarian leaning
	*coalition		*international developments	vs. consensus structures
	*minority governments	*electorate skeptical of the EU		
	high	high		

Model 2
Processes of Parliamentary Scrutiny

	F ₁	F ₂	F ₃	F ₄
Processes of Parliamentary Scrutiny =	Institutional Structures +	Mode of Parl.- Gov't Relations for a Given Issue	Incentives of Governing Party Groups <i>vis à vis</i> the Government +	Incentives of Opposition Party Groups <i>vis à vis</i> the Gov't
Goals and Methods of the Party Groups				
		*non-party	→ defend institutional	powers
		*inter-party		
	majoritarian leaning	→ (goal)	protect and defend gov't	oppose gov't
		(method)	private scrutiny	public scrutiny
	consensus	→ (goal)	protect and defend party position	bring policy closer to own party position
		(method)	public or private scrutiny	public or private scrutiny
		*cross-party	→ defend sectoral	interests

Model 1
Power of Institutional Structures for Parliamentary Scrutiny
over EU Matters – Germany and the Netherlands

Observation: There has been higher pressure to increase the power of institutional structures for parliamentary scrutiny in Germany because the governing parliamentary party groups face a more skeptical electorate and they have faced external pressure from the Constitutional Court to increase their level of scrutiny over EU matters.

	F ₁	F ₂	F ₃	F ₄
	Incentives of Governing Parties for Government Stability	Incentives of Governing Parties for Re-election	External Pressures	Existing Democratic Structures
Germany	Medium – coalition government (1 large party, 1 small party)	High – electorate skeptical of EU	High – Constitutional Court Decision	Majoritarian oriented – personalized proportional system
Netherlands	Medium – coalition government (3 medium sized parties)	Low – Electorate supportive of EU	Low	Consensus oriented – proportional system

Model 2

Processes of Parliamentary Scrutiny – Germany and the Netherlands

Observation: The processes of parliamentary scrutiny in Germany and the Netherlands differ because of the varying incentives faced by the governing and opposition parties, which emerge from the type of governing coalition typical for each country. The fixed, stable coalitions in Germany between one large and one small party creates clear roles for governing and opposition parties in the Bundestag. In the Netherlands, the coalition between three medium-sized parties and their occasional (but rare) disloyal, floating coalition behavior creates more blurred roles for governing and opposition parties in the Tweede Kamer.

	F ₁	F ₂	F ₃	F ₄
	Institutional Structures	Primary Mode of Parliamentary – Government Relations	Incentives of Governing Parties	Incentives of Opposition
Germany	Majoritarian leaning	Inter-Party relations predominate	Maintain stable coalition	Oppose or/ Attempt to influence based on power in the Bundesrat
Netherlands	Consensus	Inter-Party relations predominate	Preserve government coalition across 3 parties or/ Defect to bring government proposal closer to own party's preference	Oppose or/ Persuade a party in the coalition to temporarily defect and form a new coalition on the issue.

