

National Parliamentary Scrutiny in the European Union:

The German *Bundestag* and the French *Assemblée Nationale*

Key Players or Side-Shows?

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1. Introduction¹

The role of national parliaments in European politics has recently become a prominent topic in both European studies and in political practice. Scholars and political actors seek to improve the legitimacy of European politics, which they see challenged by the severe loss of competences national parliaments faced in the 1990s, and in particular by the ratification of the Maastricht Treaty. For example, the European Convention has established a special working group on the future role of national parliaments. And political scientists can draw on numerous empirical studies on this topic (Judge 1995; Katz 1999; Raunio 1999; Maurer and Wessels 2001). However, only little attempts have been made to develop common analytical frameworks and to link empirical research to theoretical debates in the field of European integration.

This paper aims to analyze and explain the role of two national parliaments in European affairs, the German *Bundestag* and the French *Assemblée Nationale*, within the framework provided by the recent theoretical debate about Europeanization (Börzel 1999; Cowles et al. 2001; Radaelli 2000). This “top-down”-approach analyzes the effects of Europe on domestic political systems, suggesting that the emergence of distinct structures of governance on the European level exerts a pressure on Member States to comply with European rules and procedures (Cowles et al. 2001). I argue that the “European” role of national parliaments can be conceptualised as such a process of institutional adaptation to Europeanization pressures. As empirical studies suggest, all EU parliaments have reacted on the substantial loss of competences caused by Europeanization processes with a change of institutional activities or structures (like the institutionalisation of parliamentary EU-bodies), albeit in a very different way. While the Danish parliament, for example, reacted with a strong participation in European affairs, the Greek parliament made no significant efforts to improve its status (Dimitrakopoulos 2001). The second part of my argument is that the adaptational processes, i.e. the roles parliaments play, do not differ according to their position in the domestic institutional structure. Domestically powerful parliaments do not necessarily play an important role in European politics and vice versa. The reaction processes depend rather on factors like the existence of formal participatory rights and the willingness of national parliamentarians to engage in EU affairs.

For the empirical study, I draw on the case of the German *Bundestag* and the French *Assemblée Nationale*, since both parliaments have a very different position within their domestic political systems, but have acquired similar participatory rights in EU policy-making during the ratification process of the Maastricht Treaty. I proceed in the following steps. To develop an analytical framework for the comparative case study, I use the concept of “parliamentary functions”

¹ This paper is based on my diploma thesis, see Sprungk (2002).

identified by parliamentary research (2.1). Since the traditional functions refer to the position of parliaments in *domestic* politics, I argue that these analytical tools have to be adapted in order to seize the role of national parliaments in EU affairs (2.2). The analysis of how the two parliaments exert these EU-specific functions shows that the French *Assemblée Nationale*, despite its weak domestic position, has used its new powers more effectively than the German *Bundestag*, which enjoys a stronger role in domestic politics (3). In order to account for these differential patterns of parliamentary responses to Europeanization despite similar formal rights, the study draws on domestic variables the literature has identified as relevant to explain national adaptation processes (4). The analysis stresses that both rational choice and sociological institutionalist approaches account for the variation. The paper concludes with a brief discussion about which lessons we can draw from the French and the German case for the debate about the future role of national parliaments in the EU (5).

2. Linking Parliamentary research and Europeanization: a conceptual framework for studying the role of national parliaments in European affairs

2.1. The concept of Europeanization

In recent years, there is an emerging literature which analyzes the impact of the integration process on the domestic political systems of EU Member States (Börzel 1999; Cowles et al. 2001; Radaelli 2000).² This “top-down” approach is generally referred to as the debate on Europeanization. Scholars assume that the evolving European system governance causes both institutional and policy changes on the domestic level by exerting adaptational pressures and define the conditions, the process and the outcome of these changes (Börzel 1999; Cowles et al. 2001). The necessary, if not sufficient condition for change is a “misfit” between European and domestic rules and procedures (Börzel and Risse 2000). If we conceptualise the role that national parliaments play in European affairs since the Maastricht Treaty as a response to Europeanization pressures, we first have to analyze the “misfit” that might induce institutional change.

However, there is no clarification about how to measure the “goodness of fit” and, accordingly, how to assess the extent of adaptational pressure the domestic level is exposed to. What constitutes a “misfit” and may consequently cause domestic change needs further specification according to the object of analysis. But while it is obvious that assessment criteria vary according to the domestic institution or policy which are analyzed, confusion could be avoided

² For a recent study on how to systematically integrate the two dimensions, see Börzel 2002.

by developing certain policy or institution-specific conceptual frameworks.³ Studies on the role of national parliaments use very different analytical categories which prevent drawing general conclusions. In order to assess the Europeanization effects on the *Bundestag* and the *Assemblée Nationale*, it would be helpful to establish a parliamentary-specific model of how to measure the goodness of fit. If literature on Europeanization has identified the conditions and causal mechanisms of domestic change, there is still no consensus about the term of Europeanization. In this paper, I follow the definition of Cowles et al. (2001), who take Europeanization as an independent variable of domestic change, referring to the evolving structures of governance on the European level which impact on the domestic level (Börzel 1999; Cowles et al. 2001).⁴

2.2. The concept of parliamentary functions

In order to operationalise the “goodness of fit”, I refer to the concept of parliamentary functions. Parliamentary research has identified, since it deals with analytical categories which can be applied to each individual case regardless of the institutional structure it is embedded in. Furthermore, parliamentary studies assume a positive correlation between the exertion of these functions and the legitimacy power of parliaments: the better a parliament exerts its functions, the more legitimacy it gives to (national) policy processes.⁵ This assumption fits well with the starting point of the debate about the role of national parliaments in European affairs, the so-called “democratic deficit” of the EU.

Modern parliaments usually exert an elective, a legislative, a control and a communication function.⁶ First, parliaments *elect* the government or the head of government. Second, their *legislative function* consists of the right to initiate a bill, to participate in the legislation process and contribute to the content of the legislation, and to formally decide on each law. Third, parliaments have a *control function* concerning governmental politics. Schüttemeyer (1978: 270) assumes that its effective exertion depends on the scope of information the parliament receives

³ For example, as Radaelli (2000: 10) points out, there is a lively debate on whether Europe empowers or weakens national regions vis à vis their respective central governments due to the lack of a common analytical framework for assessing the impact of Europeanization on national regions.

⁴ In addition, this conceptualization emphasizes the *relative* impact of European institution-building (Radaelli 2000), taking into account that domestic change can also result from other factors. This is particularly important in the case of parliaments, since the literature has identified a “crisis of representative democracy” (Norris 1999; Putnam/Pharr 2000), affecting not only European, but all trilateral countries. In this perspective, analysing how European institution-building has affected national parliaments is dealing with one possible cause of institutional change.

⁵ However, as parliaments do not have the capacity to permanently exert all functions in an optimal way, scholars differentiate between the relative importance of each function. Political scientists, on the one hand, stress the communication between parliament and citizens for the legitimacy of national politics (Ismayr 2000). Legal scholars, on the other hand, point to the policy-making capacity of parliaments as the legitimacy source of national law.

⁶ A catalogue of parliamentary functions has originally been established by Walter Bagehot in 1867, who differentiated between an elective, an expressive, a teaching, an informing and a legislative function for the house of Commons in the 19th century (Bagehot 1873).

about the politics of the government, its capacity to deal with and to evaluate it as well as its competence to react on this information by articulation, cooperation or sanction. Fourth, parliaments have a *communication function* which refers to its relationship with the citizens. The permanent communicative exchange between parliament and citizens is a necessary condition for providing legitimacy to parliamentary activities (Ismayr 2001: 41). Whereas the legislative and the control function can be described as a threefold parliamentary task (participating before, during and at the end of the legislation process on the one hand and getting, dealing with and reacting on information on the other hand), the communication function implies two dimensions of parliamentary activity. The *input*-communication refers to the parliamentary reception of citizens' demands and its capacity to articulate and to include them in the parliamentary process. The *output*-communication concerns public debates and the information of the citizens about the parliamentary work in order to make policy processes transparent (Patzelt 1995: 382).

However, the concept of parliamentary functions has been established in the context of national politics and refers to the role of parliaments within *domestic* political processes. It is therefore questionable if national parliaments have the same functions in supranational politics. This question takes up the theoretical debate about the "goodness of fit" (Börzel 1999; Cowles et al. 2001; Radaelli 2000). Consequently, the less national parliaments can exert their traditional parliamentary functions in European affairs, the bigger is the misfit and the more these institutions have to change their functions in order to correspond to European demands. The next chapter seeks to explore the "goodness of fit" by analysing for each of the traditional parliamentary functions if and to which extent it can be exerted in European affairs.

2.3 Traditional parliamentary functions in EU affairs: the "goodness of fit"

Domestic parliaments as national institutions have no formal competences to exert an **elective function** in the EU as a system with important supranational elements.

The exertion of a **legislative function** of national parliaments in European affairs is restricted on a legal basis, on the one hand, and structural aspects, on the other hand. First, there is no legally binding provision on the European level providing for an involvement of domestic legislatures at the beginning or during the legislation process. Their participation is only mentioned in the "Protocol on the role of national parliaments in the European Union" attached to the Amsterdam Treaty. Domestic legislatures are formally involved only at the last stage of the European legislation process, in which they are supposed to ratify treaty changes or to implement

European law (for details, see Raunio 1999: 189).⁷ But even these participation rights *ex post* may not be exerted in the traditional sense. Concerning primary law, national parliaments are mainly empowered to simply confirm or reject a European legal act, but not to amend it. Regarding secondary law on the other hand, domestic legislatures do not even have the opportunity to reject it. Thus, regarding the formal competences, national parliaments are not able to have an impact on the content of European legislation in the same way as on domestic legal acts. Second, as European legislation processes include multiple actors on different levels of governance, they are more complex than those on the domestic level. National parliaments may only actively contribute to this process via one of those actors, namely the respective minister in the Council. But on the one hand, members of government are less obliged⁸ to consider the parliament's position during Council meetings.⁹ On the other hand, even if a Council member represents the national parliament's position, it might not be considered in the legislation in the case of majority voting or "package dealing".¹⁰

There are similar restrictions on the exertion of the traditional **control function**. First of all, it is more difficult for national parliaments to receive information about European issues, since government is favoured in the information process at the expense of the parliament. Moreover, European affairs often concern several policy sectors and do not reflect the domestic division of departments (Fuchs 2001). Controlling European politics thus demands intensive cooperation and sharing of responsibilities of domestic experts. Second, the dealing with and the evaluation of information about European issues also demands increased efforts of national parliaments. The handling with numerous, differently structured bills and documents which concern several policy sectors at the same time (Weber-Panariello 1995: 267) challenges the institutional organisation. In order to evaluate the information correctly, parliamentarians need specific "European" expertise about structures, procedures, timetables etc. (Rometsch 1996: 78). Furthermore, as EU documents correspond to a different political agenda, the deputies face temporal restrictions for their evaluation. Third, national parliamentarians are also less able to react on the information they get about European issues. In fact, they can neither demand the Council member to consider their position to a legislative document *ex ante* nor sanction the

government *ex post* for not having considered it. In sum, parliaments can only react on European affairs during the European legislation process which differ widely concerning the scope and the level of involvement (European Parliament 2000).

⁷ An exception constitutes the case of Denmark, where the ministers get legally binding mandates of the "marketing"-committee of the Danish parliament.

⁸ However, its point of view might have an impact – and thus a legitimating effect – if ministers argue that they are politically bound by the decision of their parliament (Putnam 1988). But, as "executives who can tie their hands can just easily untie them" (Phare 1997: 147), the parliament's contribution to the European legislation process fully depends on the cooperation of the government.

¹⁰ In addition, institutionalist approaches (Sandholtz and Zysman 1989; Pierson 1996) stress that EU policy processes have their own dynamics and can no longer be under the full control of executives.

post for not having considered it. In sum, parliaments can only react on European information by articulating their position (Schüttermeier 1978).

Equally, the exertion of a **communication function** in European issues in the traditional sense demands increased efforts of national parliaments, but it faces no legal or structural limits. The area of “European” communication exceeds the traditional policy-specific discourses. It not only refers to several policy sectors as mentioned above, but may also include institutional and integration-specific questions. Concerning the output-dimension, the national parliament can decide on its own when and how it articulates its position about European politics. This is also true for the input-dimension. However, in European affairs, parliamentarians can only articulate citizens’ demands, but they cannot guarantee that these demands will have an impact on the legislation process. Consequently, if the characteristics of EU politics do not put restrictions on the simple exertion of the traditional communication function by national parliaments, they might impede its effective use.

To summarize, there is an explicit “misfit” between European procedures, rules and practices, on the one hand, on domestic ones, on the other hand. First, the use of traditional functions in European faces formal and structural limits. Second, European politics challenge the traditional parliamentary functions in a way that increased efforts and additional activities are necessary. Thus, the adaptational pressure national parliaments face is exerting the parliamentary functions in a way that they are compatible with the characteristics of European politics.¹¹ The role that national parliaments play in European affairs can then be seized by analysing their exertion of these “EU-specific” functions.¹² But how have the parliamentary functions of national parliaments to be adapted in order to render European policy processes more legitimate?

2.4 Institutional adaptation of national parliaments: the exertion of EU-specific parliamentary functions¹³

Concerning the **legislative function**, national parliaments can only partially participate during and after the European legislation process. For reasons of scope, I will only analyze how domestic legislatures may adapt to European rules and procedures during the legislation process. At

¹¹ However, national parliaments will not be able to give the same scope of legitimacy to European as to domestic affairs. Restoring a certain “compatibility” only means improving, not solving the “democratic deficit”.

¹² According to literature on Europeanization, the “goodness of fit” determines the scope of adaptational pressure a domestic institution faces. As none of the parliamentary functions can be exerted in its traditional way, the “misfit” and the pressure to adapt is relatively high. It is also equally high for all national parliaments in the EU, since the restrictions on the exertion of traditional parliamentary function result from the specific characteristics of EU politics and the general strong position of national governments in European affairs.

¹³ In the following, I draw on conditions the literature has identified for an optimal role of national parliaments in European affairs and classify them according to my conceptual framework.

least concerning secondary European law, national parliamentary participation is not necessary as executives have the formal decision power. Accordingly, a maximal impact of national parliaments on European legislation can only be achieved through an *early development of an own position* and its *immediate transmission to the government i.e. the respective Council members* (Laprat 1995: 8; Maurer 2001: 20). But as national parliaments generally have no effective means to impose the consideration of their position, this kind of participation in European legislation corresponds more to a control than to a legislative function. In fact, it equals the response to information part we find in the traditional parliamentary control function. If the only possibility for a national parliament to influence European legislation is to develop a position and to transmit it, then the scope of information it gets about European issues and the effective dealing with and evaluation of this information is of particular importance.

The adaptation of parliamentary **control** to European structures concerns all three aspects of this function. First, as it is the government which passes all EU documents to the national parliament, an effective control of European affairs depends on the *transmission practice of the government* (Maurer 2001; Norton 1996; Raunio 1999; Smith 1996). Apart from the *quantity* and the *quality* of information the parliament receives, the *time* which the government needs to transmit documents is crucial. Even if a national parliament is fully informed about a European, its position may have no impact when it is articulated only after a Council's decision. The scope of information is finally also determined by the *parliaments' own activities to acquire information about European issues*. Second, the dealing with this information and their evaluation has to be adapted to European demands in order to control European politics more effectively. Several studies thus analyze the *specific parliamentary procedures of handling EU documents* (Hourquebie 1999; Maurer 2001). Regarding the different political agenda and the different policy sectors, national parliaments have to dispose of *specific distribution and selection mechanisms* (Hourquebie 1999: 81), of *European experts in the committees secretaries as well as in the committees themselves* (Fuchs 2001: 11) and of an *intensive cooperation between the responsible parliamentary committees* (Weber-Panariello 1995). In addition, Maurer (2001: 20) takes the *number of meetings of the specific EU-bodies* as an indicator. Third, as mentioned above, the response to information about European issues can only be exerted through articulation. However, its intensive use is crucial for controlling European affairs as it "substitutes" the former legislative function of national parliaments. The adaptational capacity of national parliaments thus consists of the *right of parliaments to articulate a position before a Council's decision* (Laprat 1995: 8). Furthermore, in order to compensate for the loss of their sanction power, national parliaments have to *monitor whether and how their governments follow up their resolutions or opinions* (Laprat 1995: 8).

In contrast to the traditional **communication function** of national parliaments, the output-dimension has more weight than the input-dimension in European issues. On the one hand, the public articulation of parliamentary positions to European affairs might constitute a means for compensating the loss of sanction power, as it has the effect of binding the government politically. On the other hand, as national parliaments can no longer guarantee the impact of citizens' demands on European legislation (Schüttermeier 1978: 274), public articulation can serve to demonstrate at least the willingness of parliamentarians to do so. Studies of the role of national parliaments in European affairs analyze the *scope of public European engagement*. Indicators are for example the *use of EU-specific communication rights* (Fuchs 2001: 16), the *proportion of European issues in public debates* (Saalfeld 1995: 24) and the *transparency of the EU-bodies' work* (Huber 2001: 50).

To summarize, institutional adaptation of national parliaments to European rules and procedures can only occur in the field of the control and the communication function. There is no elective function for national parliaments in European affairs, and the legislative function is reduced in a way that it equals the traditional control function. The role domestic legislatures play in European affairs can thus only be seized by the exertion of an **EU-specific** control function and an **EU-specific** communication function. These are, in contrast to the traditional contents, characterised by the different importance of certain aspects, on the one hand, and by a general extension of parliamentary tasks, on the other hand. Using the concept of EU-specific functions, I analyze the role of the German *Bundestag* and the French *Assemblée Nationale* in European affairs since the Treaty of Maastricht.

3. Key players or side-shows? The role of the *Bundestag* and the *Assemblée Nationale* in European affairs

The *Bundestag* and the *Assemblée Nationale* have a very different position in their respective political systems. The German parliament¹⁴ as the only directly elected constitutional body is a powerful institution which plays a major role in domestic policy processes. In contrast, the French legislature has a rather weak position in the national political system, since the Fifth Republic's Constitution has transferred power from Parliament to the Executive (Rizzuto 1995: 46). The government and even the Constitutional Court (*Conseil Constitutionnel*) have several constitutional rights to intervene in the parliamentary's work (Wieber 1999: 14).

¹⁴ When using the term „parliament“, I only refer to the first chambers of the German and the French parliament, the *Bundestag* and the *Assemblée Nationale*.

Despite of these different characteristics, both parliaments have been empowered in a similar way in the context of the Maastricht Treaty. In fact, they were the only European parliaments which got constitutional rights for participating in European affairs.¹⁵ Concerning the *Bundestag*, the most important legal provision is Art. 23 of the Basic Law (GG), which obliges the Federal government to 1) provide “comprehensive” and “earliest possible” information about the European legislation process, 2) to enable the *Bundestag* to vote on a resolution **before** a decision is taken in the Council and 3) to take the parliament’s position into account. Moreover, Art. 45 GG provides the institutionalisation of a “Committee for the Affairs of the European Union” (EUA) which might be authorized to represent the *Bundestag* as a whole in order to react quickly on EU documents. The Art. 88-4 of the French Constitution (CF) contains similar provisions for the French parliament. The French government is obliged to transmit to the parliament all documents with legislative character immediately after their reception in the Council. In addition, the legislature gets the right to vote on resolutions concerning these documents. The so-called *réserve d’examen parlementaire*, provided by a “ministerial circular” in July 1994 obliges the government to enable the parliament to vote on resolution before the Council’s decisions. Finally, as in the *Bundestag*, it is the specific parliamentary body institutionalised for EU affairs, the *Délégation pour l’Union Européenne* (DUE) which plays a central role in the parliamentary activities.

Taken together these legal provisions, the German and the French parliament have very similar participation rights in EU affairs.¹⁶ However, the *Assemblée Nationale* may only vote resolutions on specific documents, namely those with a legislative character, whereas the *Bundestag* has the right to articulate its position on all European issues. Regarding the demands of EU-specific parliamentary functions, these formal rights empower the parliaments explicitly to exert an effective control function. But what role do the *Bundestag* and the *Assemblée Nationale* actually play in European affairs? Do they make use of their control rights, and in which way do they exert the EU-specific communication function?

3.1. The controlling of European affairs

In order to analyze whether the *Bundestag* and the *Assemblée Nationale* exert an EU-specific control function, I will study the scope of information the two parliaments get about European issues (3.1.1), the respective procedures of handling with EU documents within these institutions

¹⁵ For a more detailed analysis concerning this empowerment, see Lequesne (1993) for the *Assemblée Nationale* and Weber-Panariello (1995) for the *Bundestag*.

¹⁶ A first Europeanization effect on the two parliaments consists therefore in rendering them more equal on a formal basis and in a specific policy area. For a broad discussion whether Europeanization results in convergence or divergence of domestic institutions, see Radaelli (2000).

(3.1.2) and if they articulate their positions to European politics in an effective way (3.1.3). I will draw on the indicators mentioned above as well as the use of the specific rights the two parliaments received during the 1990s

3.1.1 The scope of information about European issues

The transmission practice of the German Federal Government

As there is no Federal ministry for European affairs in Germany, it is the Federal ministry of finance which has the overall responsibility for the coordination among ministries, the reception of EU documents and their official transmission to the *Bundestag*. Documents include regulation and directive drafts of the first and the third pillar. Information of the second pillar is provided by the Foreign Office. The parliament thus receives about 2000 documents per year from the government (Hölscheidt 2000).¹⁷ All further information, like other Council documents and minutes of the work group meetings, are transmitted to the *Bundestag* by the responsible ministerial departments (Maurer 2001: 15). Every document is transmitted by a detailed explanatory memorandum informing the responsible committees about the necessity of an European rule, the financial implications and the timetable. The departments generally transmit these memoranda within the time limit, but the scope of explanatory information varies between different policy sectors.¹⁸ In addition, members of government participate regularly in EU-committee meetings and inform parliamentarians about the current negotiations in the Council and about European Council meetings. However, the *Bundestag* receives information about European issues at a relatively late stage of the legislation process. The average duration for transfer of EU documents is about 40 days (Hölscheidt 2000: 27; Maurer 2001: 21). Since there are numerous EU documents transferred to the *Bundestag*, parliamentary scrutiny has to occur within in a very short time limit.

The transmission practice of the French Government

In contrast to the German practice, the French system of EU document transfer is organized and coordinated by a specific institution for EU affairs, the *S cretariat g n ral du comit  interminist riel pour les questions de cooperation  conomique europ enne* (SGCI). Like in the *Bundestag*, this information includes draft proposals of the first and the third pillar, whereas documents concerning CFSP are transferred by the Foreign Ministry.

However, before documents are transmitted, the *Conseil d'Etat* examines the legal quality of the document. The parliament subsequently gets all documents characterized as having a legislative character, on which it may vote a resolution. The so-called "E-documents" represent

¹⁷ Adding the respective annexes and corrigenda, the secretary of the EU-committee estimates in an interview of April 25, 2002 that the *Bundestag* receives about 25.000-30.000 documents annually.

¹⁸ According to an interview with Michael Roth, a member of the *Bundestag*'s EU-committee on May, 13, 2002.

80% of all the legislation proposals (Maurer 2001: 17).¹⁹ In addition, the SGCI and the Foreign Ministry also transfer draft proposals which do not have a legislative character as well as any further document like the Green and White Papers and the working program of the European Commission and the agenda of the Council meetings (Sauron 2000: 116).²⁰ Taken the annual number of 2000 transmitted documents²¹, the *Assemblée Nationale* is as well informed about European issues as the *Bundestag*. However, the SGCI does not add any explanatory memorandum to the documents. And the parliament gets no information about the important deliberations on the COREPER level or the negotiation processes in the Council (Szukala and Rozenberg 2001: 238). Even oral information is not given in a very extensive way (Rizzuto 1995: 47). Members of government do not participate regularly in DUE-meetings.

The delay for parliamentary examination of European proposals caused by the *Conseil d'État*'s has progressively been reduced (Szukala and Rozenberg 2001: 237). But, as the DUE points out, the French government makes frequently use of the procedure of accelerated examination at the expense of the parliament (DUE 2001).

Own activities of the Bundestag to acquire information about European issues

There are many ways the *Bundestag* can actively receive information about European issues. In this paper, I will only concentrate on some aspects. First, an analysis of the work of the EU-committee shows that it uses its information rights in an intensive way. During the years 1999-2001, it held 15-20 expert hearings, including EP members, Commissioners, scholars and members of foreign governments, on 26-28 meetings per year. In the same time period, delegations regularly travelled to European institutions or other European parliaments and thus got "first-hand information" (EUA 2001). Second, in order to get information of the government, members of the EU committee frequently consult the ministers participating in the council meetings. However, according to a member of the committee, they do not insist on an earlier transmission of relevant EU documents. In addition, parliamentarians do not frequently use their interpellation rights. Between 1993 and 1999, only 2,5 % of the so-called *Kleine Anfragen* and only 6,7% of the *Große Anfragen* concerned EU matters. During the 14th electoral term (1998-2002), only 3 out of 128 *Aktuelle Stunden* were used to get information about current EU issues. The *Bundestag* obviously prefers to get European information by questioning experts rather than by putting additional pressure on the government.

¹⁹ The number of "E-documents" has continually increased since the introduction of Art. 88-4 CF. This can be explained by the increasing EU legal output as well as by a "parliament-friendly" jurisdiction of the *Conseil d'Etat*.

²⁰ According to a recent "ministerial circular" of former Prime minister *Lionel Jospin* (13th December 1999), which obliges the government to transfer all documents, that is not only those with a legislative character, to the parliament.

²¹ According to an internal paper of the *Assemblée Nationale* of 2002.

Own activities of the Assemblée Nationale to acquire information about European issues

In general, the *Assemblée Nationale* has the same opportunities to actively receive information about European issues as the *Bundestag*. Studies of its role in European affairs claim that the DUE makes intensive use of its right to perform hearings of experts and in particular of the minister on European affairs (Hourquebie 1999; Rizzuto 1995; Weber-Panariello 1995). Since the 10th electoral term (1993-97), 20 expert hearings in average per year have taken place (Szukala and Rozenberg 2001: 233), including research fellows, representatives of interest groups and members of EU institutions. As a member of the *Assemblée Nationale*'s European Service points out, these hearings are essential for parliamentary information.²² Moreover, members of DUE travel regularly to EU institutions, to COSAC meetings or to EU bodies of other parliaments in order to get additional information (DUE 2001). Apart of these DUE activities, all parliamentarians use their interpellation rights in European matters. For example, between October 2000 and December 2001, three of the one hour-lasting *Questions au gouvernement* were exclusively dedicated to European issues. In addition, 12 EU-specific questions were raised during other "question hours" in the same time period.²³ This number does not reveal an intensive "European" activity of French parliamentarians. Compared with their German counterparts, however, members of the *Assemblée Nationale* put more (formal) pressure on the government to get information about European issues.

3.1.2 Examination and evaluation procedures of EU documents

Procedures within the Bundestag

After reception of the draft proposals and other working papers, the three employees²⁴ of the *Europabüro* of the EUA secretariat create a list of all available EU documents which is transmitted to all specialized committees. The chairman of the EUA then proposes for each document which committee should have the main responsibility (*Federführung*) and which committees are co-responsible (Ismayr 2000: 296). The *Europabüro* does not evaluate documents or select them according to their relevance (Hölscheidt 2000: 27). The necessary selection procedure is rather provided by the responsible committees which apply very different selection criteria (Weber-Panariello 1995: 248). But in every committee, only about 5% of the transferred documents enter the stage of deliberation (Hölscheidt 2000: 28). Most documents are only taken notice of in committee meetings, even if the committee has the main responsibility for treatment. This means

²² According to François-Xavier Priollaud, member of the AN's parliamentary service for European affairs.

²³ Unfortunately, there are no data available for other time periods and for the percentage of written questions concerning EU affairs.

²⁴ The number of employees in June 2002.

that 95% of the transferred EU documents are not printed as official *Bundestag* documents and can therefore not be treated in the public debates. Whereas the EUA has the best organizational resources²⁵ of the *Bundestag's* committees and is the committee with the most frequent meetings in the *Bundestag* (and even in the EU, see Maurer 2001: 22), its deliberation practice is similar to that of the specialized committees. The lack of intensive deliberation despite of frequent meetings can be explained by the numerous hearings and the regular questioning of government members. The EUA has never used its right to hold special meetings for dealing with EU documents, but only for hearing the government on current EU topics (Hölscheidt 2000: 19).

Another problem for effectively controlling EU affairs is that members of the specialized committees who do not have the same expertise as EUA members select and evaluate EU documents (Weber-Panariello 1995: 250). But to avoid that European legislation proposals are treated without sufficient consideration of integration-specific aspects or at a point of time which does not correspond to the EU's agenda, the EUA has the power to move an amendment to a recommendation for a decision submitted by the committee responsible. However, it has never used this right, since the cooperation between specialized committees and EUA is generally good.²⁶ The "initial rivalries" (Saalfeld 1995: 24) have been progressively reduced.

Procedures within the Assemblée Nationale

The parliamentary procedures for examination of EU documents are mainly handled by the DUE, though it has not the legal status of a specialized committee. Like the *Europabüro*, the secretary of the DUE first makes a list of all received documents, according to which the specialized committees choose documents for deliberation. But the DUE also contributes actively to the selection and evaluation procedures. First, the provisions of the regulation No. 58-1100 state that the DUE has to examine in detail all legislative proposals for the EU. Second, it publishes monthly an own "Selection of documents of the European Union". This selection, which is transmitted to all parliamentarians and to the committees, contains the EU documents considered as important for the *Assemblée Nationale* as well as a brief analysis (DUE 2001). Third, the DUE submits analyzes and evaluations to all further documents the committees wish to deliberate on. Some studies assume that the DUE actually analyzes the political, legal and financial relevance of *all* received documents (Weber-Panariello 1995: 154).

These analyzes are published in the *rapports d'information*, which contain for example details on the objective of the legislation proposal, its effects on the domestic legal system, the

²⁵ In June 2002, the secretariat of the EUA had 18 employees.

²⁶ According to the secretary and two members of the EUA in the respective interviews. As an exception, they all mention the cooperation with the Committee on Foreign Affairs, which does not want to lose further competences to the EUA.

possible reaction of concerned interest groups and the timetable (Rizzuto 1995: 54). The information reports and EU documents are examined and voted on during the meetings of the DUE which meets 35 times per year in average. It is thus, like the EUA, one of the most active EU body within the EU (Maurer 2001: 22). The documents treated within the DUE are then transmitted to the specialized committees for further deliberation. This double examination of European proposals does not favour a quick procedure (Szukala and Rozenberg 2001: 238). It guarantees though an intensive analysis of the documents considered as relevant for parliamentary scrutiny.

The activity of the DUE goes beyond analysing specific EU documents. It also publishes detailed reports on COSAC meetings and on current EU topics or on issues of specific interest for the *Assemblée Nationale*.²⁷ Moreover, members of the DUE make intensive use of their right to deliver an opinion or to move an amendment on resolution proposals of a committee (Weber-Panariello 1995: 176). The DUE is supported by an important administrative staff: the secretary consists of about 30 employees, who have a regular informal contact to their counterparts in the SGCI (Szukala and Rozenberg 2001: 239). And since "rejection of a *délégation's* views or proposals has become an extremely rare event" (Rizzuto 1995: 54), cooperation between the DUE and the specialized committees is good. In general, since the DUE has not the status of a committee, there is not as much potential for a conflict as in the *Bundestag*.

3.1.3 The response to information about European issues

Response within the Bundestag

The parliamentarians usually inform the government about their position in an *informal* way during plenary or committee meetings (Hölscheidt 2000). As mentioned above, the specialized committees develop a *formal* parliamentary position in only 5% of the received documents. These recommendations for resolutions are transmitted to the plenary, who usually adopts them without further debate or suggestions of amendments (Ismayr 2000: 297). If a resolution on an EU document is decided to be object of a public debate, this debate often takes place in connection with other, even national, bills (*verbundene Debatte*). This practice does, however, not favour the consideration of the parliamentary's position on the European level. On the one hand, the position of the *Bundestag* on one specific EU document is difficult to seize for the govern-

²⁷ Like for example, the report on the follow up of parliamentary resolutions, see *Assemblée Nationale* (1995) (ed.): *L'Assemblée Nationale et l'Europe. Quelle influence sur la législation communautaire?*, Rapport d'information N° 2459 déposé par la Délégation de l'Assemblée Nationale pour l'Union Européenne sur les suites données aux résolutions adoptées par l'Assemblée Nationale en application de l'Article 88-4 de la Constitution, Rapporteur : Robert Pandraud.

ment. On the other hand, a resolution might not be voted on before a Council's decision because the plenary is waiting for other bills until it holds a public debate (Weber-Panariello 1995: 254).

While the EUA has the power to prevent that the parliamentary's position is only articulated after a Council's decision by voting a resolution at the place of the plenary, it has never made use of this right until 2001 (Fuchs 2001: 15). Hölscheidt (2000: 18) assumes that this is due to the inefficiency of the procedure itself. In fact, the plenary has to authorize the EUA for each document it might vote a resolution on. But even the more efficient procedure of stating an opinion on the basis of an agreement with the specialized committees is hardly used. Since its constitution and until 2001, the EUA has voted on six resolutions according to this procedure (Fuchs 2001: 16). In the 14th electoral term, the EUA stated an opinion on the elaboration of a Charter of Fundamental Rights and on the use of the Convention method for the elaboration of a European constitution. Concerning both resolutions, the *Bundestag*'s proposals have been taken into account on the European level.²⁸

Regarding the small number of recommendations for resolutions of the specialized committees, the deliberation practice in the plenary and the rare use of special powers by the EUA, the *Bundestag* does not explicitly insist on a consideration of its own position by the government. Even in the follow up of resolutions, the *Bundestag* does not claim for a regular report by the ministers in times of heavy working load, as a member of the EUA committee admits. Moreover, there have been no regular debates on the Government's reports on European Integration which include reports about the consideration of the *Bundestag*'s positions (Saalfeld 2002: 22).

Response within the Assemblée Nationale

Beyond informal transmission of the parliament's position, the *Assemblée Nationale* makes a regular, but not excessive use of its possibilities to formally state an opinion. Between 1993 and 1999, it voted a resolution on about 5-10% of the transmitted documents (Szukala and Rozenberg 2001: 235). For the time period January 1998 until March 2002, the DUE has adopted 44 resolutions (DUE 2002), which means that it officially articulates its position to an E-document one time per month in average. Since the DUE initiates 90% of the recommendations for resolutions, it is the most important institution in the parliamentary reaction process.

These recommendations are transferred to the responsible committee, which may either adopt the resolution at the place of the *Assemblée Nationale* or transfer it to the plenary. According to the *réserve d'examen parlementaire* procedure, the government asks if the parliament in-

²⁸ A detailed analysis of how each resolution has influenced EU politics cannot be given in the framework of this paper. In addition, even the EUA itself does not dispose of any material analysing the follow up.

tends to vote on a resolution and eventually suggests a postponement of the Council's decision. Since the DUE is also aware of the EU timetables, an early articulation of the parliament's position is guaranteed (Weber-Panariello 1995: 179).

During the 10th electoral term, about 40% of the recommendations for resolutions were transmitted to the plenary, who usually adopts the resolution without further suggestions for amendments. But in contrast to the *Bundestag*, there is always a public debate on the specific legislation proposal (Weber-Panariello 1995: 181). The number of recommendations for resolutions in general as well as the number of those discussed in the plenary progressively diminished in the 11th electoral term (1997-2002).²⁹ However, compared with the *Bundestag*, the *Assemblée Nationale*'s parliamentary response to European information is more satisfying, since it adopts more resolutions (one time per month) on a smaller number of documents.

Despite of its obligation to report on the follow-up of resolutions³⁰, the government hardly informs the parliament. Only in some cases, an explicative note has been transmitted to the *Assemblée Nationale* (Szukała and Rozenberg 2001: 240). But during the 10th electoral term, both the *Assemblée Nationale*'s president *Philippe Séguin* and the president of the DUE, *Robert Pandraud*, explicitly demanded from the government to provide them with more systematic information on the follow-up of resolutions (Hourquebie 1999: 183). Moreover, Hourquebie (1999: 94) argues that French parliamentarians pay attention to the impact of their position in the implementation stage of an EU document. Thus resolutions are used to put pressure on the government, as the parliament might refuse to transpose a directive into national law. Due to the cooperation of parliamentary majority and government, this form of sanctioning government will not be used frequently. However, the *Assemblée Nationale* seems to make more efforts to have an impact on the European legislation process than the *Bundestag*.

3.2. The communication of European affairs

In order to analyze the exertion of this function, I firstly examine the practice of public debates on European issues. Secondly, I analyze the parliamentary's communication activities outside the plenary.³¹ Since both parliaments did not acquire specific instruments for the communication of European issues, I will draw on an intensified use of traditional communication rights for European affairs.

²⁹ Only eight out of 50 resolutions (10th electoral term: 74) were adopted after a public debate in the plenary.

³⁰ According to Art. 151-4 of the *Assemblée Nationale*'s rules of procedure (RAN).

³¹ Since the "output"-dimension is more important in European affairs and since there is no data available in the *Bundestag* and the *Assemblée Nationale* to analyze the "input"-dimension (the follow-up of citizen's demands on European issues), I will only concentrate on the parliament's informational activities.

The communication of European issues by the Bundestag

There are various possibilities to debate European affairs on the floor of the House, which the *Bundestag* has not used frequently though (Saalfeld 2002: 40). According to the annual reports of the EUA of 1999, 2000 and 2001, European issues were discussed in 38 public debates. Most of these debates though were not initiated by parliamentarians, but took place after a government's information about European Council meetings. Moreover, as mentioned above, parliamentarians do not use their interpellation rights in an intensive way. Between September 1998 and April 2002, only six of 100 *Große Anfragen* and three of 128 *Aktuelle Stunden* concerned European issues (Saalfeld 2002: 40).³² The plenary also hardly discusses recommendations for resolutions. Between 1999 and 2001, only five of these recommendations for specific EU documents were object of a public debate. Deputies do even not regularly debate the opinions the EUA articulated for the *Bundestag* in the plenary (Hölscheidt 2000: 19). As mentioned above, there are no regular debates about the government's report on European integration (Saalfeld 2002: 22). And during the so-called *verbundene Debatten*, the practice of treating several documents together, documents with domestic concern are more intensively deliberated on than those concerning European politics (Weber-Panariello 1995: 254).

The German parliament is far more active in communicating European issues outside the plenary. It is first of all the EUA which has made considerable efforts to make its work public and transparent. In the 14th the electoral term, every fourth EUA meeting was accessible to the public (Fuchs 2001: 13). In contrast, and despite of their main responsibility, the specialized committee meetings are usually closed to the public. The EUA also actively informs about European issues in general and about the *Bundestag*'s activities. It publishes a series of documents including the minutes of public debates on European issues, an overview of the most important results of EUA meetings as well as information about current European topics. Further information about the *Bundestag*'s role in European affairs and the work of the EUA is presented in detail on the Internet site of the EUA. Some members of the EUA actually claim that in certain periods, the communication of European politics has more weight than the controlling of the government.³³ Again, there are no similar activities of the specialized committees. But a general problem in terms of an effective EU-specific communication function is that for both the EUA and the specialized committees, the selection criteria for EU documents are not transparent. As

³² As an effect of Europeanization processes, European issues can certainly be implicitly object in public debates on domestic affairs. However, explicit European topics do usually not represent a sufficient condition for parliamentarians to initiate public debates.

³³ Both Michael Roth (SPD) and Peter Altmaier (CDU/CSU) claimed in the respective interviews that communication and control are equally important and that it depends on the working program of the EUA which function is more intensively exerted.

95% of the documents are only taken notice of without further deliberation, it is crucial to know the reasons for this selection.

The communication of European issues by the Assemblée Nationale

Like in the *Bundestag*, there are many ways to debate European affairs in the plenary.³⁴ Since the introduction of Art. 88-4 CF, public debates on European issues take regularly place (Weber-Panariello 1995: 192). For example, the *Assemblée Nationale* discusses annually the scope of France's financial contribution to the EU (DUE 2000). Between October 2000 and December 2001³⁵, the plenary discussed European issues in 18 cases. This equals the average number of public debates in the *Bundestag*. But the share of parliamentary initiatives for a public discussion of European issues is higher: in contrast to the German parliament, the French government rarely reports about European politics. There are thus fewer opportunities for the *Assemblée Nationale* to initiate a debate simply as a reaction to a government's initiative. In fact, most of the cases in which European issues were object of a public debate were initiated by deputies within the context of the *Questions au gouvernement*, which are intensively followed by the public (Grote 1995). Concerning the public debate on parliamentary resolutions, there is a very different practice according to the composition of the parliament. While the *Assemblée Nationale* discussed resolutions in the plenary for 33 times during the 10th electoral term (Sauron 2000: 121), only 8 resolutions were object to a public debate from June 1997 to March 2002. However, Rizzuto (1995: 57) analyzes for the 10th electoral term that resolution debates are timetabled when parliamentarians have either not returned from their constituencies or have gone for the weekend. Since debates in which most parliamentarians are not present are rarely followed by the public, this timetabling is not a proper mean for exerting an effective communication.

However, the *Assemblée Nationale* exerts an effective EU-specific communication function outside the plenary. Like in the *Bundestag*, it is the DUE which aims at making its work transparent and at informing the public about EU topics. It regularly organizes public hearings and, for each of its meetings, it publishes the minutes on its Internet Site (DUE 2001). Thus, even though the DUE has not the right to open its meetings to public, it offers the opportunity to be well informed about its work. This is even more important as the committees usually adopt the DUE's view.

The DUE has recently organised a public debate on the future of the EU, including the development of an online questionnaire and a weekly hearing of European experts. Furthermore,

³⁴ For example, parliamentarians can ask the government for information about European issues during the questioning hours. Public debates can also take place after reports of the government on European integration. Finally, legislation proposals for transposing European into national law or the parliamentary resolutions might be object of a discussion in the plenary.

³⁵ Unfortunately, other data were not available.

the information reports of the DUE are printed as official *Assemblée Nationale* papers and are therefore accessible by the public (Weber-Panariello 1995: 155). The DUE also distributes them to the press and interest groups (DUE 2000). In addition, the "Selection of documents of the European Union" is published on the Internet site and is frequently used by authorities and external organisations.³⁶ In general, the Internet site of the *Assemblée Nationale* grants an important room to European affairs.

In sum, the analysis shows that the *Bundestag* has a rather passive role in European affairs compared with the *Assemblée Nationale*. Despite being better informed than its French counterpart, the German parliament does not effectively handle and react on the information. The *Assemblée Nationale* in contrast uses its new rights frequently and has developed efficient selection and evaluation mechanisms. French parliamentarians show also a greater willingness to articulate their position in EU affairs in public. However, the differences between the two parliaments should not be overestimated. For example, the number of public debates or questions asked to the government concerning European issues in the *Assemblée Nationale* suggests that French parliamentarians are by far not as interested in EU as in domestic affairs – it can only be considered as an "active" parliament compared with the *Bundestag*. And the role of the German parliament is not characterised by inertia- on the contrary, the EUA actively seeks to get information about European issues and to make its work transparent. Yet, the result is counter-intuitive, since the domestically "weak" *Assemblée Nationale* plays a more important role than the powerful *Bundestag*. How can we account for this differential pattern of institutional adaptation?

4. New opportunities and Euro-scepticism: explaining the different role of *Bundestag* and *Assemblée Nationale* in European affairs

4.1. The concept of mediating factors

Some scholars argue that differences in adaptation processes of parliaments can be explained by the varying degree of adaptational pressure (Hansen and Scholl 2002). But first, the analysis shows that national parliaments in the EU all face a "misfit" and accordingly the same pressure to adapt to European rules and procedures. Second, the existence of a "misfit" is a necessary, but not sufficient condition for domestic change (Börzel and Risse 2000; Cowles et al. 2001). As a sufficient condition for domestic change, the literature has identified mediating factors on the domestic level which determine the degree of change (Cowles et al. 2001). According to the concept of "actor-centred institutionalism" (Mayntz and Scharpf 1995), the process of institu-

³⁶ According to an internal paper of the *Assemblée Nationale* of 2002.

tional adaptation is conceptualized as being the impact of actors' behaviour and the institutional context they are embedded in. Actors are the "driving force" of domestic change (Cowles et al. 2001: 11). However, their preferences are not fix and stable, but they are influenced by the institutional environment. In order to know the way in which they impact on the actor's preferences, the literature draws on elements of both rational choice and sociological institutionalism (Cowles et al. 2001, Börzel 2002a).

From a rational choice perspective, institutions consist of formal rules, procedures and norms which provide resources to domestic actors and regulate their mutual exchange (Börzel 2002a: 19). Since they define the distribution of resources, institutions define the **capacity** of domestic actors to react on Europeanization pressures. But they also affect the **willingness** to react on Europeanization by determining the opportunity costs of an adaptational reaction. Rational choice mediating factors thus refer to the "logic of consequentialism" (March and Olsen 1989).

Sociological institutionalism defines institutions as social and cultural norms which provide actors with "a fundamental understanding of what their interests are and what the appropriate means to pursue these interests are" (Börzel 2002a: 23). The institutional structure thus determines the legitimacy or appropriateness of actor's behaviour. Actors may not pursue an action because they consider it as not being socially appropriate. Institutions consequently also affect the **willingness** of actors respond to Europeanization pressures, but they draw on another causal mechanism. In this perspective, domestic actors might even refuse to initiate domestic change despite of the expected benefits. Sociological institutionalist mediating factors thus refer to the "logic of appropriateness" (March and Olsen 1989).

For explaining the different institutional adaptation by the *Bundestag* and the *Assemblée Nationale*, we have to identify which institutional factors might have effected the parliamentarian's decision (not) to make intensive use of EU-specific functions. In the following, I will draw on domestic factors the literature on the role of national parliaments has already identified and classify them according to their supposed effect on the parliamentarians' behaviour.

4.2. The impact of mediating factors on the different role of the *Bundestag* and the *Assemblée Nationale* in European Affairs

4.2.1 "Rational choice" mediating factors

First, I draw on three mediating factors relating to **capacity**. Norton (1996: 10) claims that most heavily burdened parliaments have the greatest difficulty in adapting. In this perspective, the

working load, i.e., the (lack of) resources of national parliaments is a mediating factor. In addition, I will analyze the mediating factors relating to the action capacity identified by Cowles et al. (2001), i.e. the possible impact of *veto players*, which impede adaptational processes and of *supporting formal institutions* which provide additional resources. Second, I analyze factors affecting the **willingness** of parliamentarians to actively participate in European politics like the *impact of European issues in domestic elections* (Saalfeld 2002). Since actors have a self-interest in organisational autonomy and growth (Börzel 2002a: 28), deputies might exert EU-specific functions because it represents an *opportunity to enhance the institutional position of the parliament within the domestic system* which would provide additional powers.³⁷

4.2.1.1 *The impact of working load*

Concerning the working load of the two parliaments, the *Bundestag* is more heavily burdened than the *Assemblée Nationale*, since the internal procedures of handling with EU documents are less efficient. First, the analysis has shown that the *Bundestag* gets all relevant EU documents as well as abundant oral information. Second, like in domestic affairs, the parliamentary work is organised in a decentralised way. The scrutiny process is also more complex since EU affairs often concern several ministerial departments. A lot of different parliamentary bodies and actors are involved in the examination procedures. An effective control of the government's European politics thus demands the knowledge of the selection mechanisms and the deliberation stages of all participating committees, and an intensive cooperation of different committee members and employees as well as of different party groups. Third, the fact that the specialized committees - which examine already domestic legislation proposals - get all policy-specific EU documents and have to select them subsequently represents an additional working load. Fourth, even the EUA is heavily loaded with work, since it is mainly responsible for the examination of all "general" EU documents and co-responsible for nearly every other document. EUA members themselves explain a certain lack of parliamentary control by this working load. It is mainly the little party groups which do not have enough human resources (deputies and staff) to intensively control the government. The abundance of information and the parliament' organisational fragmentation might impede on the parliamentarians' capacity to intensively examine the EU documents and to react quickly and flexibly on European issues.

The *Assemblée Nationale* is less heavily burdened since it deals more efficiently with less information. First, as the number of committees is limited within the logic of the *parlementarisme rationalisé*, there are less parliamentary bodies and actors which are involved and have to

³⁷ The whole adaptation process is certainly a means for enhancing the role of national parliaments in European affairs in general, trying to approximate the *status quo ante*, that is *before* their loss of competences. The term used in this chapter only refers to the opportunity to strengthen national parliaments in a way that even goes beyond the *status quo ante*.

cooperate in the scrutiny process. Second, as the French government coordinates its European policy through the SGCI, the *Assemblée Nationale* might receive information on European issues more quickly than parliaments in decentralized political systems (Weber-Panariello 1995: 141). Third, the central organization of examination procedures offers the opportunity to examine documents more intensively and provides for synergy effects. For example, the number of parliamentary staffs participating in the examination procedure is as high in the *Bundestag*. But employees, though they are responsible for different policy areas, are working together in the “*Division des Communautés et de l’Union Européenne*”. This avoids time consuming cooperation between different parliamentary bodies at this level. Fourth, the selection of documents and the additional information provided by the DUE relieves the committee's examination procedures. The central parliamentary organisation and the relatively low working load thus give French parliamentarians a greater capacity to control European politics. In sum, the different levels of working load represent a possible explanatory factor for the observed variation in institutional adaptation.

4.2.1.2. *The impact of veto players*

According to Tsebelis (1995), the capacity of political systems to make political decision changing the status quo depends on the number and the ideological distance of institutional veto players, i.e. parliamentary chambers or the parties in government. In terms of Europeanization processes, the concept of veto players means that domestic change as a form of institutional adaptation to Europeanization pressures is the more possible the fewer veto players exist in the domestic political system and the less their ideological distances are (Cowles et al. 2001).³⁸ This means for the case of national parliaments that the exerting of EU-specific function as a form of institutional adaptation is the more likely to occur the less the number of coalition parties in the government is and the less the less their attitude to European politics differs.

In Germany, government usually consists of only two coalition parties, which then have to agree on the exertion of the EU-specific control and communication function. This was also the case in the time unit of this study.³⁹ In addition, there are no profound ideological differences between German parties in the *Bundestag* concerning their attitudes towards the European integration process. Regarding the number and the distance of veto players, we would expect that the

³⁸ The application of this approach to the case of national parliaments is problematic. First, parliaments are themselves conceptualized as veto players. Second, the necessary institutional adaptation – the exerting of EU-specific functions – is an intra-institutional change. Veto players impeding the action capacity of parliamentarians can thus only be part of the parliament. This is the case with coalition parties, since the EU-specific functions can usually only be exerted with an agreement of the majority.

³⁹ In the 12th (1990-94) and the 13th (1994-98) electoral term, there was a coalition of the Christian Democrats (CDU/CSU) and the Liberal Party (FDP), whereas in the 14th electoral term, the Social Democrats (SPD) and the Green Party (*Bündnis 90/Die Grünen*) formed the government.

Bundestag easily adapts to Europeanization pressures. Since it does not exert the EU-specific functions very actively, the empirical results are in contrast to the predicted outcome. Accordingly, the veto player hypothesis has no explanatory power for the *Bundestag*'s reaction.

Paradoxically, the conditions for slow or no domestic change are given in the case of the *Assemblée Nationale*, which is more actively engaged in controlling and communication European affairs than the *Bundestag*. The practice of forming governments varies between one-party to five-party government, like in the case of the recent government *Jospin* (1997-2002), which consisted of the Communist party (*PCF*), the Green party (*Verts*), the Citizen's Movement (*MdC*), the Radical Left Party (*PRG*) and the Socialists (*PS*). In addition, there is a greater divergence concerning the parties' position to European politics.⁴⁰ This constellation is a possible explanation for the variance in exerting EU-specific functions observed within the *Assemblée Nationale*. Since a two-party coalition (*RPR/UDF*) was in government from 1993 to 1997, Szukala and Rozenberg (2001: 240) argue that the number of public debates decreased since 1997 because the government "avoided public votes about resolutions given the fragmentation of the parliamentary majority and its division about Europe". However, the veto player concept does not account for the variation between the two parliaments.

4.2.1.3. The impact of supporting formal institutions

There are no institutions supporting the *Bundestag* in the exertion of EU-specific functions by giving it additional resources during the time period of the analysis. Some scholars name the supporting function of the Second Chamber, the *Bundesrat* (Weber-Panariello 1995; Rometsch 1996; Hourquebie 1999) or of the Constitutional Court, the *Bundesverfassungsgericht* (Steffani 1995; Hansen and Scholl 2002) which both favoured a stronger parliamentary participation in European affairs. But they were only engaged before the treaty of Maastricht came into force.

There is a similar situation for the *Assemblée Nationale*, since Lequesne (1993) argues that the *Sénat* and the *Conseil Constitutionnel* supported the introduction of the Art. 88-4 CF. However, the *Conseil d'État* can act as a supporting formal institution in the use of Art. 88-4 CF. As mentioned above, it qualified progressively more EU documents as having a legislative character, thus allowing the parliament to vote on resolutions. But as the total number of resolutions decreased over time, the role of the State Council should not be overestimated.

To sum up, there are differences in the existence of supporting formal institutions between *Assemblée Nationale* and *Bundestag*. However, they do not account for the variation,

⁴⁰ Concerning the recent five-party government for example, the *PCF* and the *MdC* have a very euro-sceptical position, whereas the other coalition parties have a favourable attitude towards European integration. This is also true for the former centralist-gaullist *UDF/RPR* government (1993-1997), in which the *UDF* was a very pro-European party and the *RPR* had a distinct minority of Euro-scepticists.

since the lack of support by formal institutions in the case of the *Bundestag* does not give less action capacity to the German parliamentarians. By contrast, the *Conseil d'État* provides the *Assemblée Nationale* with resources the *Bundestag* already has.

4.2.1.4. *The impact of European issues in domestic elections.*

The impact of European issues in domestic elections is considered as being relatively low in all EU member states. For the German parliament, Rometsch (1996: 78) assumes that "EC legislation (...) in electoral terms, is not profitable to deal with." If Germany has a high level of support for European integration (Korte and Maurer 2001: 203), the German electorate does not show great interest in European politics. For example, the turnout in elections for the European Parliament is usually 30% lower than in *Bundestag* elections. In addition, European issues do not play an important role in the domestic political agenda or during electoral campaigns (Saalfeld 2002: 12). Finally, the already mentioned "European consensus" does not favour an active participation of deputies in European politics, since it provides no opportunity to demonstrate alternatives to the positions of political opponents. The lack of interest in European politics of the electorate is thus a possible explanation for the fact that even the parliamentary opposition does not frequently use control rights like the interpellation of the government. Furthermore, the low electoral impact of European issues can account for the low number of public debates about Europe.

The impact of European issues is equally low in French elections. For example, the French electoral turnout in elections to the European Parliament in 1999 was only about 50 % (Buffotot and Hanley 2000: 165). And even in national elections, European issues have no important impact. Moreover, the French electoral system favours an engagement of deputies or candidates in local and less in national or European affairs (Weber-Panariello 1995). The electoral impact of parliamentary involvement in European projects does not constitute an incentive for parliamentarians to actively participate in EU politics. In sum, as there is no significant variation between the electoral impact in Germany and France, it cannot account for the different role the two parliaments play in European affairs.

4.2.1.5. *The impact of "new opportunities"*

I will concentrate on the question if the use of the new participatory rights represents a means for strengthening the role of the French and the German parliament even beyond the *status quo ante*. Concerning the *Bundestag*, the new scrutiny instruments provided by Art. 23 GG mainly serve to approximate the *status quo ante*. Thus, the provisions state that the *Bundestag* should obtain all relevant information from the government and that it may pass resolutions on it which have a

politically binding character. In the domestic legislation process, the German parliament also gets all necessary information concerning a legislation proposal of the government, since the *Bundestag* has to decide on it. In this perspective, the provision of Art. 23 GG does not enhance the role of the *Bundestag* beyond the *status quo ante*. Concerning the voting on resolutions, the German parliament actually had this right before Art. 23 GG. It could pass resolutions on all topics, including European issues (Ismayr 2000: 402). As a result, the new provision only improves the legal basis of the *status quo ante* by introducing it in the Constitution. The use of the participatory rights of Art. 23 GG does thus not additionally empower German parliamentarians. However, a new right which does not correspond or approximate the *status quo ante* is the power of the EUA to state an opinion at the place of the *Bundestag*, since it provides a type of flexible reaction the parliament does not have in domestic affairs. The analysis has shown though that the EUA does not frequently invoke this right –despite of expected benefits.

Concerning the *Assemblée Nationale*, the provisions of Art. 88-4 CF represent an opportunity to enhance its role in the domestic system. Since in domestic affairs, the French government has an extensive right to adopt regulations which it frequently uses, the parliament is not fully informed about the law-making process. In contrast, the *Assemblée Nationale* receives numerous information concerning the European legislation process, even if the proposals do not correspond to a policy area in which parliament would have a say if it was a domestic one. At least in terms of quantity, the French parliament has more information on European than on domestic affairs. In this perspective, the right to vote on resolutions constitutes an even more important innovation (Hourquebie 1999: 87). In the Fifth Republic, the French parliament only has the right to vote on resolutions concerning the organization of the parliamentary work, but not on domestic policy issues (for details, see Hourquebie 1999). This is a result of the “abuse” of the resolution voting during the Fourth Republic, which had considerably weakened the government’s position. Since Art. 88-4 has been introduced in the French Constitution, the *Assemblée Nationale* has an exclusive right to articulate its position concerning European issues, which it does not have for domestic affairs (Huber 2001: 126). The higher number of resolutions voted by the *Assemblée Nationale* – as being part of an effective exertion of EU-specific functions- can thus be explained by this new empowerment. In sum, the opportunity to enhance the role of the parliament constitutes an incentive for French parliamentarians to use the new participatory rights in a more intensive way than their German counterparts.

However, this mediating factor cannot account for all aspects of the different role of *Bundestag* and *Assemblée Nationale* in European affairs. First, in contrast to the prediction of the hypothesis, the EUA does not frequently use the power to state an opinion in the place of the *Bundestag*. Second, the opportunity to enhance the parliament’s role only refers to the use of

new participatory rights. It can therefore not explain a different exertion of other parts of parliamentary functions like the use of interpellation rights. Third, this explanatory factor cannot account for variation within the adaptational process as it is constant over time. Consequently, we have to look for alternative explanations which complete the explanatory power of the "rational choice" mediating factors.

4.2.2 "Sociological" mediating factors

In the following, I will draw on three mediating factors referring to the "logic of appropriateness". An aspect of the institutional structure influencing this logic of behaviour is the *relationship between the government and the parliament* (Bergman 1997: 381). If both institutions closely cooperate, the parliament might be less motivated to control the government, even if the expected benefit is high. The *attitudes towards European integration* in the political parties could have a similar impact (Norton 1996: 9), since controlling European politics intensively from a national level would not correspond to a favourable attitude towards integration. Finally, certain *informal norms regulating the relationship between parliamentary bodies* could influence the exertion of EU-specific functions. If there is a cooperative culture within the parliament, bodies having specific "European" rights could not use them for reasons of appropriateness.

4.2.2.1 *The impact of the relationship between parliament and government*

Concerning the relationship executive and legislative, there are some differences in the French and the German political system. In Germany, the parliamentary majority of the *Bundestag* and the Federal government closely cooperate with each other. This cooperation apparently persists in European affairs, despite of the loss of influence of the parliamentary majority in this policy area. For example, the opinions the EUA stated at the place of the *Bundestag* did not criticize the government's position on European politics, but referred mainly to institutional questions. As mentioned above, parliamentarians do not frequently use formal control rights or put informal pressure on the government, even if they receive not all relevant information at an early point of time. Like in the domestic context, the parliamentary majority continues to be reluctant on controlling the government. Apart from the working load, the lack of "political" willingness is another explanation for the fact that the *Bundestag's* rather passive role in European affairs.

However, the more active use of EU-specific functions by the *Assemblée Nationale* does not necessarily result from a competitive relationship between parliament and government. The analysis has shown that the *Assemblée Nationale* puts more pressure on its government than the *Bundestag* concerning the consideration of its resolutions. But the more frequent voting on resolutions does not primarily represent a means for sanctioning the government. The constitution of

the Fifth Republic has established the *fait majoritaire* (Schild 1997: 78), that is the close cooperation between parliamentary majority and government. Benoît (1997: 56) even claims that this cooperation goes as far that the government agrees *ex ante* to a parliamentary resolution for having a diplomatic instrument in Council negotiations. And Szukala and Rozenberg (2001: 240) support the thesis of a close cooperation of parliamentary majority and government, when they argue that the “tabling of a resolution is not an arm that the opposition exploits to undermine governmental business”.⁴¹ Equally, the questions to the government during parliamentary question hours were mainly asked by members of the coalition parties (*Assemblée Nationale* 2001) which do not intend a confrontation with or an intensive control of the government.

In sum, the relationship between government and parliament in Germany and France are not so different that they may account for the different institutional adaptation. The *Assemblée Nationale* does not exert the EU-specific functions more intensively because it considers a confrontation with the government as being more appropriate than their German counterparts do. The close cooperation with government might well be an explanation of the *Bundestag*'s role, but it cannot compensate for the deficits of the “rational choice” approach.

4.2.2.2 *The impact of informal rules regulating the relationship between parliamentary bodies*

As a result of its federal organization, Germany has a very cooperative political culture, favouring negotiation processes and consensual decisions. Some scholars claim that German actors also respond with a cooperative strategy to Europeanization pressures, since confrontation is considered as inappropriate behaviour. For example, “winners” of Europeanization processes did not use their new opportunities, but compensated the “losers” in the first place (Héritier 2001: 57; Börzel 2001: 147). Such an informal role also exists within the *Bundestag* in the way that there is an informal rule of the equal standing of parliamentary bodies (Hölscheidt 2001: 129). In this perspective, a frequent use of the EUA's specific powers would contradict this rule and lead to a dominant position of the EUA among the parliamentary committees. In fact, the head of the secretary of the EUA claims that the EUA hesitates to use these rights even though they might empower its position and prefers to look for compromises with the specialized committees (Fuchs 2001: 18). The existing cooperative culture within the parliament prevents that the “winner” of Europeanization processes uses its new opportunities in a competitive way.

Concerning France, scholars describe the political culture as being very fragmented and mainly non-cooperative. The centrist state organization leads to very intensive conflicts, since intermediary institutions are weak. Literature on Europeanization effects on France has identified

⁴¹ This further supports the hypothesis that the parliament uses its new rights because they improve its role in the domestic system. However, the enhancement does not result in a greater autonomy, but in a more intensive partnership with the government.

that adaptational processes occur according to this dualism between state and non-state actors. The lack of power dispersal empowers the central state to prevent actors from exploiting opportunities provided by “Europe” (Caporaso and Jupille 2001). But in contrast to the *Bundestag*, the greater activity of the DUE cannot be explained by a more competitive culture within the *Assemblée Nationale*. First, the DUE does not have a committee status. An intensive use of its rights would thus not affect the role of the committees. Second, the analysis has shown that the committees cooperate with the delegation in the sense that they generally adopt its view on EU documents.⁴²

In sum, the existence of informal norms regulating the relationship between parliamentary bodies has a good explanatory power for the rare use of specific EU-control rights by the EUA. Like in the relationship to the government, it is the cooperative culture which impedes on an effective institutional adaptation. However, it does not account for the variance between the activity of DUE and EUA, since it does not explain the DUE’s activity.

4.2.2.3 *The impact of attitudes towards European integration*

A third “sociological” mediating factor consists in the attitudes of parliamentary parties towards European integration. The underlying assumption is that the more favourable the attitude towards the integration process, the less appropriate a national parliamentary’s involvement in European affairs is conceived by national parliamentarians.

Concerning Germany, we can also find a kind of “cooperative culture” in the attitudes towards European integration of parliamentary parties. Since the 1960s, there has been no anti-European party in the *Bundestag*. The parliamentary majority and the opposition generally agreed on the participation of Germany in the European integration process as being in Germany’s vital interest (Risse 2001: 206). In this perspective, a conflict about European politics is considered inappropriate regarding the national interests associated with further integration. Rometsch (1996: 66) summarizes that “Germany always tried to be a kind of “paragon” in European integration”. In fact, some scholars explain the passive role of the *Bundestag* even before the treaty of Maastricht with the lack of opposition to European integration (Weber-Panariello 1995). The “permissive consensus” (Lindenberg and Scheingold 1970) gave the respective governments a great autonomy in European politics. Even if the public support for European integration has diminished in the 1990s (Korte and Maurer 2001: 205), there is still no anti-European or even euro-sceptic party in the *Bundestag*. Moreover, the political differences in the EUA are

⁴² However, it frequently uses rights that are similar to committee powers like the tabling of resolutions or the power to move amendments. In this perspective, it does not hesitate to use its specific rights vis à vis other delegations.

even less clear-cut than in the specialized committees.⁴³ As mentioned above, the “permissive consensus” might be a possible explanation for the rather passive role of the *Bundestag* in European affairs, since participation is not profitable for parliamentarians in electoral terms. While this draws on the “logic of consequentialism”, the European consensus can also affect the “logic of appropriateness”. In fact, the coalition parties stated in 2000 that agreeing on this consensus means respecting the German national interests (Korte and Maurer 2001: 209). A controversial discussion in the plenary is thus not appropriate, and public debates often reflect the broad consensus. This undermines an effective exertion of the communication function, since this type of debate does not attract the public. Furthermore, even an intensive control of European affairs might be regarded not as a contribution to solve the democratic deficit, but as a form of scepticism towards the integration process. This consensus could also –like the working load hypothesis – account for the reluctant use of control rights by the parliamentary opposition.

In France, support for European integration is generally high. But in contrast to Germany, France's choice to join the integration process was based on the idea of “Europe as an extension of French *grandeur*” (Drake and Milner 1999: 167). This rather Gaullist view of Europe slightly changed under the Mitterrand's presidency, who conceived the European identity as being integral part of the French identity (Risse 2001: 212) and even proclaimed a federal Union at the end of the 1980s (Benoît 1997: 10). However, within the context of the so-called “Maastricht-debate” in 1992, scholars perceive a growing Euro-scepticism which can be observed throughout the 1990s (Benoît 1997; Drake and Milner 1997; Steinhilber 2000). And in contrast to Germany, where support for European integration also decreased in the 1990s, this scepticism also reached French political parties. Apart from the traditional anti-European parties *PCF* or *Front National* (FN), opponents of the Maastricht Treaty became powerful within the traditional pro-European parties or even found new parties⁴⁴: “For the first time, an anti-European coalition with a defined message (...) emerged as a sizeable political force” (Benoît 1997: 12). If pro-European positions continued to dominate the political discourse, it had become legitimate to articulate Euro-sceptical positions in the public and to criticize European politics.

This change in the attitudes towards European integration could have also affected the exertion of EU-specific functions in the French parliament. Maurer (2002: 29) argues that the active role of the French parliament can be conceived as a reaction to the “Euro”-critical attitudes of French citizens in the 1990s. In the 10th electoral term, the RPR - as a party with a distinct wing of Euro-scepticists - actually formed the parliamentary majority. In addition, *Philippe Séguin* a popular opponent of the Maastricht Treaty, became president of the *Assemblée Nation-*

⁴³ According to interviews with members of the EUA in May 2002.

⁴⁴ For example, the PS- member *Jean-Pierre Chevènement* founded the *Mouvement des Citoyens (MdC)* and former UPF- member *Philippe de Villiers* founded the *Mouvement pour la France (MPF)*.

ale. Since other important positions within the *Assemblée Nationale* (and the DUE in particular) were also given to people of the Euro-sceptic wing of the RPR, it constituted “a *de facto* high-profile platform for Euroscepticism” (Benoit 1997: 54). The active participation in European affairs might thus be explained by a greater willingness of French parliamentarians to control European politics and to articulate their position concerning European issues.⁴⁵ For example, in contrast to opinions stated by the *Bundestag*, the *Assemblée Nationale*’s resolutions often concern matters of national interest, reflecting “a specific way of apprehending ‘Europe’ through national lenses” (Szukala and Rozenberg 2001: 236). Thus, instead of criticizing the government’s position (see above), resolutions mostly contain a critique of European politics. The fact that the number of resolutions decreased in the 11th electoral term, during which the parliamentary majority was less “Euro”-sceptic, also supports the supposed correlation between Euro-scepticism and intensive exertion of EU-specific functions.

To sum up, the attitudes towards European integration of parliamentary parties can account for the different role of the *Bundestag* and the *Assemblée Nationale* in European affairs, since they vary in the two countries.

5. Conclusions

The aim of this paper was to analyze and to explain the role of the *Bundestag* and the *Assemblée Nationale* in EU affairs as a process of institutional adaptation to Europeanization pressures. In order to develop a common analytical framework for a comparative case study, I used the concept of parliamentary functions as an operationalization for the “goodness of fit”. The analysis has shown that the process of institutional adaptation for national parliaments consists in the exertion of EU-specific functions, since the traditional functions are not compatible to European rules and procedures. The empirical study of how the French and the German parliament exert these functions demonstrated contradicts two basic assumptions concerning the effects of Europeanization and the role of parliaments. First, variance in institutional adaptation occurs not only as a result of different degrees of “misfit”. Even if both parliaments had to adapt their functions in the same way in order to give legitimacy to European politics, there was variance in the adaptational processes. Second, the role of national parliaments in EU affairs does not correspond to their position in the domestic institutional structure, since the rather weak *Assemblée Nationale* is more actively participating in European politics than the more powerful *Bundestag*. A recent empirical study of the role of the Austrian, Finnish and the Swedish Parliament confirms this suggestion (Hegeland and Neuhold 2002).

⁴⁵ There was a far greater number of proponents of further European integration in the *Assemblée Nationale*, but the Euro-scepticists were “more vocal and more influential than their pro-European counterparts” (Benoit 1997: 55).

In order to account for this counter-intuitive result, I identified “mediating factors” which might have impacted the way in which both parliaments adapt to Europe. The analysis stresses the central or decentral character of parliamentary organization of EU affairs, the (im-)possibility to enhance the domestic position of the parliament via EU participatory rights, the existence of informal rules within the parliament and the commitment to European integration as the most important factors that enhance or inhibit a strong role of national parliaments in European politics (Table 1). The study thus shows that the capacity and willingness of national parliaments to respond to European opportunities and constraints depends both on rationalist (efficiency of parliamentary organization, perceived benefits from use of “European” powers) and constructivist (importance of informal rules, commitment to European integration) factors. The different forms of institutional adaptation predicted by these two strands of the theoretical literature do not exclude each other, but gain even more explanatory power in combining them. Further research on how these approaches can be fruitfully combined is crucial for explaining the role of national parliaments. Moreover, the analysis shows that, in contrast to the suggestions of Katzenstein (1984) and Börzel (1999; 2000), a cooperative culture is not only a facilitating factor for adaptation. The intensive cooperation between the parliamentary majority and the government, between the parliamentary bodies and even between the political parties concerning EU affairs has a negative impact on the *Bundestag*’s adaptation process.

What lessons can we draw from the German and the French case for the future role of national parliaments? First, an efficient selection mechanism and a central coordination of EU affairs within the parliament seems to be crucial for controlling European politics effectively, as other empirical studies also suggest (Maurer 2001; Hegeland and Neuhold 2002). Second, formal participatory rights are important for an active role of national parliaments. This is mainly the case concerning “weak” domestic parliaments. However, formal rules are only a necessary, but not a sufficient condition for active participation, since parliamentarians must have the willingness to invoke them. Third, the observed cooperation between parliamentary majority and government which impedes the exertion of intensive control refers to all parliaments in the EU. Giving additional powers and human resources to the parliamentary minority could represent a means to a more effective parliamentary participation.

In sum, the analysis stresses the limits of formulating general “remedies” for national parliaments. Whereas the “early-warning mechanism” suggested by the working group of the European Convention might enhance the capacity of national parliaments to have a say in European politics, the actual use of this right depends on domestic factors which determine the willingness of parliamentarians. Formal powers do not necessarily contribute to solve the “democratic deficit”. Consequently, these attempts have to concentrate first on providing an equal action capacity

for all EU parliaments. In a second step, the specific situation of each parliament has to be considered, and eventually, incentives have to be provided on the domestic level. Finally, solving the “democratic deficit” means improving the role of both sources of legitimacy of the EU. The role of the European Parliament should not be neglected.

Table 1: Mediating factors explaining the institutional adaptation of the German *Bundestag* (BT) and the French *Assemblée Nationale* (AN)

Theoretical approach (logic of behaviour)		Selected mediating factors	Impact on the adaptation of the BT	Impact on the adaptation of the AN
"Rational choice"-institutionalism (logic of consequentialism)	Referring to the capacity to pursue an action (power and resources)	Parliamentary working load	-	+
		Veto players	+	-
	Referring to the willingness to pursue an action (opportunity costs)	Supporting formal institutions	-	(+)
		Electoral impact of engagement in EU affairs	-	-
Sociological Institutionalism (logic of appropriateness)	Referring to the willingness to pursue an action (social legitimacy)	Opportunity to enhance the role of parliament beyond the <i>status quo ante</i>	-	+
		Relationship between government and parliament	-	-
		Informal rules regulating the relationship between parliamentary bodies	-	(+)
		Attitudes of parliamentary parties towards European integration	-	+

+: facilitates adaptation
- : impedes adaptation

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