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Abstract

The role and functioning of the upper chambers of Central and Eastern European (CEE) parliaments have for a long time been a minor topic on the research agenda of legislative specialists. This paper seeks to fill the gap in existing research by aiming to determine the main effects caused by the process of Europeanisation on the relationships between the upper and lower chambers of parliaments in four CEE countries; the Czech Republic, Poland, Romania and Slovenia. The paper identifies these changes on two levels - the institutional and the individual. The institutional level analysis examines changes in the formal and informal structures of CEE bicameral legislatures and their functioning. The individual level analysis focuses on changes within the recruitment and career patterns of parliamentarians within the expanded multilevel governance system. The aim of the paper is to determine whether the process of Europeanisation and EU accession establishes a common ground for formal and informal cooperation between the chambers (and their respective members) at the national level, or whether this process operates as a further constraint for the successful consolidation of parliaments in Central and Eastern Europe.

Keywords

Czech Republic — European Parliament — Institutionalisation — Legislative Procedure — MEPs — National Parliaments — Poland — Political Representation — Romania — Slovenia

Introduction

Given the general effects of Europeanisation in strengthening the executive branch of governance (Raunio 2005; Rakusanova 2006), significant progress has been made in recent years in linking the research on Europeanisation and the national parliaments (NP) – especially concentrating on the executive-legislative relationship in the old and the new member states (comp. Ágh 2002; Benz 2005; Fraga 2005; Illonszki and Edinger 2007; Linek and Mansfeldová 2005; Mansfeldová and Klima 1998; Mansfeldová 2003; Mauer and Wessels 2001; Norton and Olson 2007; Pfefferle 2005; Rizzuto 2003). The focal point of this research was the relationship between the executive and the legislative branch, the role the national parliaments play in the integration process, general and control mechanisms established and institutional changes. It can be summarised, that the role that national parliaments play in the European affairs depends on following three factors: 1. the constitutional legislative-executive balance; 2. the nature of party government and party system as such; and 3. the level of internalisation of European issues – the extent to which European Affairs are regarded as domestic rather than international issues (Rizzuto 2003: 106).

However, most of the studies on national parliaments concentrate on the analysis of the first chambers, while the role and functioning of the second of chambers was for a long time only a minor topic on the research agenda of legislative specialists. In this paper I seek to fill this gap by arguing that the reason for formal (or informal) institutional change in inter-cameral relationship appears through the European Union (EU) leverage, as well as due to the party structure of the parliaments. I adopt the approach introduced by Robert Scully (2001), who stresses that ‘the relationships between the first and the second parliamentary chamber in any parliamentary system cannot be understood as separate from executive-legislative relations’ (Scully 2001: 96). He also identifies two key factors determining inter-cameral relations: 1. formal prerogative granted to the first chamber, which in the case of strong asymmetry in formal competences generally undermines the role of upper chambers; 2. the party relationships – especially the following aspects: party balance and party unity, which determines, to what extent the exercise of the (limited) powers granted to the upper chamber shape the policy process (ibid.: 97-101).

The aim of this paper is to determine the effects of the Europeanisation on bicameral parliaments in the following four Central and Eastern European countries (CEE): the Czech Republic, Poland, Romania and Slovenia. I seek to analyse the institutional and individual changes that took place in the process of Europeanisation vis-à-vis the relationships between Upper and Lower Chamber of Parliaments.. On the institutional level I analyse changes in the formal (and informal) structures of CEE bicameral legislatures and their functioning, while the individual level analysis focuses on changes within the recruitment and career patterns of parliamentarians within the expanded multilevel governance system. I seek to determine if the process of Europeanisation (and the EU accession) establishes a common ground for formal and informal cooperation between the chambers (and their respective members) on national level, or a further constrain to successful consolidation of parliaments in Central and Eastern Europe. The symmetry/asymmetry typology developed by Petterson and Mughan (2001) is applied to classify the inter-cameral relationships within the CEE parliaments. The findings show that institutional inter-cameral relationships in CEE are strongly asymmetrical, and the minor changes can be

ascribed to the pressure of EU accession and the need to comply with the legal requirements of EU membership.

First, the general theoretical framework is established by introducing a general overview of literature on bicameralism and Europeanisation; as well as analyse the effects of Europeanisation on national parliaments. Then I briefly characterise the nature of bicameralism in the four CEE-countries and analyse the institutional changes taking place in the process of Europeanisation. Finally, I analyse the recruitment patterns of the Members of European Parliament (MEPs) from the countries under study. The aim is to further support the claim of strong asymmetry in inter-cameral relations in the Central and Eastern Europe.

In the concluding remarks, we find that our institutional and individual analysis supports the asymmetrical nature of the inter-cameral relations among the CEE legislatures, with Poland as an important out-layer among the cases analysed. We conclude by outlining further research agenda, stressing the need to: 1. include the study of the second chambers in the scholarly research on the national parliaments in the process of Europeanisation; 2. stressing the role of political parties in determining formal and informal inter-cameral relationship.

Theoretical framework

Europeanisation

The process of European Integration (EI) is, for the purpose of this paper, defined as 'the formation of a whole out of parts, increasing interaction of member states with one another, removal of obstacles to flows of goods and factors, emergence of an independent entity at the supranational level' (Caporaso 2004). Europeanisation is also a reaction to the challenges of globalisation, deepening the latter, however. Similar to globalisation, the process of European Integration is a broad process embracing all three major areas of political-legal structures, economy and civil society (Ágh et al. 2002). Although the processes of European Integration and Europeanisation are interrelated, they are not equivalent. According to Caporaso, the term Europeanisation was invented to fill 'the conceptual difficulty of talking about the effects of Integration on domestic structures' and 'like globalization, Europeanisation is not one thing' (Caporaso 2004).

Ongoing Europeanisation is, in both quantitative and qualitative terms, a source of transfer of powers and legislative activities from the national to the supranational level. According to Caporaso (ibid.), the changes caused by the process of Europeanisation take place on five different levels: 1) policy change – Europe can, and in the case of CEE did, act as a domestic political resource (see for example Grabbe 2001; Vachudova 2005); 2) structural change – starting with the changes of banks and financial structures through changing functions of NPs via its leverage, the EU is a source of major structural changes in its member states;¹ 3) normative change – the changes in conceptions of national identity and national citizenship represent a shift

¹ In the case of CEE countries, the institutional adaptation took place in much higher extent, as Fink-Hafner point out, the pressures for institutional adaptation exercised by the EU started in the early stages of the accession process. The adaptation was a result of coordination of EU affairs and implementation of EU policies (Fink-Hafner 2005).

in value orientation among EU citizenry; 4) change in state - society relations – in some member states, important changes in the relationship between state, its institutions and societal actors can be seen – e.g., the growing participation of organised civil society in EU matters²; and 5) constitutional change – the constitutionalization process on the European level has important consequences for the constitutional system of the member state – the German alteration of the conception of citizenship or the review of national constitution vis-à-vis the Constitutional Treaty by the Constitutional Court in the Czech Republic³ serving as examples.

For the purpose of this paper, one of the most important effects of Europeanisation is adaptation pressure, which the process exercises over individual member states in all of the above described areas. In the process of European Integration in CEE, the role of national parliaments has gradually shifted from the founding institution of a legal state through the channels of harmonisation with the EU legal norms in the pre-accession period towards watchdogs (becoming mediating and oversight rather than primary legislative bodies) after the accession. However, it is important to note that, whereas in many other areas, EU demands upon the governments of CEE states were quite high (Grabbe 2001, Vachudova 2005), demands in the area of institutional setup and in the field of the relationship to national parliaments can be described as ‘minimum democracy’ requirements. From this point of view, parliaments of all CEE states are also considered to be fully functional.

Bicameralism

In the course of this paper, legislatures/parliaments are defined as ‘constitutionally designed institutions for giving assent to binding measures of public policy, assent being given on behalf of a political community that extends beyond the government elite responsible for formulating those measures’ (Norton 2004: 1). While Norton himself wonders how many bicameral legislatures there are, for the purpose of this paper we concentrate on the bicameral parliaments of the Czech Republic, Poland, Romania and Slovenia.

Second chambers arose in pre-democratic times, and often served as representative bodies of the aristocracy. The new model of bicameralism emerged from the American Revolution, and second chambers became an important part of federal states, until today, some of the most powerful second chambers can be found in federal states, being an important part of the ‘checks and balances’ (Shell 2001). At the present, the second chambers represent various types of constituency – both individual and collective (Russel 2001; Shell 2001; Tsebelis and Money 1997). Until today, some of the most powerful second chambers can be found in federal states, being an important part of the ‘checks and balances’ (Shell 2001). Second chambers, are usually regarded as guardians of the constitutional integrity and of institutional continuity (Patterson and Mughan 2001: 52). The positive role of the Czech Senate in

² The EU legislation is used to put forward specific policy areas such as equal opportunities, minority rights and environmental issues.

³ In February 2005 the President expressed concerns that European Constitution contradicts the Czech Constitution on the basis of limiting the Czech sovereignty. Letter available on-line at: <<http://www.klaus.cz/clanky/1617>> [last visited 12.5.2006]. Several weeks later the Constitutional court issued ruling that European Constitution not in conflict with Czech Constitution (Rakusanova 2006).

the attempt of Civic democrats and Social democrats under the 'Oppositional Agreement' between 1998 and 2002 to change the Czech constitutions and the electoral system strengthening majority role of their parties at the expense of the smaller political subjects can serve as an example from the CEE.

In general, the relative power dispersion between the two houses of the parliament differs in terms of assignment of constitutional powers and functions to the first and second chambers of the national parliaments (Patterson and Mughan 2001). Patterson and Mughan introduced classification, which posits the second chambers on the symmetry-asymmetry continuum based on the comparison of relative power between the chambers (ibid.). The authors then proceed to outline important factors influencing the performance of the second chambers. Among these factors is the strength of the parliamentary majority in both chambers, legislative power (policy space), internal structure (party structure and committee structure). All of the factors mutually reinforce each other.

Table1: Asymmetry of constitutional powers of second chambers in the EU

Low asymmetry			High asymmetry	
Co-equal	Co-equal with restrictions	Limited exclusive powers, veto	Delay and advisory	Subordinate
Old member states				
Italian Senato	Belgian Senat	German Bundesrat	Netherlands Eerste Kamer	British House of Lords
			Austrian Bundesrat	French Senat
				Irish Seanad Eireaan
				Spanish Senado
New member states				
Romanian Senatul			Czech Senate	Polish Senat
				Slovenian Drzavni Svet

Source: Patterson and Mughan 2001

Table 1 offers a comparative overview of EU bicameral parliaments and assesses their asymmetry. Among the countries under study, only the Romanian Senatul is classified as having low asymmetry and being co-equal with the first chamber. On the other side of the continuum the Slovenian and Polish second chambers are located, classified as subordinate. The Czech Senate is categorised in the fore last category stressing its advisory functions.

The asymmetry of powers between the two chambers is a crucial aspect in the contemporary discussions on the reforms or abolition of the second chambers around the world (in Europe, there is an ongoing discussion about changing the structure of the House of Lords – eliminating the hereditary peerage; and in Czech Republic, the Senat is criticized for the duration of its existence, and some critical voices call for the

abolition of the second chamber, or restructuring it as a chamber of regional representation) (Scully 2001; Kysela 2004).

Bicameralism in Central and Eastern Europe

Table 2 offers a general overview of the second chambers in the four countries, and summarises basic information about the second chambers. To briefly summarise the historical development of the bicameral legislatures in the Central and Eastern Europe, we can say that the Romanian Parliament, which is described as ineffective bicameralism, because both chambers had overlapping powers and the Senate did not represent any partial interests, and a text of a law had to be approved by both houses. This however changed with the 2003 Constitutional reform, which divided the agenda between the two chambers. Unlike Romanian Senatul, the Slovenian Drzavni Stav serves as the constitutional representative of social, professional and local interest groups, such as employers, employees, farmers, crafts, trade, etc. Its character as the second chamber is disputed by some researchers (for detailed argumentation see Kysela 2004).

The Polish Senat has the longest tradition among the countries under study, dating back to 1493. The modern day Polish Senate is a result of the roundtable negotiation in 1989, and the first democratic post-communist elections in the same year were also into the Senate (Solidarity won 99 of the 100 votes, with one vote Senator being independent) (ibid.: 261). However, today the role and the need for the existence of the Polish Senat are contested. Like its Polish counterpart, the Czech Senate and its existence is often challenged. The asymmetry between the Czech chambers is only slightly lower than the asymmetry of power between its Polish counterparts.

Table 2: General overview of the CEE's second chambers

Country/ House	Const. System	Established	Size	Term	Selection	Type
CR/Senat	Unitary	1996	81	6	Directly elected (one-third every two years)	Delay and advisory
PL/Senat	Unitary	1989	100	4	Directly elected, 2-3 senators per district	Sub-ordinate
RO/Senatul	Unitary	1990 Constitutional reform 2003	143	4	Directly elected, 42 Constituencies	Co-equal
SL/Drzavni Stav	Unitary	1991	40	5	Indirectly elected	Subordinate

Source: Patterson and Mughan 2001, Kysela 2004

Czech Senators view the fact that the Senate does not approve the state budget as a major weakness. In recent years, this forced some senators, often former or current mayors (elected in single member districts under promises to improve infrastructure in their district) to seek informal channels to influence the structure of the state budget in the process called 'portioning of the bear'. The changing recruitment pattern of the Czech Senate, from the initial set of experts, intellectuals and former

dissidents viewed the Senate as a guardian of the young democracy in the Czech Republic. Today's Senators are mostly mayors, medical doctors, and other personalities who have distinguished themselves in their electoral districts. Unaware of the limited powers of the Senate these Senators are often disillusioned and feel no need to discuss theoretical and legal aspects of the democratic order, which was the case among the initial members of the Commission for the Constitution many of them the "founding fathers" of the Czech Constitution and of the Senat.

To summarise, the crucial aspect shaping the inter-cameral relations is the connection between the people and the first chamber as well as the link between the first chamber and the executive. The factors determining the inter-cameral relations are: 1. formal prerogative granted to the first chamber, which in the case of strong asymmetry in formal competences generally undermines the role of upper chambers; 2. the party relationships - especially party balance and party unity, which determines how far the limited powers accorded to upper chambers can shape policy process, to what extent can the exercise of the (limited) powers granted to the upper chamber shapes the policy process (Scully 2001: 97-101). For example, during the recent discussions on the Lisbon Treaty in the Czech Parliament, the parliamentary fraction of the ODS in the Senate, which is not united on the issue and is divided along the position on the deepening of the political integration of the EU, was able to exercise considerable pressure both on the lower chamber and on the government.

The stress Scully puts on the executive-legislative relations links his argument to the notion of executive dominance outlined in the current assessment of Europeanisation. In the course of this paper, I concentrate on formal aspects of the inter-cameral relationships. At the institutional level, we analyse formal changes in the constitution and the rules of procedures, and on the individual level we look at career and recruitment patterns of the legislators from the four countries under study.

Effects of Europeanisation on national parliaments

Road to a Constitutional Treaty for Europe – empowerment of national parliaments or an empty promise?

In this section, I examine the developments leading to the Convention and the Constitutional Treaty vis-à-vis their impact on national Parliaments. I seek to determine whether the process leads to empowerment of the NPs or if it is an empty promise.

In regard to national parliaments, the process of European Integration has circumscribed the law-making powers of national parliaments and NPs are thus losing (and in legal terms actually giving up) an important part of their primary functions (Holzhacker 2006; Norton 1996; Mansfeldová 2003; Mansfeldová 2006; Mauer and Wessels 2001; Pfefferle 2005). Moreover, the increased use of qualified majority voting (QMV) on the European level results in a further loss of the oversight function by NPs as it is getting more difficult to force national parliaments to commit to certain decisions (Raunio 2005). Further, the overall bureaucratisation of the legislative process and decision-making on the European level, results in information deficit, reducing the power of NPs to exercise their control functions (ibid.). Yet, the national parliaments remain the central institutions of the process of democratic

representation and legitimacy both on the domestic and, indirectly, also on the European level.⁴

The emerging system of multi-level governance has forced national parliaments to adapt by creating new formal institutional structures in order to increase their efficiency in the control and oversight of the national parliaments (Rakusanova 2006). However, not only parliaments, but also their principal actors seek to adapt to the new challenges, hence the changes also take place on the individual level (ibid.). Although the formal adaptation of informal adaptation strategies on the institutional level is important, the analysis of the informal practices is beyond the scope of the paper.

On the road to the Constitutional Treaty – an overview

Of course it follows from the character of integration that national parliaments, unlike executive bodies, are excluded from direct participation in decisions taken by European bodies, both the European Commission and European Parliament (EP) supported more involvement of national parliaments in the European Integration process. The practical outcomes were nonetheless rather limited, though an important exception was the Constitutional Treaty for Europe.

Nonetheless, the paradox of the somewhat ambiguous role of the European Parliament should not be overlooked. Throughout the nineties, the European Parliament, on one hand, supported discussions on the role of national parliaments while, on the other hand, it was quite aware that in the current institutional setting increased sovereignty of national Parliaments would have subverted its own hard-earned role. After Westlake, the EP supports federalised Europe with a two-chamber parliament, where the EP would represent its lower chamber. It is looking for its inspiration, above all, in German Constitutional Law, which contains a strong federative principle, while keeping a strong role for individual states – *Länder* (Westlake in Norton 1996).

The ongoing process of European Integration, however, has challenged the sovereignty and thus the legitimising mechanisms of the nation-state without simultaneously replacing them or compensating them with comparable democratic mechanisms at the European level (Katz and Wessels 1999: 10). Successful political integration of the system of multilevel governance will require a guarantee of democratic political representation and, in particular, a clear answer to the question of whom the Members of European Parliament represent – whether their electors (hence the citizens of the country they come from) or the European people as a whole and furthermore the assertion of legitimacy.

An important step towards decreasing the European democratic deficit was the Maastricht Treaty. Apart from an intensification of communication system between

⁴ A unique and complex character of EU has far exceeded the character of an international organization in its institutional structure, extensity, and focus of its activities and its functioning. This situation, further strengthened by the absence of European *démos*, to which a part of the EU bodies would be responsible, hand in hand with the erosion of the role of national Parliaments, represents a part of the so-called democratic deficit of EU. In the current stage of the European Integration process, which for a long time accentuated the economic integration, and for some time the political integration was lagging behind, the priority was given to the effective governance before sovereignty (see also Raunio 2005).

the EU bodies and national parliaments, it also regulates the position of the Conference of the Community and European Affairs Committees of Parliaments of the EU (COSAC - its functioning in relation to the CEE parliaments will be dealt with herein below), which was charged with significant initiative and consultative powers. A further step was the *Protocol on the role of national Parliaments in the European Union*, which is an integral part of the Treaty of Amsterdam. The main principle of this Protocol includes the requirement to inform national Parliaments as soon as possible, by both the Commission and EP. A six-week term was stipulated between the date when a legislative proposal is sent to the European Parliament and the date when it is adopted.

Yet another key EU document of the EU dealing with the role of national parliaments was the Laeken declaration (December 2001), which had taken the debate on the role of NPs to a different level by setting specific question to the previously rather broadly set agenda of the Nice Treaty (Raunio 2005). According to the analysis by Christopher Lord (2002: 4), the Laeken declaration went in the direction of the possible contribution or hindrance NPs could play in the establishment of a European public sphere. Lord defines the contribution as the possibility of fueling domestic debates on EU matters, the right to submit legislative proposals to the European Commission and thickening inter-parliamentary cooperation (*ibid.*). Similarly, Anne Peters, in her general examination of potential sources of legitimacy for the EU, views NPs as potential mediators of deliberation on EU issues on the domestic level.

In regard to the second chambers and the relationship between the chambers, the EU documents tend to omit the issue, and thus the domestic constitutional setting is fully in play limiting the role and possible involvement of the second chambers.

Convention on the Future of Europe

The role of NPs was an important issue in the *Convention on the Future of Europe*,⁵ which was established through the Laeken Agreement in 2001 as a temporary body of the EU, and concluded its work in 2003. The EU member states were represented by their parliaments and governments, and the representatives of the CEE parliaments held the position of observers. The major role of the Convention was to establish a discussion forum about the future institutional development of the EU. Parliaments of CEE found this debate of utmost interest and the proceedings were regularly discussed on their floor. In this respect, the Polish Sejm and Senate were particularly active, involving all parliamentary parties in the discussion of the Convent's proceedings including the President of the Sejm, the Minister of Foreign Affairs and the Chief negotiator in the discussion.

However, while Konig and Hug's analysis also found an active role of the Polish Sejm in regard to position formation within the convention process, the national Parliaments in other CEE states played only marginal roles in this process with the second chambers almost absent⁶. The leading coordination role in the Czech Republic

⁵ Raunio lists two reasons for the prominence given to the issue during the *Convention*: first as a result of fear of further marginalization of NPs; while the second regards the attempt to make national MPs allies to the further deepening of the Integration process (Raunio 2005).

⁶ In terms of relevant actors in the Czech Republic four were outlined (government, MFA, Civic Democratic Party and the national Convention), similar to Slovakia (government, MFA, the parliament

was held by the Ministry of Foreign Affairs (MFA) and the position of the Secretary of the State for European Integration was designed. In Poland, the coordination actors involved in the constitutional policy coordination were MFA, the office of the Committee for European Integration and the Chancellery of the Prime Minister (Konig and Hug 2006).

The Convention established a working group entitled 'The Role of National Parliaments (WG IV)' legitimised by reference to the Laeken mandate⁷. This resulted in an acknowledgement of the importance of the government oversight function of NPs on domestic level and a call for strengthening the COSAC as an inter-parliamentary mechanism. The issues raised by the WG IV were rather uncontroversial and endorsed both by the Convention as a whole and by the subsequent intergovernmental conference.

An exception to the generally uncontroversial nature of the proceedings on the role of NPs, was the proposal of the Convention's president Valéry Giscard d'Estaing to establish *Congress of the People's of Europe* body composed of representatives of the European Parliament and national parliamentarians, meeting annually and fulfilling purely consultative functions. The idea was not met with enthusiasm in the Convention and was dropped from the agenda and the draft of the Constitutional Treaty (Raunio 2005: 3).

The Treaty establishing a Constitution for Europe

The Constitutional Treaty proposed the following changes concerning NPs within the section *Democratic Life of the Union*: monitoring of the subsidiarity principle stating that 'legislative actions are only taken by the European Union if the proposed objectives cannot be sufficiently achieved by the Member States' (Article I-11);⁸ improved access to information (Article I-18), involvement in the oversight of Europol and Eurojust (Article I-42 and III-259).

The 'early warning system' proposed by the CT for the monitoring of the subsidiarity principle includes an obligation on the Commission to examine its legislative proposals for their conformity with principles of proportionality and subsidiarity; the NPs then get six weeks to examine the legislative proposals and an opportunity to express their opinion on whether they accord with principles of proportionality and subsidiarity; in the case it is not, an opinion can be sent to the European Commission; in the case one third of NPs considers the proposal not being in accordance with the principle of subsidiarity the proposal has to be reviewed by the

and the National Convention) while in Poland there were two relevant actors outlined (MFA and the Committee for European Integration). While the Czech Republic and Slovakia joined the group of 15 smaller states criticizing the Draft Constitution (the initiative was launched by Austria and the Czech Republic), Poland together with Spain insisted on keeping the Nice Treaty points, after the March 2004 parliamentary election in Spain and the change of Spanish position, Poland also backed off (in the fear of being marginalized).

⁷ Furthermore individual issues with reference to national Parliaments were also discussed in other working groups such as the subsidiarity principle dealt with by the WG I.

⁸ As laid down in the "Protocol on the Role of National Parliaments in the EU" and the "Protocol on the Application of the Principles of Subsidiarity and Proportionality" NPs shall ensure compliance of EU-legislation with the principle of subsidiarity by being included in the policy-making process in its pre-legislative phase.

European Commission; and NPs are able to request their national government to bring the issue to the European Court of Justice (Raunio 2005).

Whilst some benefits can be expected from the involvement of NPs in the early warning system, there may be some disadvantages too. They include the complication of the relationship between NPs and their national governments; difficulty to separate between the concerns of subsidiarity principle and the policy content of given legislative initiative; and the fact that the process is voluntary and considerable variance can be predicted based on the interests of the NPs (*ibid.*). In the case of small parliamentary majorities in the CEE (e.g. in the Czech Republic) the ‘early warning system’ could be used as an alternative channel against the domestic government (or by the second chambers in the inter-cameral negotiations), thus instead of streamlining the multilevel governance process it could backfire bringing the domestic issues to the European level.

Table 3: Models for the ‘early warning system’ in CEE national parliaments

Member State Chamber	Committee(s) entrusted with the task of monitoring the compliance with the Subsidiarity principle	Body responsible for adoption of the formal reasoned opinion
Czech Republic Chamber of Deputies	European affairs committee	Plenary/European Affairs Committee
Czech Republic Senate	European affairs Committee/Plenary	Plenary
Poland Sejm	European affairs Committee / National Economy Committee	N/A
Poland Senate	European affairs Committee	N/A
Romania Chamber of Deputies	European affairs Committee	Plenary
Romania Senate	European affairs Committee	Plenary
Slovenia National Assembly	European affairs Committee/Sector committee	European affairs Committee
Slovenia National Council	Commission for International Relations and European Affairs	Commission for International Relations and European Affairs

Source: COSAC 2006, Internet resources of COSAC and national parliaments.

The institutional adaptation of the national parliaments to the ‘early warning system’ varies across the CEE (see Table 3). Majority of the NPs decided that the committee which will be in charge of monitoring the subsidiarity principle will be the European Affairs Committee. The formal opinion on the individual legislative proposals will be however mostly adopted in the plenary. Important exception being the Czech Chamber of Deputies, where both the European Affairs Committee and the plenary are involved and both chambers of the Slovenian parliament, where European Affairs Committees will be solely responsible for the adoption of formal opinion Table 3

offers comparative overview of the matter).

The evaluation of the improved access to information proposed by the CT offers more optimistic picture aiming at decreasing the information asymmetry between domestic governments and NPs. It goes beyond the measures adopted within the Amsterdam Treaty and assures NP's better access to information and documents, which can lead to enhancement of their oversight function. However, the capacities of NPs to deal with the inflow of the information, needs to be considered to fully evaluate the effects of this provision.

Further institutional implications to NPs include the 'soft law' measures such as the *Open Method of Cooperation* (OMC) and various policy coordination measures. It is difficult to examine the effects of the OMC for the NPs – on the theoretical level (Duina and Raunio 2006) assess both its negative and positive effects: the positive consequence being the possibility of monitoring and participating in agenda-setting (by partaking on framing and debating OMC objectives and procedures), and negative effects of OMC's adoption of aspects of cooperative federalism, emphasizing output legitimacy at the expense of transparency and parliamentary accountability, which could result in further marginalization of NPs (ibid.) Anne Peters also points out, that 'soft law' is the result of horizontal negotiations rather than vertical legislation and thus has limited or no legitimacy if not accompanied by an active deliberation (Peters 2003).

The role of national parliaments in the reflection period⁹

Upon the evaluation of the participation of and effect of CT for the NPs and measures adopted in the Constitutional Treaty, let us now turn to the involvement of national parliaments in the reflection period.¹⁰

The reflection period was an opportunity structure for national parliaments to take active part in the constitutionalisation process. Based on the analysis of the survey conducted by the COSAC among its members, we can sum up, that the role CEE national parliaments in the reflection period have been rather limited. There have been no major debates within the plenary meetings concerning the reflection period (important exception being the Polish Sejm). Rather, the activities have concentrated on scholarly and expert debates. The intensity of these activities varied across the CEE national parliaments. There were rather active parliaments of Slovenia (and Lithuania among the Baltic states) actively engaging in wide range of activities, including experts, academicians, but also NGOs, municipalities and citizens at large in the process. On the other hand, there were also national parliaments, whose involvement in the reflection period was modest or close to none – such as that of Estonian

⁹ This analysis is based on the Annex to the 5th biannual report of COSAC: National Parliaments' replies to the questionnaire, Prepared by the COSAC Secretariat and presented to XXXV Conference of Community and European Affairs Committees of Parliaments of the European Union, Vienna, 22-23 May 2006.

¹⁰ The reflection period was adopted at the EU summit in summer 2005, after the ratification crisis following the failure of referenda in France and the Netherlands in May 2005 and it seeks to re-connect the stakeholders of the constitutionalization process.

parliament.¹¹ Overall, Committees on European Affairs tended to play an important role in the reflection period activities.

The dominant role of the domestic governments is an important explanatory factor in scrutinising the reflection period activities of the national parliaments.¹² However, the example of Lithuania shows, that considerable result can be achieved by coordination of governmental and parliamentary activities.

In the Czech Republic, the Chamber of Deputies organized high profile international conference 'The Constitution for Europe - a Time for Reflection' in which scholars and experts together with the representatives of all parliamentary fractions presented their approach not only regarding the Constitution for Europe, but also regarding the further development of European Integration in general. Similarly, The Czech Senate organized several conferences and its newly established information center (opened in May 2006) seeks to explain to the broader public various aspects of the EU affairs.

Similarly to the Czech parliament, the Polish Seim and Senate engaged in several conferences and series of debates including MPs, experts and journalists. Furthermore, the plenary meeting on the Future of Europe was held in May 2006.

The parliament of Slovenia was also very active in launching initiatives within the reflection period. The activities are coordinated by the Committee for EU Affairs (its partners are - bodies and members of the National Assembly, Slovenian MEPs, European commission, local authorities and NGOs) and include exchange of views with Slovenian MEPs, public hearings, public debates and cooperation with municipalities. The data on the activities of the Romanian parliament is unfortunately not available.

Summary

To sum up on the first part of the paper, the process leading to the Convention and CT brought increased attention to the erosion of the roles of national parliaments. The CT itself proposes new functions for the national parliaments securing their improved access to information by both the EC and national governments and granting NPs power of monitoring the subsidiarity principle. Both positive and negative possible effects of these measures were discussed. As the example of involvement of CEE national parliaments in the reflexion period illustrates the successful implementation of the measure will depend on the activity of individual NPs.

In regard to the second chambers of the CEE national parliaments under study, upon the analysis of the biannual reports of the COSAC, we can say, that although the topic of the inter-cameral relationship is not raised, there is a significant leverage in regard to the subsidiarity principle. In general, the COSAC reports show, that the second chambers tend to be very active in regard to the European Affairs both in respect to the first chambers and to the public, however, the constitutional setup limits the overall relevance of these activities, as the locus of the power remains firmly in the

¹¹ Similar findings were reached by Fink-Hafner in her comparative analysis of Slovenia, Hungary and Estonia (Fink-Hafner 2005).

¹² For example in the Czech Republic the debate on future of Europe is coordinated by the Governmental Information Department of EU-Affairs.

executive branch and to the lesser degree in the first chambers. Thus our findings verify the findings of Sprungk, who shows, that the process of adaptation is determined by both institutional context and actors choices (Sprungk 2004).

Institutional changes in the inter-cameral relationships in the CEE countries

Constitutions

As stressed above, the constitutional setting plays a key role in establishing the context of the inter-cameral relationship. In this part, we scrutinise the changes of the national constitutions in the four countries under study in regard to the EU affairs, with the stress on power delegated to the individual chambers. Analysis of the Constitutions of the four countries, based on the database compiled by Carlos Closa,¹³ shows that the extent of the Europeanisation of national constitutions in the countries under study is rather limited:

1. The Czech Constitution does not include particular mentions to the EU, with the exception of the provisions related to the country's accession to the Union, in general the EU Treaties are regarded as International treaties, and as such, the Senate is excluded from adoption of legal measures in regard to them;

2. The Polish Constitution includes a Constitutional Act concerning the country's accession to the EU approved as a constituent part of the Constitution in 2004. It also defines active role of the second chamber in the adoption of the international treaties, which has to be adopted by two-thirds of the vote in each chamber in the presence of at least half of the statutory members; In regard to the specific provisions concerning the constitutional reform, the Polish Constitution stipulates the involvement of both chambers in amending the Polish Constitution, and specifically stipulates the length of the process for various chapters of the national constitution (ranging between 45 and 60 days, with following 21 days granted to the President to sign the statute);

3. The Romanian Constitution includes several provisions regarding accession to the EU, the role of Romania in the EU (e.g. the transfer of powers, and the supremacy of the EU law) and the life in the Union (right to vote in the EP elections, guarantee of private property, role of the state in compliance with the EU policies and in implementing regional development policies. It also requires the government to send both chambers of the parliament the draft mandatory acts before their submission to the EU institutions, for the approval which is specified in the Rules of the Procedure of the individual chambers; in regard to adoption of the international treaties, the Constitution divides the areas of competence between both chambers – in the area of its competence the respective chamber is the first to be notified and to take decision; the number of minimum required votes is also stipulated, and it differs for a general (international) treaties and for constitutional amendments which have to be approved by a majority of at least two-thirds of the members of each chamber, the possible disagreements shall be resolved in joint plenary meeting of both chambers.

¹³ The database is available at <<http://www.europeconstitution.eu>> (last visited 9.4.2009)

4. The Slovenian Constitution does not include explicit references to European Integration; the constitution stipulates that international treaties shall be ratified by a two-thirds majority vote of the first chamber. The second chamber is excluded from both decisions on international treaties and on the amendments of the constitution and has only limited role in the organization of referenda.

Standing orders

Further details in relations between the chambers are stipulated in their rules of procedures. In respect to Europeanisation of the standing orders of the parliaments, they are rather limited.

The Rules of Procedures of the Czech Chamber of Deputies does not contain any specific reference to EU issues, and specifies only the general rules of cooperation between the chambers including the approval of the legislature in the Senate. The Senate has 30 days to reach opinion on any bill approved by the Chamber of Deputies.

The only change in Poland is the redefinition of the Role of the European Affairs Committee, which might be addressed by other committees during the legislative process, to provide expertise, in the case the proposed bill concerns EU issues.

In Slovenia, the Rules of procedures of the National Assembly vis-à-vis European issues concentrate on the executive-legislative link, the second chamber has a passive consultative role. No specific timeframe is set for the first chamber to inform the second chamber nor to discuss and implement its comments.

The Standing Orders of the Romania Chamber of Deputies establishes Mediation Committees for the discussion of amendments in the draft legislature previously adopted by the other chamber. In this case, the Standing Bureau (Organizational Committee) of each chamber nominates upon consultation with the party groups seven Deputies/Senators for the Mediation Committee and consensus based on majority shall be reached on the disputed amendments. Where mediation committee fails to achieve a consensus, a plenary session of both chambers is called to resolve the issue.

The Standing Orders of the Romanian Senate stipulate among areas of its competences the basic constitutional rights as well as the ratification of the international treaties and agreements, as well as the functioning of the key bodies of the state.

The analysis of the changes in Constitutions and Rules of Procedures in the four countries under study shows, that the power asymmetry between the first and the second chambers remain, and the formal effects of Europeanisation are rather limited.

Individual dimension of inter-cameral relationships

This analysis is based on the individual level analysis of biographies of all members of the European Parliament from the Czech Republic, Poland, Romania and Slovenia in the first electoral term of the European parliament after the enlargement (2004-2009 in

case of the Czech Republic, Poland and Slovenia; and 2007-2009 in the case of Romania). In total 139 biographies available from various sources (archives of the national parliaments, personal websites, etc. in national languages as well as in English) were used to determine the recruitment base and political carrier of current MEPs.

The main focus of this analysis was to determine, the impact of Europeanisation on the composition of the second chambers. Based on the previous research (Illonszki and Edinger 2007; Norton and Olson 2007; Mansfeldová 2006) and the second-order election model introduced by Reif and Schmitt (Reif 1997; Reif and Schmitt 1980; Schmitt and Mannheimer 1991; Schmidt and Thomassen 1999), I make the link between recruitment patterns and the asymmetry of power between chambers. Based on the assumption, that the elections into the European Parliament are second order elections and mattering less to the national political actors than political competition in domestic arena, I expect to find higher proportion of MEPs recruiting from the lower chambers of the national parliaments under study, thus supporting the 'asymmetry of power hypothesis'. Similarly, in order to verify my asymmetry of power hypothesis, I expect to find higher proportion of the MEPs with previous experience in the second chamber of the national parliaments, in the less asymmetrical bicameral systems. Thus using the recruitment pattern of the MEPs as individual level measure of relative asymmetry of the power between the two chambers of the national parliaments.

Before explaining some of the findings, a small caveat ought to be made regarding the Romanian deputies, who in most cases have dual mandate, meaning simultaneously serve as MEPs (from 2007) and national deputies or senators. While no other country under study allows dual mandates, thus if the MEP is elected in national elections he/she has to resign from his European parliamentary seat (e.g. current Slovenian Prime Minister Borut Pahor, who after winning the 2008 elections resigned from his EP seat), Romania is not the only EU country with dual mandate practice – for example several MEPs from the UK held dual mandates

Table 4: Previous experience of current MEPs from four CEE countries in their national parliaments

Country	Number of MEPs in 2009-2014 EP term	Number of MEPs in 2004-2009 EP term	Former Senators	Former MPs	Total previous experience in the NP	No previous NP experience
Czech Republic	22	24 (+ 9%)	4 (17%)	9 (38%)	13 (54%)	11
Romania	33	43 (+ 30%)	3* (7%)	26* (60%)	29 (67%)	14
Poland	50	64 (+ 28%)	6 (9%)	28 (44%)	34 (53%)	29
Slovenia	7	8 (+ 14%)	0 (0%)	4 (50%)	4 (50%)	4

Note: During their political carrier some of the MEPs were members of the both chambers of the national parliament, this group however, constitutes less than 5 per cent of the sample.

Source: Authors' own calculations.

The table 4 summarises the result of the analysis, and we can see that majority of the MEPs recruit from the lower chambers of the national parliaments. During their

carrier in national parliaments, most of those MEPs served in the Committees for Foreign Affairs and/or European Integration, some were also observers at the European Parliament prior to the EU accession of their respective countries. The highest proportion of MEPs with previous experience from the lower chamber of national parliament is in Romania (60 per cent - most of whom serve simultaneously in the EP and in the national parliament), followed by Slovenia and Poland (50 per cent and 44 per cent respectively). On the contrary, the lowest proportion of MEPs with former experience from the national parliament is in the Czech Republic (38 per cent).

As for the MEPs with experience from the upper chamber of the national parliaments, this group is rather small, ranging between 4 (17 per cent) in the Czech and 6 (9 per cent) in Polish sample. Like their lower chamber counterparts, this group of MEPs was also rather actively involved in the accession process, but unlike the MEPs with the experience in the lower chamber, the former Senators often served in the Committees for Constitutional Affairs. Both the difference between former experience with the chambers of the national parliaments and the past committee membership points to the differentiation between the two chambers on the national level.

The last group of MEPs, those with no previous experience from the national parliament, ought not to be omitted, in most cases, these were not young inexperienced politicians, on the contrary, most of the MEPs in this group held executive functions during their political carrier, both on regional level (regional government, especially in Poland) or national level (various positions on the ministerial level, advisory positions in both chambers of the national parliament, and or to the President). Of those MEPs who have no previous national political experience, several are recruited from amongst high profile public figures such as the Czech Astronaut Vladimir Remek, or Polish Rally driver Krzysztof Holowczyc.

So far, we observe only limited return of the MEPs into the national politics (9-30 per cent). Most of the MEPs who left the European Parliament did so to accept national executive positions (Ministerial level, such as Anna Fortyga, who became Minister of Foreign Affairs and later Chief of the Office of the Polish President).

The subsequent European elections (2014) will show, how stable are the above described emerging recruitment patterns, as well as determine the flexibility of this pattern vis-à-vis potential return of the MEP into the national political arena.

Concluding remarks

Central and Eastern European Parliaments have been important actors in the dual transition and EU accession process. In all countries under study we find asymmetry of power between the first and the second chambers, to the extent that the latter are limited mostly to supervisory and advisory functions. The only exception being the Polish Senate, which in the case of the provisions regarding the EU has similar powers to those of the Chamber of Deputies. In all parliaments under study, European issues are dealt with by the European Affairs Committees. The position of the European committees in the national parliaments varies between consensus and cooperation (Czech Republic and Poland) and conflict (Slovenia). However, in

Slovenia, the European affairs committee was able to increase its influence via horizontal coordination (Dieringer et al 2002).

In all countries under study, the national parliaments, mainly the lower chambers, remain an important actor in the European affairs, with the national parliaments more or less successfully trying to fulfill the role of the mediator of the public discussions as outlined by Lord (2002). In this respect the European Constitution and subsequently the Lisbon Treaty triggered substantial debates in the Czech Republic and the Poland. They constitute both opportunity and challenge for the national parliaments searching for their role in the multilevel system of governance.

Further research agenda on the bicameralism and Europeanisation, should incorporate the analysis of the effects of Europeanisation on key aspects of the legislative-executive relations, as well as on the inter-cameral relations. The key differences remain variations in domestic constitutional arrangements and party systems. Both institutional and individual research would contribute to the deeper understanding of bicameralism in the CEE as well as to the role the national parliaments will play in the European governance: these studies could include analysis of incentives and motivations of MPs and Senators to be involved in European affairs, their recruitment patterns in moving within the multilevel system of governance; strategies adopted by second chambers to compensate for the power asymmetry, with the stress on party balance and party unity, as well as on informal inter-cameral relations.

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