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The Romanian Parliament enters the EU

- *the challenge of being an active actor in Europe* -

Authors: Cristian GHINEA, Dragoș DINU, Oana TĂNĂSACHE

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Introduction

Is the EU a Union of states or is it one of nations? Where a national parliament finds itself in the decision mechanism of the EU depends on the answer to this question: states are represented by governments, nations are represented by parliaments. So who does the European Union represent? Truth be told, there is no definitive answer so far. Certainly, the forerunners of the EU, European Communities, started as intergovernmental cooperation structures, i.e. an association of states. This is how the European system worked for its first decades; despite a continuously present and active federalist trend, political reality was an intergovernmental framework. However, an avalanche of treaties beginning with the Single European Act (1986) up to the recent Lisbon Treaty increasingly brought up the European people along the national states. As European Union expanded more and more beyond its purely intergovernmental side, the debate on democratic deficit has come closer to the mainstream. Therefore, a Union had to be more than a cooperation between governments. This is how the European Parliament expanded its powers. This institution, directly elected since 1979, had been left with purely consulting prerogatives, until the Treaty of Nice, then Amsterdam and finally Lisbon gave it more and more power up to the present co-decision with the Council (national governments) on most of the areas of the Union. Along with the European Parliament, the democratic deficit was also covered through making European actors out of the national Parliaments. In some member states, parliament was already setting the lines for the government on negotiating stands. In other countries, things were different.

This study is the first comprehensive look at the European role of the Romanian Parliament.

Parliaments vs. governments in the EU

The literature on European integration points out in most states to a change in the balance of power between the executive and legislative branch due to European integration, promoting the governments against parliaments. Andrew Moravcsik is one of the analysts seeing the European Union as having an intergovernmental character by default, i.e. EU is just a very complicated structure of treaties between governments. Traditionally, it is governments that manage foreign affairs. Moravcsik argues¹ that EU redistributes political resources, changing the institutional, informational and ideological internal context. This redistribution favours mostly those directly involved in international negotiations, i.e. national executives. Governments have the advantage of:

- initiative (executives have the initiative in international negotiations and set the agenda);

¹ Moravcsik, A. 'Why the European Union Strengthens the State: Domestic Politics and International Cooperation'; *Center for European Studies, Working Paper Series #52*, Paper presented at the Annual Meeting of the American Political Science Association, New York, NY (1-4 September 1994)

- institutions (ratification of treaties, agreements, foreign arrangements, including European, tends to be a purely formal act; parliaments and other actors can either reject or approve a treaty, but they cannot alter its substance);
- information (executives have privileged access to information generated by bureaucracy, indirectly available to parliaments);
- ideas (executives can dress some issues in ideological terms, arguing that rejecting a policy already negotiated might have a negative impact on the country's image).

In Moravcsik's view, the EU is in fact a complex arena of intergovernmental negotiations that permanently empowers the executives at the expense of legislatures.

Accordingly, EU Member States should develop internal mechanisms to involve parliaments in this process. Laffan² gives the example of Finland, who has a highly institutional mechanism to involve the Parliament (the Finnish Parliament's mandate is not binding as the Danish and the Austrian one, but holds great political clout). The opposite is true for Greece with a very weak Parliament (Laffan, 2006). Since the operation of the EU favours the governments, if national want to play a role at that level, it is important they develop the internal political mechanisms to control their own government. In other words, each national parliament is an European actor or not in so far as they want and are able to act as such.

What do the treaties say?

National parliaments - before Lisbon

The specialized literature is consistent on the fact that governmental actors, bureaucrats and even organized interest groups have been the big winners of European integration. Executive involvement in European decision-making mechanisms has led gradually to an informational asymmetry with parliaments as the major losers. Furthermore, since the first direct elections for the European Parliament in 1979 this institution has achieved a life of its own - before Parliamentary Assembly had been composed of national MPs delegated to the Community fora. Gradually, European Parliament has taken new powers, leaving behind the national ones.

And yet, EU has gradually become much more than a common market, developing powers and institutions beyond the common economic space. Community powers have been extended to foreign policy, security, justice, transport, education - areas that were previously confined to national states started to be increasingly influenced by decisions taken at European level. Due to the financial, constitutional or even social implications entailed, the Union had become an atypical international organization in ever growing search of legitimacy. The debate on the democratic deficit specific to the '90s began to highlight increasingly the role that national legislatures could have in European decision-making.

² Laffan, B. 'Managing Europe from home in Dublin, Athens and Helsinki: A comparative analysis'; West European Politics, Vol.29, No.4, 687-708, September 2006.

A first attempt to increase the implication of national parliaments in Union's life is made in the Treaty of Amsterdam, in the Protocol on the role of national parliaments. The Protocol provided that national parliaments should receive all pre-legislative documents (communications, green books) and should analyse them within six weeks before they were set on the Council agenda. Lisbon Treaty extends to eight weeks the time for examination of documents by parliaments and requires the European institutions to send any pre-legislative and legal documents to national parliaments.

While left at the edge of the European institutional structure, national parliaments have attempted to extend their influence through creation of advisory structures. This is how COSAC - Conference of European Affairs Committees³ – was first set at the 1989 European Council in Madrid. COSAC is an inter-parliamentary body composed of members of national parliaments specialized in EU affairs and representatives of the European Parliament. Formally sanctioned through the treaty of Amsterdam, COSAC aims to signal any contribution it deems worthy within the EU legislative process to Community institutions. Meeting twice a year in the capital of the country holding the European Union presidency, COSAC is currently a forum of debate and cooperation between representatives of national parliaments in the Member States involved in European affairs committees. While being a space for sharing good practice and cooperation between national parliaments, COSAC remains a purely advisory body.

Another institution that requires cooperation between various representatives of national parliaments is the Conference of Presidents of national parliaments, which brings together the heads of national legislatures and the president of the European Parliament. Meetings are held annually.

Another means of improving inter-parliamentary cooperation is IPEX (*Interparliamentary Information Exchange*)⁴. IPEX is an electronic platform through which national parliaments can exchange information on European affairs.

The first step to involvement in decision making is being informed on the agenda. This is the idea that underpinned the so-called Barroso Initiative, set out first in September 2006 as an informal political arrangement and included later in the Treaty that required the European Commission to send voluntarily to national parliaments all its legislative initiatives and all its advisory documents. Barroso initiative represented a significant change especially in those countries where governments were not used to inform parliaments regularly and consistently on legislation discussed in Brussels and Strasbourg. Thus came out in some countries (including Romania) an interesting situation where Parliament was informed by the European Commission rather than its own government, which is supposed to control.

³ <http://www.cosac.eu>. Accessed on 25/10/2010.

⁴ <http://www.ipex.eu/ipex>. Accessed on 25/10/2010

National parliaments in the Lisbon Treaty

Entered into force at the end of 2009, the Treaty of Lisbon is the first Community treaty that makes specific and detailed references to the role of national legislatures. Thus, Article 12 of the Treaty provides that "national parliaments contribute actively to the good functioning of the Union." The terms are simultaneously generous and ambiguous, depending on the optimism of the reader. It is certain that with Lisbon national parliaments become legitimate Community law actors. From now on, substantiation of this role is up to them. In a way, this is also how the European Parliament (EP) has evolved: from a consultative role, using institutional guerrilla tactics against the Council, EP got more and more real power from one treaty to another⁵. So far, the role of national parliaments is detailed in two separate protocols of the Treaty of Lisbon - Protocol on the role of national parliaments and the Protocol on the application of the principles of subsidiarity and proportionality.

First, Lisbon Treaty turns Barroso procedure into an act of Community law, i.e it legislates the access of national parliaments to documents debated by the Union - whether they are legislative acts, consultative acts like white books, green books and communications, or agendas and memos of Council meetings. On the one hand, parliaments can act directly on the documents under debate, and on the other hand in relation to their own governments, parliaments cease to depend on an information flow controlled by the executive.

Another innovation brought by the Lisbon Treaty is the introduction of the subsidiarity control mechanism - a system of dialogue between European institutions and national legislatures based on the principle of subsidiarity. Under this scheme, the European Commission (as for other European institutions) is required to transmit to parliaments its consultative documents (communications, green and white books), the annual legislative programme and the legislative initiatives it envisages.

This is a further step from the Treaty of Amsterdam. The latter requires the Commission to send to national parliaments certain documents (only those with an advisory role) and inform them in an appropriate time of all proposals under discussion on the European agenda. Lisbon goes beyond mere information, and parliaments can exercise control on subsidiarity: parliaments can join to stop legislation of an issue at EU level if they think it can be better regulated at national level. Thus, national parliaments can become in principle the European Union's veto player (Tsebelis, 2002), even if they have not shown such a will since the entry into force of the Treaty.

In addition to the foregoing, the new treaty grants national parliaments:

- the right to oversee the implementation of European policies on justice, civil rights and internal security;

⁵ For the best description of the way EP extended its powers through institutional conflicts at Community level, see Hix, Noury & Roland, 2007, first chapter

- a say in political monitoring of Europol and Eurojust (institution responsible for investigating cases of serious cross-border crime);
- the right to be notified on the enlargement process;
- the right to be involved in the procedures of revision of the Treaties (European Council must notify whenever there is an intention to amend the existing treaties).

The Treaty also mentions inter-parliamentary cooperation, achieved through COSAC. The Protocol on the role of national parliaments recognizes the role of COSAC and encourages this forum to communicate with Parliament, Council and Commission, to promote the exchange of good practices and to organize inter-parliamentary conferences.

Scrutiny of European affairs in the parliaments of the Member States

Formalizing the analysis of EU affairs by the parliaments of the Member States started in 1957, when the German Bundestag decided to create the first European Affairs parliamentary committee. Then, one by one, the other states tried to create structures and procedures to control governments and their positions at Community level.

Certainly, parliamentary control is different according to the domestic political context, the general relationship between executive and legislative in that state, the public opinion demands and the local party system. In the next chapter we shall detail the relationship between executive and parliament in the field of EU affairs in several countries. We tried to offer diverse examples, we focussed more on the German case because we thought it a good example of a bicameral parliament that manages to control rather firmly their own government, while keeping out of legislating an obligation for the German executive (we shall also get back to this case in the final part of recommendations).

Germany

The German parliament is composed of two chambers: the Bundesrat represents the governments of each Land, and the Bundestag is directly elected by the population. Both the Bundestag and Bundesrat have a special commission for European affairs. Operational difference between the two chambers is very important. While the Bundestag is composed of politicians elected on purpose that practice their mandate as a full-time job, the Commission of the Bundesrat is actually composed of specialized ministers from each province, meeting regularly. Some Länder have ministries for European affairs, some have not so they usually delegate ministers of Justice to attend (Länder do not have ministries of Foreign affairs, as they have no power on this respect). Basically, the Bundesrat reproduces at Germany's level the inter-ministerial structure in the EU Council.

The division of tasks between the two Houses as far as European politics are concerned works rather as a political understanding between the leaderships of the two committees. It is customary to give Bundestag prevalence in respect to policies attributed in Germany to the Federal Government, whereas Bundesrat takes over in policies that fall within the Länder power.

However, while this custom is respected, differences of interpretation come out that are regularly negotiated, based on a consensual parliamentary practice and culture that dominates the German Parliament. How can one differentiate between European policies and national policies on the one hand and federal policies and Länder policies on the other hand? Sometimes it is easy. For example, on the EU Common Foreign and Security Policy (CFSP) foreign policy powers go exclusively to the German federal government. Logically, everything related to CFSP falls under supervision of the Bundestag. In other cases it is more difficult to draw the line. For example, education policies are made at the Länder level, but the federal government still tends to step in for harmonization. Thus, if a matter of education is discussed at EU level, in Germany the Bundesrat is the one who would be first to follow the matter, but Bundestag might come with its views. An interesting area is agriculture – a sector that is almost completely transferred to Community at EU level, but in Germany the Länder make agricultural policies. In this case, the Bundesrat tended to be more active, but this was a result of the interest expressed by the Länder's ministers of agriculture. Based on the above custom, Germany is an example where there are ongoing negotiations between the two chambers on tracing the limits of competence.

Organisation of European Affairs departments in the German Parliament

Bundestag	Bundesrat
<p>The Bundestag has a relatively complicated internal structure, with three directorates (offices) in charge of European policies:</p> <ul style="list-style-type: none"> • The Secretariat of the Committee for European Affairs. Composed of three non-political members (usually lawyers) and representatives of political groups dealing with this committee. Their number depends on the political weight of the groups; currently there are two each from the Christian Democrats and Social Democrats and one from each of the smaller groups. • A Secretariat for EU legislation. This is a non-political office subordinate to the Secretariat of the House that does a first screening of the files. After this sorting, some files no longer reach the Committee for European Affairs, and go directly instead to the sectoral committees in that field. • A section of research on European issues within the Research Directorate of the Bundestag. Any MP can request a research on a specific theme. He/she gets the results and has exclusive rights to use them for 30 days before they become a public document. Usually, they are descriptive background documents used within the Committee for European Affairs for MPs to understand the European context of some debate. 	<p>Bundesrat has a more simple structure.</p> <ul style="list-style-type: none"> • The Committee for European Affairs has six employees in Berlin, but relies on those working in the EU field in each Land ministry, and that makes some 16 people more. They usually provide data and position proposals. Obviously, some Länder are more active according to their interests. For example, those where agriculture is strong set the agenda on this field. But each Land has one vote in the Committee, regardless of population size. In plenary session representation is proportional. • Bundesrat has a sorting office records too, but it operates in Bonn. Every year it receives about 150 - 200 files and Bundesrat shows interest for about 20% of them.

As we noted above, the Committee in Bundesrat is composed of specialized ministers of the Länder. The Committee in Bundestag is composed of MPs who are also full members of other committees. This has the advantage that MPs are familiar with some files and support them at European level as well (for example, on the budget). Bundestag Committee meets weekly, usually on Wednesdays. 16 German MEPs hold a permanent guest status to the works of the Committee (although attendance is not very good due to overlapping working hours). When they attend, the MEPs have exactly the same rights as the members of the committee, except for voting.

Regarding the substance of files, differences between German MPs and MEPs are rare. One of these exceptions has been in the recent conflict on the EU Diplomatic Service. Whereas Bundestag sided with the German government and the Council asking that the Service be subordinated to the Council, i.e to Member States, MEPs have supported the general policy of the European Parliament, with a Service subordinated to the Commission, therefore, under control by the EP.

There are no major policy differences between the two chambers. In general, when one takes the lead, the other one follows. Files depend actually on the interest shown by politicians in each institution. When there are debates on the application of subsidiarity, the Bundesrat rather leans towards regionalization, and the Bundestag towards nation states. In the European Affairs Committee, left-right differences are generally much smaller than in the other committees or the plenary.

Political practice in Germany is for Parliament to establish some general negotiating positions that the federal government must take into consideration in negotiations in Brussels. These positions are not binding, but the government must justify afterwards any deviation from the indications of the Parliament. In practice, the Government's arguments are accepted, and they tend to explain the context of negotiations and majority in the Council, as Germany almost never sides with the minority.

In interviews conducted by the authors of this report with officials of the German parliament, it emerged that the last case of conflict between Parliament and Government dates as far as 1999. Bundesrat had a different interpretation of a problem that it thought was not of Federal Government resort. Bundesrat then wanted to create a precedent rule that would have formally bound the Government on a negotiating position supported by a super-majority of 2/3 of the votes in Bundesrat. Bundesrat leadership tried to force this rule through and subjected it to the vote, but have not meeting the two thirds required, the Government kept its freedom to have a flexible position in negotiations within the EU Council. However, in general, the Government respects the views of Parliament. It must not be forgotten that in general the German Federal Government holds a majority in both Houses, so the Government and the leadership of both Houses naturally tend to collaborate.

Lisbon Treaty has also brought about major changes in the German political landscape. The German Constitutional Court decision on the constitutionality of the Treaty was breathlessly awaited in Brussels, as certain earlier decision were suggesting that a majority of judges was reluctant to extend EU powers without a change in the German constitution. Finally, the

Constitutional Court issued a decision saying that the Treaty is constitutional subject to certain conditions, including an extended role for the German Parliament in the European policy monitoring mechanism. Oddly, the ruling put the Parliament in a strange position: it had ratified the Treaty, so it was satisfied with the text, but received new powers from the Court. The Court decision forced the Parliament to pass a law for the interpretation of the treaty that formally stated what was only political practice: in essence the Government has an obligation to take into account the Parliament's opinion and justify any deviation from it. The new law also includes some principles of interpretation regarding the sovereignty and subsidiarity principle and the fact that no other delegation of sovereignty will be possible without changing the German constitution.

Denmark

An interesting case is that of the Danish Parliament (Folketing). Danish political spectrum is described by a unicameral legislative and a government in minority most of the time (due to fragmentation of the party system). Even before accession in 1973, the Danish legislative sought to exert control over European affairs. This resulted in the creation of a special commission in 1961 (Market Committee), renamed in 1994 the European Affairs Committee destined to monitor the country's accession negotiations. Prior to 1973, the Danish government was under obligation to inform the legislative of any decision taken at Community level which required legislative action⁶.

Upon joining the Union, Denmark developed a unique system of control of European affairs. This system was created as a result of a political crisis brought by an inadequate negotiation by the Agriculture Minister in the EU Council. Events in February 1973 led to creation of procedures that force Danish ministers to observe mandates of the Parliament in negotiations within the EU Council. European Affairs Committee of Danish Parliament appears as a powerful committee as it has the role of issuing compulsory mandates for ministers before the actual negotiations⁷. This can be explained both by the above-mentioned political crisis and the fact that the existence of minority governments is the norm not the exception, and that gives the Parliament a greater desire to control positions taken by the government.

European Affairs Committee is made up of MPs elected in proportion to the number of seats in Parliament. The Commission usually meets on Friday, when ministers must set out their proposals before it. If the proposal is not opposed by a majority, it becomes a basis for negotiation. An aspect of particular importance is that the Danish parliament has a constant and unhindered access to European law, the government being under obligation to inform of any proposal considered by the Union. At any time, the Committee can ask for further explanations

⁶ The Folketing's European Affairs Committee, THE FOLKETING'S SCRUTINY OF GOVERNMENT EU POLICY. Available at

http://www.euo.dk/upload/application/pdf/77305369/euo_brochure_europaudvalg_gb_web.pdf

⁷ Open Europe, 'Getting a grip. Reforming UK Scrutiny at Westminster, DEAILI 2006, p.20. Available at <http://www.openeurope.org.uk/scrutiny.pdf>.

on the government's negotiating position and furthermore, it can request a meeting with the minister concerned to clarify certain issues⁸.

Denmark has also paid attention to the transparency of the debate by organizing press conferences after each meeting of the European Affairs Parliamentary Committee. This is the venue where both ministers' negotiating positions and the positions of major parties are explained. Furthermore, upon returning from meetings of the Council, ministers must present to the Parliament Committee a report with the conclusions of the discussions.

The Danish EU affairs system was created as a result of a political crisis brought by an inadequate negotiation by the Agriculture Minister in the EU Council.

The Danish case shows that the parliamentary control system based on mandates for the Government determines a good implementation of European legislation, but most of all that problems that come out from political decisions can be avoided even for a minority government. In general, the Danish case can be summarized as follows: before a minister goes to Brussels, he/she will have to appear before the Parliamentary

Committee for European Affairs to receive the negotiating mandate.

Greece

In Greece, the legislative has two important means of involvement in European decision-making process: either through the European Affairs Committee, or through plenary debates.

Greek Parliament created the European Affairs Committee on June 13th 1990, Greece being for a long time the only state without a committee specialized on following the European affairs. Currently it is composed of members representing proportionally all political factions. The Committee does not meet regularly, but only when called by the President at the request of one third of the members, or at Government's request.

Constitutional provisions constrain the Greek Government to submit draft European legislation to the Speaker of Parliament (non-legislative documents as well) as soon as they were brought before the EU Council. Further, the Speaker sends the documents to the competent committees and/or to the European Affairs Committee who have the right to demand explanations from the Minister concerned on the documents placed on the agenda. The Minister has therefore the obligation to provide the committee any documents deemed necessary, except those that deal with a national security issue. European Affairs Committee or the other competent committees

⁸ The Folketing's European Affairs Committee, *art.cit.*, p.6

set out their opinion on the document discussed and then the Government must inform them on later events.⁹

European Affairs Committee is responsible mainly for cooperation with the European Parliament, transposing European legislation into national law, and institutional issues arising from membership of the Union. The Committee exerts control over government in the 7-8 meetings taking place annually when ministers can be questioned on their positions. The Commission may express its own opinions via reports discussed in plenary, but that cannot be voted.

It is thus obvious that the Greek system of scrutiny of European affairs is characterized by a parliamentary committee for European affairs in a rather advisory, purely formal role. Experience shows that the analysis of European affairs is limited, although ministers continue to present and explain their positions before the legislative. Ministers' hearings do not bring the desired effect, as the debates often turn political. Most times, issues are discussed within the Committee only if they have the potential to attract public attention. Very limited attention is paid to European legislative projects because they often have a technical aspect. (Maurer and Wessels, 2001: 160)

Sweden

Analysis of European affairs in the Swedish political system is based on cooperation between legislative and executive. This cooperation usually occurs both in plenary sessions and in specialized committees and also within the European Affairs Committee.

Generally, the Government must inform the legislative of any proposal considered by the Union. As in Finland, the executive must make available any documents deemed necessary to analyze the proposal and the proposed position to be adopted. These documents are then analyzed by specialized committees according to their expertise (Hans Hegeland and Christine Neuhold, 2002: 7).

European issues may be subject to procedures that request the Government to put a matter of national interest on the European agenda. Every year, the government presents a report on recent events on the European stage, including envisaged position proposals. Therefore, presentation of the report opens a dialogue between legislative and executive on positions that Sweden can adopt on European level. Parliament may pass a series of resolutions with an impact on the government's position.

Before each meeting of the EU Council, the Government (including the Prime Minister) come before Parliament to provide information and receive suggestions. Ministers' hearings often focus on issues discussed at previous meetings of the Council. Usually, the minister concerned sets out his/her views and answers questions from members of the committee, which in turn issue an opinion to the issues raised. Deliberations are often communicated to the public. The

⁹ Interparliamentary EU Information Exchange: <http://www.ipex.eu/ipex/cms/home/links/pid/20>. Accessed at 24/11/2010.

mandate received by the Minister is not binding, but rather has a political connotation that makes it almost impossible for the Government to adopt a different position than that of the Parliament. The minister may adopt a different position from that envisaged by parliament, but must always explain his/her reasons. It is the European Affairs Committee that decides whether the reasons given are justified or not. However, there was a case where in a meeting in the Council where a new proposal had been submitted, a minister summoned the leaders of all parties to make sure that its position has political support.

The Swedish system is based on dialogue between the legislative and executive on the positions that Sweden can adopt at European level.

In conclusion, the Swedish Parliament appears like an influent legislative within the system of control of European affairs. The presence of regular debate in the European Affairs Committee allows exerting some control over the executive and encourages the Government to adjust their opinions according to those of the legislative. Although it already has a good deal of means of political control, the Swedish parliament is expected to reinforce its influence on European politics.

Finland

In Finland, the supervisory role of Parliament on European affairs is granted by the Constitution, which requires the Government to inform Parliament about any European issues on the agenda, as well as about the position that the Government intends to adopt. In this case, the Government is bound to justify and explain its options before the Legislative, but also to take note of the views expressed therein. The committee concerned may then issue a report for the Government on its proposal.

Responsibility for the actual supervision of European issues is split between the Foreign Affairs Committee which deals specifically with the second pillar (Common Foreign and Security Policy) and the Grand Committee which examines issues relating to the Community pillar and the Justice and Home Affairs pillar. Meeting every Wednesday of the week, the Grand Committee is usually composed of prominent lawmakers and party leaders. This shows the importance conferred to European issues both by politicians and Finnish public opinion. As in the Danish case, for reasons of legislative transparency, Parliament publishes both minutes of meetings and documents considered in the debate.

The process of formulating the country positions starts with the Finnish government writing the proposal that it intends to take. The proposal is sent along with the legislative act concerned to the Speaker of Parliament, who sends it to the committee responsible for examining the legislative act. The specialized committee then sends its view on the documents received to the Grand Committee that adopts most of the time the specialized committee's position. Grand Committee presents its views on the document being discussed to the minister. But the committee's opinion is just a recommendation that the minister is not bound to consider.

The Grand Committee also plays an important role in the preparation stage for each EU Council. Thus, a week before leaving for Brussels, ministers must present before the Committee the meeting agenda, documents to be discussed, and Government's proposal. The Grand Committee may issue a series of views on how the government might vote in the Council, but they are not institutionally binding. However, their acceptance may encourage increased political support for the Government.

After meetings, the Government must inform the Committee on decisions adopted. An example of activism from the Government was sending to the legislative in 2009 of a document explaining that future issues on the European agenda and proposed positions that Finland could have adopted (see box)¹⁰. The document provides models for action at European level in the post-Lisbon context, especially in the context of the election of a new Commission and a new European Parliament. The Finnish Government's position paper counts as a "best practice" for coordinating the national position at European level and as a coherent manner of influencing European policies.

¹⁰ Government Report on EU Policy, 8 DEAilie 2009. Available at <http://www.vnk.fi/julkaisukansio/2009/j16-eu-selonteko-j17-eu-redogorelse-j20-government-eu-report/pdf/en.pdf>. Accessed on 14/10/2010.

Finland's priorities in the European Union according to the Finnish government's position paper presented to the legislature in 2009:

A Europe of citizens

- Strengthening the social dimension of integration policies (labour employment, flexicurity, etc.);
- Removing obstacles to freedom of movement;
- Strengthening cooperation between judicial and police;
- The introduction of a common asylum system.

A prosperous Europe

- Consolidating the Single Market, in particular the services;
- Eurozone economic policy coordination;
- European system of financial supervision;
- Internal energy market and common infrastructure energy;
- Increased funding for research and development;
- Initiation of European policies designed to use natural resources potential.

A global leader

- EU - the world leader in the transition from an economy based on low emissions of carbon dioxide;
- Common representation of the euro zone interest in international economic foras;
- Strengthening the Common Foreign and Security Policy;
- A more effective neighbourhood policy through a partnership with Eastern Europe;
- Strengthening relations with Russia.

Therefore, unlike Denmark, where the ministers receive a mandate from parliament for negotiations in Council, the Finnish EU affairs committee does not require a particular direction, leaving a certain freedom of decision to ministers. Informing Parliament from the outset on European issues, and frequent meetings between MPs and government actors creates a relationship of trust between the legislative and executive. The Finnish model of scrutiny of European Affairs is a success because decentralization through specialized committees allows legislative to exercise a notable influence on the government and the frequent contacts between ministers and legislative encourages the development of relations of mutual trust.

United Kingdom

Analysis of European affairs in the UK takes place both in the House of Commons and the House of Lords, each with a different review process, according to the specific institutional logic of British Parliament.

Generally, the British parliamentary committees are destined to monitor ministers' activity in the EU Council and to express their opinion on the main European legislative documents. The system

of parliamentary control over European affairs is based on the Scrutiny Reserve according to which a minister cannot negotiate a position in the Council if the issue had not previously been discussed by the legislative.

Procedures in the House of Commons are based on a series of complicated mechanisms but ensure close monitoring of European affairs. European Scrutiny Committee considers any document of European relevance and issues thereafter a report on political and legal implications of the document. The report is being debated either in the House or in the three European Committees. Other procedures involve questioning ministers on specific issues discussed, and monitoring negotiating positions in the Council¹¹.

As in the above cases, there is an obligation for Government to inform Parliament (namely the European Scrutiny Committee) on the important issues that come out during negotiations. Information usually takes the form of explanatory memoranda drafted to be sent ten days after sending the documents to Parliament. European Scrutiny Committee considers the act and issues a report on it. This report may recommend either the debate in one of three European committees or the debate in plenary. The three European committees deal with different issues according to the structure of government. The scrutiny procedure in one of three European committees begins by hearing the minister and presentation of the report sent by the European Scrutiny Committee. Resulting resolution is then sent to the House which adopts it purely formally, without any debates.

The procedure in the House of Lords is less complicated. Here the committee responsible (European Union Committee) examines the documents and makes a series of thematic reports on information purposes or to be debated in Parliament. The whole process of scrutiny is performed by sub-sectoral committees specialized in certain policy areas. There is cooperation between the Committees of both Chambers.

Another important aspect of the scrutiny process is monitoring ministers in preparation stage of the EU Council and in the next stage. Thus, after examining the agenda of the EU Council, the Scrutiny Committee may hear the ministers in the national government to find out their position. Upon completion of the Council meetings, the same committee may hear the ministers to hear the position taken or potential implications of certain decisions. These hearings are usually made public.

The British system of analysis for European Affairs has the advantage of facilitating the flow of information and encourages debate in parliamentary committees. Scrutiny Reserve allows parliament to control permanently the actions and positions expressed by ministers at European level. It can therefore be said that the British system of parliamentary scrutiny focuses mainly on ex-ante scrutiny – influencing the ministers before the Council meetings. Monitoring exerted

¹¹ House of Commons Information Office, EU Legislation and Scrutiny Procedures, septembrie 2010. Available at <http://www.parliament.uk/documents/commons-information-office/l11.pdf>. Accessed at 24/11/2010.

through the Scrutiny Reserve folds on internal political tradition based on ministerial responsibility.

Innovations introduced by Lisbon Treaty – practical implications for the Romanian Parliament

How does the subsidiarity control mechanism work? First of all, the European Commission is obliged to justify any legislative initiative in regard to the subsidiarity and proportionality principle. Then, the Commission sends all the legislative proposals to all national parliaments at the same times it sends them to the European Council and the European Parliament. National legislatures have a deadline of eight weeks to send their reasoned opinions in regard to the way the legislative proposal complies or not with the subsidiarity principle (excluding proportionality). Unicameral parliaments have one vote while bicameral have two. According to the number of reasoned opinions received by the Commission, two scenarios are possible: “the yellow card” and “the orange card”.

The yellow card procedure implies that the legislative proposal has received at least one third of the total votes against it on grounds of subsidiarity breach. Therefore, the Commission must review it, maintain it (including an explanation why it has decided to maintain it), amend it or withdraw it. The orange card procedure apply only in co-decision and implies that the total number of votes against the proposal constitute a simple majority. As previously mentioned, the Commission may maintain the proposal (and offer an explanation), may amend it or may withdraw it. If the Commission chooses to maintain the legislative proposal, the reasoned opinions of the national parliaments and the opinion of the Commission are sent to the Parliament and the Council. If the votes in the Council stand for 55% of the number of votes or if the majority of votes in the Parliament are against it, the proposal will be withdrawn.¹²

Therefore, the entry into force of the Lisbon Treaty offers the Romanian parliament, apart from the classic procedure of government control, the possibility to warn the European institutions that a legislative act breaches the subsidiarity principle. The fact that the Romanian legislature will receive a high number of legislative proposals, documents and notifications directly from the European institutions is even more important than the subsidiarity control mechanism itself. Although most of public debates focused on the “benefits” brought by the Lisbon Treaty in regard to the subsidiarity principle, one must not neglect the fact that this procedure does not imply a control on the substance of a legislative proposal. The Romanian parliament should therefore take advantage of the information flow coming from Brussels not only to signal potential subsidiarity breaches but also to better control the Government in EU affairs.

¹² Protocol (No 2) on the application of the principles of subsidiarity and proportionality.

Romania's institutional framework (formal aspects)

1. Government - the main actor in European affairs

- ❖ Dual Coordination System of European Affairs - MFA and DEA main actors
- ❖ Interministerial coordination at technical and political level –European Affairs Council, European Affairs Commission, Working Groups
- ❖ Coordination of European affairs not integrated in the public policy coordination system

Prior to EU accession, negotiation process between Romania and the EU was managed jointly by the Ministry of Foreign Affairs (MFA) and the Ministry of European Integration (MEI). There was also, within the Prime Minister's Chancellery a Permanent Secretariat for European Affairs, preparing along with MEI and MFA the meetings of the European Integration Council, chaired by the Prime Minister.

This framework was modified in early 2008 by a government decision (No. 115 of January 2008). The former Ministry of European Integration became the Department of European Affairs (DEA), directly subordinate to the Prime Minister and headed by a secretary of state. Besides DEA, the institutions involved were: Ministry of Foreign Affairs (MFA), Ministry of Economy and Finance (MEF - later split in the Ministry of Finance and the Ministry of Economy), other ministries and agencies depending on their area of expertise.

DEA, MFA and MEF make the core of the executive or in the words of Laffan (2006) the "inner circle", completed with various important ministries that oscillate between the inner and the outer circle, depending on the issues discussed and their place on the agenda: agriculture, justice, internal affairs.

The formal institutional framework of European affairs coordination is organized on three levels:

- I. policy makers meeting in the European Affairs Council
- II. High-level bureaucracy - the European Affairs Commission
- III. Lower-level bureaucracy - working groups at ministerial level.

Each of these levels should provide consulting and inter-ministerial coordination on European affairs. Inter-ministerial dispute settlement mechanism provides that ministerial disputes be settled within the working groups with remaining issues to be forwarded to the Commission. If this level (political representation, secretaries of state) is still unable to agree upon certain issues, they are discussed within the European Affairs Council that makes a decision.

I. The European Affairs Council

- Reports directly to the Prime Minister
- Chaired by the Prime Minister

- Monthly meetings
- Attendants:
 - Permanent / binding attendants: Ministry of Foreign Affairs, Head of DEA, the Minister of Finance and ministers in charge of various policies on the agenda.
 - Invited: other officials with potential interest in the agenda, the Permanent Representative of Romania to the EU may attend following a joint decision of MFA and DEA.

Formal responsibilities of the European Affairs Council:

- Establish Romania's priorities in the EU.
- Analyse and take necessary measures to implement EU legislation or other obligations of Romania.
- Approve high-level position documents (so-called "general mandate" different from the simple "mandate" approved by the European Affairs Commission).
- Act as an arbitrator between institutions when different opinions are expressed and disagreements have not been solved at European Affairs Commission level.

In practice, after Romania's accession to the EU, European Affairs Council meetings ceased to be regulated, and approval of various documents of European affairs has been done directly during meetings of the Government (the memorandum is the most commonly used tool for approving such documents).

Example:

Approval of national targets for Europe 2020 was made by memorandum in a Government meeting, with no involvement of the European Affairs Council.

II. European Affairs Commission

- Purpose: to ensure inter-ministerial coordination
- Government Decision provides coordination by the DEA but does not mention any subordination.
- Participation is set for secretaries of state that may be replaced in "exceptional circumstances" by Directors General (management officials)
- Chaired by the head of DAE except in those cases "concerning foreign and security relations of the EU", in which case MFA takes the chair.
- Monthly meetings every Monday of the week

Commission's formal responsibilities:

- Prepare Romanian positions for European Councils, ordinary Councils and COREPER
- Ensure inter-ministerial coordination
- Analyze differences of opinion between the institutions not solved within the working groups and make a decision.
- Formally, if differences cannot be solved within the Commission, the question is brought up in Council meetings. In practice, this never happened, even in case of major differences.

In practice in Commission meetings ministries are mainly represented by officials instead of secretaries of state, as mentioned in the government decision. This, together with difficulties in convening the Council shows the low political clout attached by the Government to issues of European Affairs.

III. Workgroups

- Attendants: medium or lower level civil servants responsible for a specific file.
- Created at the initiative of each ministry or DEA.
- Consisting of: DEA, MFA and "if necessary " the Ministry of Finance
- Led by the minister directly responsible, the DEA or MFA (for matters of foreign affairs)

Administration capacity in European affairs

During the accession process there has been a constant concern of the Government to strengthen the capacity and skills of civil servants who worked at central level in European affairs. There were both internal initiatives (European affairs advisers' body) and external assistance designed to improve the coordination of the integration process. Meanwhile, European integration has been a main priority for all governments and the political class was directly involved in the accession process (the Prime Minister chaired the meetings of European Integration Council).

Once Romania joined the European Union, the situation changed and the political importance of European affairs dropped dramatically. Therefore:

„...the best experts from ministries, active in 2005-2007, are gone"- DEA expert

- policy-makers seldom attend the meetings on the coordination of European affairs
- the best trained officials left Romanian administration (mainly to integrate the structures of Community administration)

Under these circumstances, capacity and expertise of European affairs directorates in ministries is limited. The role and importance of these directorates in the institutional framework steadily decreased after the accession.

European affairs coordination system appears individualized and separated from the main policy coordination system, managed by the General Secretariat of Government. An analysis of coordination and planning capacity of the Government made this year by the World Bank (unpublished, consulted by the authors) points out that the main difficulties in European affairs coordination are the poor quality of ex-ante impact analysis of policies promoted (and substantiation of the country positions) and lack of connection with the financial resources available – the initiatives are not properly substantiated and financial resources are not identified and planned to ensure their implementation

External expertise

We call "external" in this context the expertise provided by people and organizations outside the executive. Government Decision stipulates the possibility of inviting experts belonging to the Romanian Academy, European Institute of Romania, universities and think tanks only in the section on inter-ministerial working groups. It is unclear why this decision did not include the possibility of attending meetings of the European Affairs Council or the European Affairs Commission. Meanwhile, this option is not excluded. *Advocacy* and *lobbying* activities are not covered by this decision or by other legal acts as far as formulation of European policies is concerned.

European Institute of Romania is a non-governmental organization coordinated by the government. The Board is appointed by the prime minister (4), Romanian Academy (1) Parliament (1), business associations and trade unions. Every year, together with the ministries and under coordination of the DEA, the EIR sets several research priorities. Studies are conducted by independent experts (usually from the Romanian Academy or universities).

2. Parliament – formal actor, low involvement

- ❖ Does not participate in the formulation mechanism for positions in European affairs
- ❖ It is rather *informed* than *consulted*
- ❖ European Affairs Committee – unified structure for the two Chambers has coordinating role

Government Decision 115/2008 stipulates that all the Council's written conclusions are submitted to the Parliament "for information after an agreement was reached at the central government institutions level". According to the legal procedure, the Parliament is only informed by the Council and only when the decision had already been taken; there is no mention of a formal participation of the legislative in the process. At the lower level, the Commission sends the Parliament a list of position papers (general warrants) to check if there is a parliamentary *feedback*.

It should be noted that a legislative initiative on procedural arrangements for coordination of European affairs and the relationship between the Government and Parliament was promoted in 2008, but the bill has not yet received Parliament's approval. Interviews we made have revealed that currently this initiative is updated and is back on the parliamentary agenda. It is expected that this kind of normative act clarifies the relationship between the executive and legislative on areas of competence and involvement in the coordination of European affairs.

3. Presidency – the missing actor

- ❖ There are no formal rules to involve Presidency
- ❖ Presidential administration active in European affairs depending on relationship with the Government
- ❖ Constitution grants the President supervisory role in foreign affairs

Although the Romanian Constitution grants the President a supervisory role in foreign affairs and security issues, the Government Decision of 2008 does not include in any form the presidency within the institutional framework of drafting the country positions, and the institution is represented neither in the Commission nor in the Council. Ministries have no formal obligation to inform the Presidency. On the other hand, the Constitution grants the President powers in foreign and security policy, and Romanian President represents the country in the European Council. Therefore, the president represents the country at the highest level of EU decision, but internally the institution he runs is not formally represented in formulation of country positions.

The most likely explanation for the exclusion of the Presidency is the domestic political context of 2008, featuring a conflict between the Prime Minister of the time, Calin Popescu Tariceanu, and the Head of State, Traian Basescu. It is an unfortunate example of drawing institutional rules on

“We have included them in this process and considered their feedback without changing legislation” – DAE representative

personal relations between decision-makers. However, in our interviews we have seen that in practice both DEA and MFA kept the channel of communication with the Presidency open and sent the agenda and position papers on European affairs to the Presidential Administration.

The political context changed at the end of 2008, first with the alliance PDL - PSD, and after with the re-election of Traian Basescu and with a new parliamentary majority indorsed by him. In fact, the role of Presidency in outlining country positions has increased (mostly after the appointment as European Affairs Advisor of Leonard Orban, respected by the specialized bureaucracy whose member he was for many years), although this legislation has remained unchanged .

In conclusion, the Presidency is an actor involved in the process without a formal role, being totally dependent on political and informal arrangements.

How does this framework of European affairs coordination actually work?

Politicians versus public officials

As described above, as far as European affairs are concerned, the executive is organized at three levels:

- European Affairs Council - chaired by the Prime Minister and attended by ministers
- High-level bureaucracy – the European Affairs Commission attended by secretaries of state
- Workgroups

The European Affairs Commission holds weekly meetings, usually chaired by the general directors and not by secretaries of state. Director Generals are not appointed politically, have a stable role in the system and tend to have more experience and information than the secretaries of state, nominated on political criteria. It is also true that there is a practice of promoting MFA directors as secretary of state preserving their status as career diplomats. In this case we have analysed them as high level bureaucracy rather than politicians.

In conclusion, the second level (European Affairs Commission) tends to be managed by civil servants rather than politicians, even if secretaries of state are in a supervising role. Although it might seem that with a superior expertise at the level of civil service management discussions and decisions of the European Affairs Commission should be very substantial, in practice, lack of involvement of decision makers (secretaries of state) has a negative effect. Thus, all issues requiring a decision cannot be solved at this level, as public officials avoid taking positions outside their institutional mandate.

(about the European Affairs Council) *“they have not had a meeting for several months”* – public official

Therefore, faults come out in the mechanism of coordination of European affairs and issues where a decision must be adopted are unduly postponed until discussed with political representatives in charge of coordinating those areas (secretaries of state who normally should attend these meetings).

In the meantime, the European Affairs Council does not work properly either. Monthly meetings are not held regularly and when they are, ministers tend to talk about European affairs in the government meetings usually dominated by domestic policy issues.

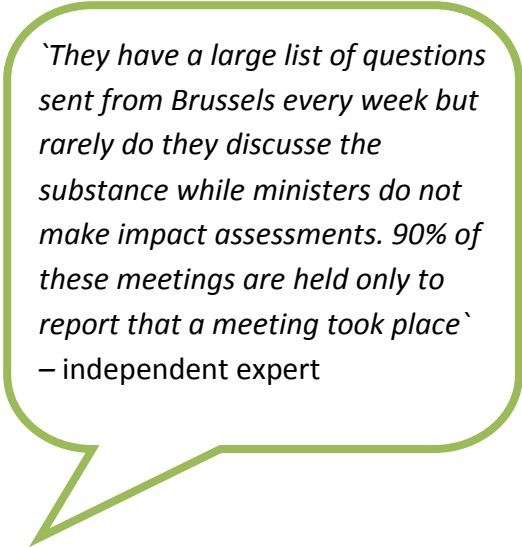
It was to be expected that the Prime Minister would discuss EU policy issues within the regular meetings of government, rather than at special meetings of the Council on European Affairs, which essentially is also a meeting between Prime Minister and (some) ministers. However, in this case, the European Affairs Council as a political body overseeing the process of formulation of country positions is rather redundant, having a shadowy existence.

The dominant role of civil servants in the European Affairs Commission and the inefficient operation of the Council as an umbrella policy mean that Romania is a country where bureaucracy dominates the formulation of country positions. Against the politicians, civil servants have also the advantage of experience and information gathered on European issues. This is a legacy of the pre-accession times when priority for accession had placed bureaucracy on a better position at the expense of politicians, who have a limited mandate.

Given the lack of interest on Brussels from political parties and senior politicians, the trend is to leave European issues on the technical level of administration. Although they might seem privileged, our interviews showed that public officials are rather frustrated as they do not receive *input* from politicians, meaning they cannot commit the institution they represent above a minimal level.

Moreover, the political crises of 2008 - 2009 and a domestic agenda taken over by the economic crisis meant that the "autopilot" role of bureaucracy in setting out country positions became persistent. In the few cases where politicians took over (as was the case with President's strategies on Republic of Moldova and Black Sea Synergy), civil servants took those issues and strongly promoted them at European level.

But the lack of input from the political level leaves its mark on this process. Bureaucracy has its own limitations, decisions must be assumed politically and with limited "demand" from the political class, the offer of bureaucracy is obviously insufficient.



'They have a large list of questions sent from Brussels every week but rarely do they discuss the substance while ministers do not make impact assessments. 90% of these meetings are held only to report that a meeting took place`
– independent expert

The lack of serious discussions and debates on the substance of the documents discussed at the government meeting and poor quality of the analysis presented to decision makers are not limited on European affairs issues. The whole decision-making system in Romanian administration is touched by this weakness and the prevalence of ad-hoc decisions on issues on the agendas of Government meetings without analysis and proper debate is notable.

Executive versus Parliament

As mentioned above, Parliament has only a minor role in this legal framework. Parliament is informed by the European Affairs Council, consulted by the European Affairs Commission and informed by the European Commission (with the ability to send feedback) on position papers.

“they think EU falls to the Government”
–parliament expert speaking about Parliament's involvement

Since the accession, Romanian Parliament has been included in Barroso initiative and is informed since 2007 on the European Commission's legislative initiatives, but was among the least active at European level in sending feedback¹³.

On one hand, a kind of lethargy seems to reign in the legislature, which we could ascribe to the extension in the present of the pre-accession mentality.

The problem is made worse by the internal institutional arrangement. Before 2007 the two Houses of Parliament established a joint **European Affairs Committee** (EAC) for fast adoption of the *acquis communautaire*. This situation was brought about by the need to pass many laws the Joint Committee assuming that it would not obstruct the government on adoption of the *acquis*. But the structure of a Joint Committee tends to be ineffective, the meetings are held irregularly and each member is active in the sectoral committee of his/her own chamber rather than the Joint Committee, regarded as a less important *second job*. Since the Government does not attribute much importance to the Joint Committee, its members have no incentive to be more active, hence a kind of vicious circle.

The authors of this report have conducted a series of interviews with officials of Parliament (MPs and experts), which highlight a certain exasperation, mostly among the technical experts, on the lack of activism and relevance of the Joint Committee. In these circumstances, we see a trend of completion in each Chamber with development of own procedures (we shall come back to this point). In fact, each Chamber will tend to play its own role at European level. The idea mentioned most often is to waive the joint Committee on European Affairs and have a system in Parliament that works with two separate committees, one in the House, the other in the Senate. We note that regardless of institutional arrangement in Parliament, the following issues are critical for a coherent operation and increased involvement of the Legislative in coordination of European affairs:

- Superior technical assistance from specialized structures (Directorate of European Affairs) to the European Affairs Committee or Committees.
- Attendance of European Affairs directorates at the meetings of the Commission on Government level - with a guest status, in order to consult and inform Parliament.
- Approval of clear procedures in the field of European Affairs to determine relationships between Government, Parliament and Presidency.

¹³ Mediafax, ' Romanian Parliament, among the most inactive in consultation with EU institutions – report, 14th September 2010. Available at: <http://www.mediafax.ro/politic/parlamentul-romaniei-printre-cele-mai-inactive-la-capitolul-consultarii-cu-institutiile-ue-raport-4893154>. Accessed on 24/11/2010.

European affairs and national policies

One of the common features for Parliament and Government in EU affairs coordination system is represented by the differential, non-integrated treatment of European policy issues. Thus, the approach of pre-accession period has been preserved, resulting in different mechanisms and systems for planning and coordination of *national* policies and specific mechanisms for *European* policies.

The impact of this artificial distinction between national policies and policies developed and implemented in the European context is felt in organizing and operating the policy planning system, the role of various structures and the mechanisms of coordination involved. Thus, "European" policies are regarded rather as external factors to be considered and developed outside the framework established for national policies. They are perceived and treated rather as "external relations" than "domestic policy." Also, this approach leads to a certain sidelining of European affairs that are considered something separate, to be managed in a special manner, with particular rules and specially allocated resources.

„...European affairs are regarded as confidential, open to selected few who can be involved in analysing EU relevant issues” – Parliament expert

Given the current status of Romania, the direct impact of EU rules and initiatives on Romanian citizens, the opportunities to influence European decisions, we believe that the differentiation area between domestic and European agenda as far as promoted policies are concerned is scant. Thus, European policies become domestic policies that have direct effects and must therefore be treated the same way.

**European policies =
National policies**

One of our recommendations on the system of coordination of European affairs both at the executive and legislative level is to integrate the mechanism of coordination of European affairs in the national system of coordination of public policies.

Government and Parliament – cooperation versus competition in coordinating European affairs?

As mentioned before, the relationship between Government and Parliament in the process of coordination of European affairs is not formalized at this point, the regulation framework in force failing to spell the mandate, role and powers of each institution or a mechanism for cooperation/consultation.

Beyond the legal relevance of such a bill, the current situation in which the Government is virtually the only institution coordinating European affairs, developing and negotiating country positions, poses a question on the political mandate of the executive (that seems overextended in this situation) and the representative role of the Parliament.

„...any common procedure is a nightmare” – parliament expert on the functioning of the European Affairs Committee

The interviews conducted with representatives of Parliament and Government revealed that, although a first draft of a bill to establish a mechanism of cooperation between the two institutions in European affairs was prepared in 2006, completion and adoption of this act has not

succeeded for four years. Several versions have been developed and discussed at Government and Parliamentary level, but the final decision has not been taken.

The reasons for this situation are in fact related to *competition* between Government and Parliament, the central role that Government plays, and which it aims to keep and Parliament's ambitions to assert itself as an actor that matters in coordinating European affairs with a role that is not limited to a status of "*advisory only*". One needs to differentiate between ambitions at a **technical** bureaucratic level of parliamentary experts who try to ensure that Parliament is more involved and uses the new opportunities to engage more seriously the institution in coordinating European affairs and opinions of the **political level**, of policy-makers, very crystallized in this respect. There is a low-level "demand" from MPs for coordination of European affairs.

It should be noted that discussions on this draft bill currently resumed and the recent working group made of representatives of European Affairs Committee and Department of European Affairs will present a version of the bill by the end of this year.

The mere approval of the law to rule the government – parliament relations in the coordination of European affairs is not sufficient.

Given the legalistic nature of the Romanian administration, the existence of a bill that would set out the role of the two institutions and the mechanisms for cooperation in European affairs creates the premises of a coherent process of coordination of European affairs. However, we point out that, notwithstanding the provisions of this bill and its status, implementation makes a difference. Thus, Parliament must have/develop the institutional capacity to play a more important role in coordinating European affairs, the mere existence of a bill granting these powers not being enough.

Parliament must develop its own capacity to be an active partner in European affairs.

European Affairs in Parliament – Coordination procedures

The political structure of the Parliament that should have contributed significantly to coordination of European affairs and fostering "*political demand*" in this area is the **European Affairs Committee** (EAC). However, EAC activity has been characterized by an ad-hoc system of meeting organization, low attendance of members due to overlap of meetings with other events or the fact that each member of EAC is also member of another specialized committee. The issues that parliamentary experts interviewed viewed as problematic and susceptible to be improved in EAC activity included a stronger political leadership within the Committee, the existence of an internal mechanism for European affairs to allow the political decision on the technical analysis and organization of the Committee – a joint committee or two committees,

one for each Chamber. Moreover, the frequent change of membership of the Committee has a direct impact on its activity.

Experts in the Senate and Chamber of Deputies reacted to the operating problems of EAC and the process of coordination of European affairs by setting internal procedures for European Affairs. Thus, the Senate recently approved the procedures in the Standing Bureau, while the Chamber of Deputies considers similar procedures.

In fact we have two independent systems for the coordination of European affairs, one in the Senate and one to be formalized in the House. In this context, the role and status of the European Affairs Committee (in its current version of joint committee) should be reviewed. Institutional realities have changed, the majority is different in the Chamber and in the Senate, CAE did not have outstanding results in the joint committee version and the enthusiasm of the technical level must be supported so as to generate a political input in this process. If this input can be easier generated in a version in which both Chambers establish their own European Affairs Committee, than *de facto* reality must be translated into a *de jure* reality.

Common CAE – operating malfunctions

De facto, each chamber has developed its own procedures for EU affairs coordination

If we accept the idea that to foster the involvement of Parliament in European affairs, it is better from an institutional perspective to have separate mechanisms in the House and Senate (avoiding the difficulties of convening EAC meetings, problems in joint meetings, etc.) we must analyse the concrete mechanisms that might bring improvements in this area. This report does not try to make a detailed analysis of options related to mechanisms of coordination of European affairs in the parliament, but offers instead some recommendations and points out the issues to be agreed at technical and political level.

Among the major procedural issues that are highly relevant to the success of initiatives to streamline the coordination of EU affairs in Parliament to be analyzed in detail, we mention:

a) The status of would be European Affairs Committees in the House and Senate (different committees)

EAC in House and Senate

“Full time” committee with members specialized in European affairs or

Committee –“workgroup” with representatives of other specialized committees experienced in European affairs

One of the criticisms raised against the organization and operation of the current EAC is directed to the fact that members of this committee are also members in other specialized committees and thus their involvement in EAC is seen more as "a second job", each being involved in the work of the specialized committee of which they belong. Thus, based on the model of other states, some experts believe that if a European Affairs Committee could be set up for each Chamber and members of this committee would not be allowed to be members of other specialized committees, deputies and senators in EAC would be

more active and would coordinate this process in a much improved manner.

However, at the same time, assuming that European policies are no different from domestic policies and considering the integrated approach at policy coordination level currently promoted at the European Commission (*see economic governance*) and the need for awareness of the relevance of Community issues for national policies, a sectoral expertise in the European Affairs Committees of the Parliament is necessary.

Given the current context, of sidelining the issue of European affairs in Parliament, we believe that in order to generate more interest in this area an option for promoting European policies in direct connection with the sectors where they will have an impact is better.

In conclusion, we recommend that if a European Affairs Committee is set up both in the House and in the Senate, its members should act as members of other specialized committees and their sectoral expertise should contribute to the work in the EAC. Of course, in order to have a working process the technical secretariat of the committee must be able to fulfil its mandate of specialized technical assistance given to committee members.

b) Coordinating the process in each Chamber - EAC in the centre or just marginal input

The method of coordinating the process, consulting other specialized structures, the integration of inputs and the mechanism for settling disputes are matters that can be approached differently depending on whether or not a central coordinator does exist for each of the two chambers of Parliament.

Thus, a first option, promoted through the procedures recently approved by the Senate, involves treating European affairs issues in specialized committees. Thus, the specialized committee coordinates the report concerned and promotes it for approval in plenary. The other specialized committees may bring contributions and formulate opinions managed by the initiating specialized committee. In the current case, European Affairs Committee (still joint) can contribute with opinions just like any other specialized committee that has an interest in the area concerned. Thus, in the current context in the Senate the issues of European Affairs are handled strictly by specialized committees, without having a specific role of EU affairs coordination.

Process coordination

Central committee (EAC) or

No central coordination, only via specialized committees

Another approach, which assumes incomplete internalization of European Affairs issues in Parliament and necessity of specific coordination in this field, requires a central role for a European Affairs Committee in each Chamber. In this option, the Committee will manage the whole process of communication/consultation for the initiative concerned, will convene various debate meetings and will manage drafting of the final document. EAC will act as a coordinator of policies in the field of European affairs. This approach implies the consolidation of a core of MPs interested in European affairs (around the European Affairs Committee) and the gradual extension of the expertise in European affairs at the level of specialised committees.

Thus, as mentioned above, a detailed analysis of operation, structures, current procedures, etc. must be made before adopting a firm position on the institutional and systemic changes for the coordination of European affairs. We think that for the current context, ***two European Affairs Committees (one for each Chamber) bringing together specialists in European affairs of all specialized committees that plays a central coordinating role, supported by technical bodies specialized in the field would streamline the work of Parliament in coordinating European affairs.***

Conclusions

It is often said that the European Union undergoes a period of „enlargement fatigue“. In Romania, we seem to be in a post-enlargement fatigue. Our greatest national objective of entering the EU, a consensual top priority, has been fulfilled, but we seem quite confused. This CRPE report is part of our effort to make Romania an active, credible and effective actor in regard to European policies. However, this cannot be achieved without a substantial contribution from the part of the Romanian parliament.

We can consider the EU negotiation period to be an exceptional one due to the fact that the rules of the game have changed in order to allow a negotiation process conducted by the Government and with the parliament rapidly adopting the *acquis communautaire*. As we previously mentioned, the isolation of the Parliament was unavoidable. But that period is now over and the usual rules should be again valid. However, this is hardly the case now.

Given the fact that European policies cover wide areas which have a direct impact on the life of citizens, there is a need for political decision and a firm political input to allow Romania to develop some strategies of positions at EU level. Unfortunately, at the moment, neither the Government nor the Parliament is in such position. Decisions in regard to Romania's positions are the responsibility of governmental bureaucracy and government experts committees. Although they have good knowledge in the area, they do not have the necessary political position/influence in order to assume country position and real negotiation strategies. This leads to a purely reactive behaviour from the part of Romania in most EU areas (we have an opinion only when we are being asked directly about it).

Of course, this situation is not the fault of Parliament. It is not Parliament's fault that ministers are not interested in European affairs; it is not Parliament's fault that political parties have no strategy in regard to the development of human resources in EU affairs. But it is the Parliament's fault that it has auto-isolated itself in this process. The Parliament is the institution which should fill in the gap that we feel, which should offer input and control over the bureaucracy.

The entry into force of Lisbon Treaty offers us the opportunity to re-launch this debate and to rethink the role of Romania's process. As we previously noted, the subsidiarity control represents a major change, but even more important is the Parliament's integration into an information flow which allows it to be more active at EU level by directly controlling the Romanian government. In

practical terms, an active parliament will no longer depend on the information flow coming from the government and will be thus able to develop a pro-active policy by proposing ideas, solutions and positions well before these are formulated by the ministries, and anyhow, by controlling them afterwards. Lisbon is an opportunity; it is up to the Romanian Parliament to take advantage of it.

The start of this repositioning should begin by identifying those problems that are now blocking the Parliament. Our analysis has identified some of them. Our recommendation regarding the replacement of the common committee with one committee for each chamber (a committee which should be the focal point of this process) is one of the potential solutions. But irrespective of the configuration of the internal institutional structure, we need leadership; we need parliamentarians with clear commitment for European affairs who should provide an impetus for this control and decision-making mechanism.

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About the authors

Cristian Ghinea is director of CRPE and columnist at *România Liberă* and *Dilema Veche*. He holds a MA in *EU Politics and Governance* awarded by the London School of Economics (LSE).

Dragoș DINU is a professional with solid experience in public management and strategic planning. He worked in the public policy coordination unit of the Romanian Government. Currently he works as consultant at regional level (Romania, Moldova, Kosovo).

Oana Tănăsache is a researcher at the Romanian Center for European Policies and a graduate of European Studies.

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Romanian Center for European Policies

Gheorghe Pop de Băsești 43-45, ap. 5

București

office@crpe.ro

Tel.: +4 0371 083 577

Fax.: +4 0372 875 089

www.crpe.ro

Friedrich-Ebert-Stiftung

Str. Tunari 43

București

fes@fes.ro

Tel.: +4 021 2 11 09 82/-83

Fax: +4 021 210 71 91

www.fes.ro