

Katrin Auel*

Doing Good, but Reluctant to Talk About It: The Swedish Riksdag and EU Affairs

Summary

The Swedish Riksdag is generally seen as one of the most active and powerful parliaments in terms of engagement in EU affairs, both at the domestic and at the EU level. The aim of this European Policy Analysis is therefore to investigate the handling of EU affairs of the Swedish Riksdag from a comparative perspective, and to assess how the Riksdag fulfils different parliamentary roles in EU politics that have been identified in the literature, such as Policy Shaper, Government Watchdog, European Player or Public Forum.

This analysis documents how the Riksdag performs very well indeed in terms of scrutinising EU policies and controlling the government. At the same time, the Swedish scrutiny system does suffer from its strong focus on the Early Warning System (EWS), which comes at the expense of a more targeted attention to the most important EU issues. More importantly, the legitimising potential of the Riksdag's engagement in EU affairs will remain limited so long as citizens are not aware of it. Here, the Riksdag could do more to fulfil its function as a public forum, especially with regard to the provision of plenary debates.

1 Introduction

Scholars have identified four ideal types of parliamentary roles in EU affairs, namely the roles of 'Policy Shaper', 'Government Watchdog', 'Public Forum' and 'European Player' (Hefftlar and Rozenberg 2015)¹. These roles are based on the most important parliamentary functions, namely the functions of legislation, control and communication, and have been adapted to the context of EU affairs. The first role, that of 'Policy Shaper', thus emphasises parliamentary influence on the government's negotiation position through mandates or resolutions *ahead* of Council and European Council meet-

ings. The 'Government Watchdog' role, in turn, focuses on the function of holding governments to account. Controlling what the government 'does in Brussels' is thus seen as the main task and normally takes place *ex post*. The role of 'Public Forum', refers to the parliamentary communication function. Here, emphasis is largely on plenary debates, as well as on other means of disseminating information to citizens. The final role, that of 'European Player', has gained importance with the introduction of the Lisbon Treaty provisions and refers to parliamentary engagement with or at the EU level.

* Katrin Auel is Associate Professor and Head of the Research Group 'European Governance and Public Finance' at the Institute for Advanced Studies in Vienna, Austria.

¹ Rozenberg and Hefftlar's typology also includes the role of 'Expert', which relates to the development of in-depth expertise on EU matters. As this role is often expressed through the publication of in-depth reports on EU issues, it is here subsumed under the 'Public Forum' role.

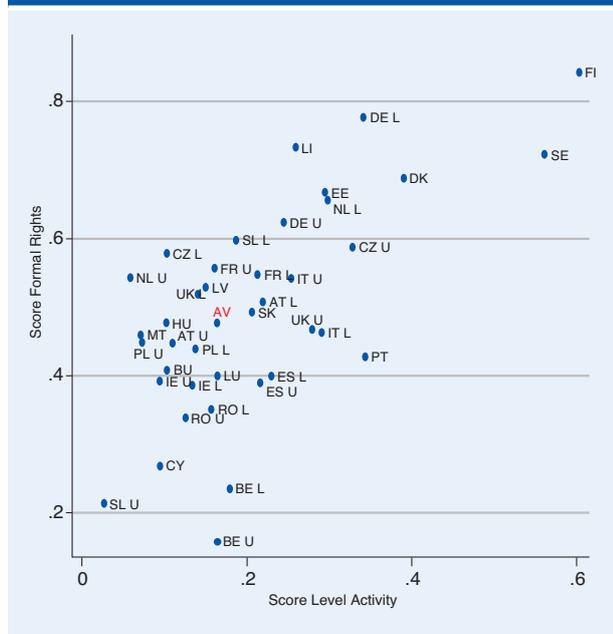
It can have an individual (e.g. Political Dialogue²) and collective (e.g. Early Warning System³, EWS; inter-parliamentary cooperation) dimension (Auel and Neuhold 2017).

In an ideal world, parliaments would combine all of the above roles. When asked in a recent COSAC survey (2016) about the importance of different activities relating to parliamentary involvement in EU affairs, most parliaments considered the roles of Government Watchdog, Policy Shaper and Public Forum to be the most important, with European Player trailing only slightly behind. Only very few parliaments considered individual functions to be unimportant. In the real world, however, parliaments generally suffer from limited resources, especially with regard to time

and manpower; busy institutions to begin with, European affairs have added considerably to their workload. In addition, parliaments have different institutional prerogatives and capacities to deal with EU affairs that impact the type of involvement they focus on. There are therefore very few parliaments that focus on all four modes of involvement (Auel and Neuhold 2017).

At first, second, and probably even third glance, the scrutiny of EU affairs in the Swedish Riksdag, however, is a success story. Although the study is slightly dated (using a dataset collected between 2010 and 2012), Auel et al. (2015) provides a comparative empirical analysis of parliamentary EU activities across all member states (Figure 1); the Riksdag is one of the most powerful and, together with the Finnish Eduskunta, most active parliaments in the EU.

Figure 1 Relationship between institutional strength and activity in EU affairs (scores)



Source: Auel et al. 2015: 80; AV indicates the average scores for institutional strength and activity across all 40 chambers; Croatia is omitted as it was not a member state at the time. L denotes lower and U upper chambers.

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The Riksdag is not only the most active parliament when it comes to issuing mandates to the government, but also with regard to its participation in the EWS through reasoned opinions (see Figure 2 below). In addition, although inter-parliamentary cooperation does not seem to be a priority in the Riksdag (Mastenbroek et al. 2014: 103), according to Hegeland (2015: 441), Swedish MPs ‘participate in inter-parliamentary meetings such as COSAC at least to the same extent as any other parliament’. Hegeland also emphasises the effort of the Swedish parliament to make EU politics as transparent to the public as possible; for example, by providing public access to government documents through the Riksdag’s website or publishing, with only minor redactions for reasons of confidentiality, the stenographic minutes of European Affairs Committee (EAC) meetings. As a result, Hegeland attests that the Riksdag not only fulfils the functions of Policy Shaper and Government Watchdog at the domestic level, but also that of Public Forum and European

² The Political Dialogue, introduced with the Barroso initiative in 2006, aims to establish a dialogue between national parliaments and the European Commission early in the policy-making process. Parliaments are invited to send their opinions on EU documents to the European Commission. In contrast to the EWS (see below), the Dialogue is not limited to aspects of subsidiarity.

³ According to Protocol no. 2 of the TEU and the TFEU, national parliaments can send a reasoned opinion within eight weeks of the receipt of a legislative proposal if they consider the proposal to violate the principle of subsidiarity. These opinions are counted as votes – two per parliament, one per chamber in bicameral systems – and if certain thresholds are reached (one-quarter of votes for freedom, security and justice proposals and one-third for all other proposals) the proposal must be reviewed. If a threshold of over 50 per cent of votes is reached, the so-called ‘orange card’ not only forces the Commission to review the proposal, but also allows the European Parliament or the Council, acting by defined majorities, to reject the proposal prior to its first reading.

Player. Similarly, Auel and Neuhold (2017) consider the Riksdag to be one of the few genuine ‘multi-arena’ players in the EU, i.e. parliaments that are simultaneously active in the various domestic and European arenas of influence and participation open to national parliaments.

The article will therefore investigate the Swedish Riksdag’s handling of EU affairs from a comparative perspective. While the overall assessment of the system in the literature is rather positive, there are also areas within the scrutiny system where the Riksdag can improve its performance. The article will therefore first scrutinise its institutional prerogatives and organisation of EU affairs before assessing its role as a Policy Shaper, Government Watchdog, European Player and Public Forum. As will be demonstrated, as strong as it may seem from a general comparative perspective, the Swedish scrutiny system does suffer from the focus on the EWS, which comes at the expense of more targeted attention on the most important EU issues, as well as from a lack of engagement in its function as a public forum, especially regarding the provision of plenary debate.

2 Institutional Context: The Swedish Powerhouse

A number of studies have classified and ranked national parliaments according to their institutional strength in EU affairs. Although the rankings differ slightly due to each study differing in their emphasis on specific institutional provisions, the overall picture is fairly consistent: as the rankings by Karlas (2012), Winzen (2012) and Auel et al. (2015) show, the Riksdag is part of a group of strong, mainly North European, parliaments including those of Denmark, Estonia, Finland, Lithuania and the Netherlands, but also Germany and Austria.

This institutional strength is due to a number of factors:

First, the Riksdag has comparatively strong rights of influence and oversight. The government is obliged to obtain a mandate from parliament before being able to take a position in the Council (COSAC 2017). Such mandates, given by the EAC on items on the weekly agenda of the Council, are not legally binding, but have strong political influence. Any deviation from the mandate has to be reported to the EAC and may result in further parliamentary scrutiny by the Committee on the Constitution (Hegeland 2015: 428). Concerning important decisions, MPs therefore also have to be informed during Council negotiations if a mandate has to be changed, for example via text message or telephone conference (Mastenbroek et al. 2014: 99). These rights of oversight also extend to European Council meetings; here,

the prime minister explains the government position in the EAC before meetings and reports back on the Council to the plenary ex post (Wessels et al. 2013).

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Second, the Riksdag has mainstreamed EU affairs to a considerable degree (for the following, Hegeland 2015). While final mandates are given by the EAC, the standing committees participate at the early stage in EU policy-making. The government therefore provides, upon request, information to the committees about work in progress at EU working group and COREPER level, and preferably even before these stages. The committees can then invite cabinet or ministerial representatives to discuss the EU proposal in detail. The result of the scrutiny is either a written statement or the formation of an oral position, which is included in the committee minutes. Both provide an important basis for the negotiation mandate that is given by the EAC prior to Council negotiations. In addition, an extensive exchange of information between the standing committees and the EAC is facilitated through multiple committee memberships and the extensive use of alternate EAC members.

The division of labour described above is not entirely uncommon among national parliaments. What is more unusual is the fact that the standing committees are also responsible for the scrutiny of legislative drafts under the EWS, while the EAC is not involved. Proposals for reasoned opinions are prepared by the standing committees and then adopted by the plenary. Memorandums prepared by the EAC staff on the upcoming Council agenda will, however, refer to relevant reasoned opinions issued (Mastenbroek et al. 2014: 98). Due to this division of labour, the standing committees scrutinise the legal and substantive issues of EU decisions and proposals, thus providing the necessary policy expertise from an early stage of the legislative process, which then informs the more strategic deliberations and specific mandates within the EAC. As a result, the Riksdag can continuously follow the legislative processes at the EU level.

Third, and related to the point above, according to the Riksdag Act the Riksdag has the *obligation* (and not just the right) to scrutinise all EU White and Green Papers as well as all EU legislative drafts with regard to the adherence

to the subsidiarity principle (Hegeland 2015: 429). Such an institutional obligation to scrutinise EU documents is rather unique. It ensures not only that parliament is aware of all legislative proposals from the EU, but also that MPs are well informed about future developments and can exert influence early in the process.

In turn, however, this obligation to conduct an exhaustive scrutiny of EU strategic and legislative documents also prevents the development of the means to select and prioritise EU documents for scrutiny, something which can be observed in many other parliaments – either continuously (as, for example, through the European Scrutiny Committee in the House of Commons, see Auel and Benz 2005) or through ex ante selection. An example of the latter is the prioritisation of selected EU issues or legislative dossiers on the basis of the European Commission's Annual Work Programme (CWP). In the Dutch Tweede Kamer that originally developed this practice in 2007 (see Högenauer 2015: 254), the EAC discusses the Work Programme together with the cabinet member assigned to EU affairs, while the standing committees additionally scrutinise the sections pertaining to their portfolio. Together with the Upper House, the Tweede Kamer also organises a debate on the CWP with the European Commissioner for inter-institutional relations. On this basis, a list of priority issues is drawn up indicating which documents the Parliament wishes to place a scrutiny reserve on or to submit to a subsidiarity test. The result of this prioritising procedure is a highly selective scrutiny; out of the several hundred initiatives contained in a Commission proposal, the Tweede Kamer usually only selects a very small number for scrutiny and/or the subsidiarity test (Högenauer 2015: 255). The practice of using the CWP has now spread to a range of other parliaments as well, although it is unclear whether the procedures are similarly elaborate. According to a COSAC report (2016), 22 of the responding parliaments/chambers had already set their scrutiny priorities on the basis of the 2016 CWP and five intended to do so.

The advantages of such a prioritisation are rather straightforward: not only can parliamentary scrutiny be targeted towards the most important or sensitive dossiers, but it also allows parliaments to prepare more intensely for the publication of the Commission proposal ahead of time, for example by holding expert hearings. Not being able to implement a similar prioritisation mechanism makes such focused and intensive scrutiny of important issues more difficult for the Riksdag.

Finally, the Riksdag can draw on a comparatively large number of staff in EU affairs. Each standing committee has its own secretariat, headed by a committee secretary and encompassing between five and ten officials. The officials support the committees during the subsidiarity checks (see below) and with statements on both EU Green and White Papers and other EU documents. As noted on the parliamentary website⁴, the 'officials are non-political appointees, which means that they assist all eight parties in the Riksdag. Furthermore, they are not permitted to favour any particular party. They retain their jobs even if there is a new political majority following an election.' As Strelkov (2015) argues, parliamentary staff act mainly as 'interpreters' of EU documents for the MPs, while the parliamentary party groups 'always conduct control of materials provided by parliamentary staff with respect to compliance with their ideological views' (Strelkov 2015: 362). Strelkov also found that even when the party groups do not have a clear standpoint, parliamentary administrators tend to take a fairly neutral stance, phrasing resolutions 'in the broadest possible way so that they would be acceptable to all political parties' (Ibid).

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As a result, MPs and parliamentary party groups are in a position to retain political control of the scrutiny process and outcome. This is in sharp contrast to some parliaments where the administration can take on a fairly powerful role, not only with regard to the pre-screening of EU documents for scrutiny, but also when advising MPs on the content and drafting of final positions (Högenauer and Neuhold 2015).

3 A Strong Policy Influencer and Alert Watchdog?

As outlined above, the Riksdag has found a number of procedural and institutional solutions to deal with the challenges of parliamentary scrutiny in EU affairs, such as the consequent involvement of the specialised standing committees. This division of labour between the EAC and the standing committees helps address the problem of late involvement in EU affairs (i.e. just before the decision in the Council when important issues have generally already been decided on). At the same time, however, the obligation to scrutinise nearly all EU documents, at least with regard to

⁴ <http://www.riksdagen.se/en/committees/the-parliamentary-committees-at-work/>

possible subsidiarity breaches, comes at the expense of the ability to develop any form of prioritising mechanism. As a result, rather than being able to focus parliamentary scrutiny on the most important or sensitive dossiers, the Riksdag has to engage in the time consuming exercise of scrutinising virtually everything.

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Most importantly, the Riksdag has a strong political, albeit legally non-binding, right to mandate the government's negotiation position similar to the Finnish Eduskunta or the German Bundestag. As pointed out by Hegeland (2015: 426), the effectiveness of parliamentary scrutiny in Sweden depends very much on whether the government is supported by a minority, as is often the case, or by a majority, as was the case between 2006 and 2010. The strong solidarity between the government and its supporting party groups lessens scrutiny during periods of a majority government. For the same reason, the Austrian Nationalrat, for example, has found it very difficult to make full use of its very strong, legally binding and constitutionally guaranteed mandating rights (Pollak and Slominski 2003; Miklin 2015). In turn, the necessity to reach a consensus across the political spectrum during minority governments is generally seen to create the conditions for the systematic involvement of the opposition in the policy-making process, thus strengthening parliamentary influence (Strelkov 2015). This is due to the fact that mandates have to be supported by at least part of the opposition, which not only tends to strengthen the opposition's access to information, but also their influence on the content of the mandates (see also Auel and Benz 2005 for Denmark).

Parliamentary Mandates – Influence Over or Support For the Government's Position?

Yet even very strong parliaments usually seem to agree with the government's position; this is partly due to the fact that the mandating system creates incentives for governments to coordinate with their parliaments or to anticipate their concerns early in the process. In turn, parliaments generally

avoid binding their government to mandates that are too narrow or have no chance of support at the EU level. Rather, they lay down parliamentary red lines or define a range of outcomes that are acceptable to parliament (for Finland, Raunio 2015: 413; for Denmark, Christensen 2015; for the Netherlands, Ebben et al. 2013; for Austria, Miklin 2015). The stenographic minutes of the Riksdag's EAC suggest that this is also the case in Sweden. As EAC meetings usually last between one and two hours⁵, it is probably fair to assume that there is not much time to discuss all items on the agendas in minute detail, especially as the meetings are also used to report on recent Council meetings. In their analysis of oppositional behaviour in the Riksdag's EAC, Karlsson and Persson (2018), for example, extracted all 6215 statements (including comments, questions and indications of whether or not they supported the government's position) made by MPs in a randomly selected number of 180 EAC meetings⁶ – on average only around 34.5 statements per meeting. In most cases, deliberations thus focus on clarifying specific questions regarding Council agenda items or on agreeing on the broad lines for the government's negotiation mandate.

Empirical evidence also suggests that mandates are usually supported by a large consensus (see also Hegeland 2015). As a recent Committee of Inquiry into the handling of EU affairs in the Riksdag stated in its report, in 2016 statements opposing the government view were submitted by at least one party on only approximately 22 per cent of all A-Points⁷ on the agenda, with the lion's share having been submitted by the Eurosceptic Sweden Democrats (Riksdag 2018: 100). As Karlsson and Persson (2018) show, the *debates* in the EAC are not as consensual – at least not anymore: of the MPs' statements they analysed (see above), a large percentage were either critical (27.2 per cent) or provided alternatives (21.3 per cent), both defined by the authors as functions of parliamentary opposition. In addition, they show that while oppositional statements regarding the EU polity or institutional decisions are also strongly dominated by the Eurosceptic Sweden Democrats since their emergence in parliament in 2010, oppositional statements regarding policy or procedural matters are more evenly dispersed among the parties. Yet even though there may be objections to the mandates in the form of oral or written dissenting statements, the vast majority of mandates are supported by a broad parliamentary majority and thus, given the frequent minority governments, by both governing and opposition parties.

⁵ Information based on parliamentary answers to the questionnaire sent out in the context of the OPAL project.

⁶ They selected the protocols of 30 meetings from each of the six mandates since Sweden joined the EU.

⁷ Unfortunately, the report does not provide data on other items on the Council agenda.

The Effectiveness of Parliamentary Mandates

Parliamentary power vis-à-vis the government is most visible in those cases where the decision the government wants to agree to in the Council is not supported by parliament and/or not covered by the mandate. The recent Committee report on EU scrutiny mentioned above (Swedish Riksdag 2018: 112) refers to 11 occasions where the Committee did not agree to A-points on the Council agenda, and in all cases the government did indeed follow parliament and voted against the proposals.⁸ Similarly, Hegeland mentions two cases where the prime minister explicitly followed the parliamentary line (on not joining the Euro-Plus Pact in March 2011, and on not supporting a European Council statement in 2012; Hegeland 2015: 437). According to the Committee report (Swedish Riksdag 2018: 95), the government also makes an effort to ensure that parliament can express its position on last minute additions to the Council's agenda or in cases where the Swedish position needs to be adapted to a changed negotiation situation (usually by email, text message or phone calls). It remains unclear, however, how often this actually happens and to what extent a meaningful parliamentary deliberation on the issues can take place under what must be considerable time pressure.

By contrast, the Committee report on the scrutiny of EU affairs in the Riksdag (Swedish Riksdag 2018: 113) also refers to a number of occasions where ministers either did not follow the parliamentary position or failed to raise parliamentary objections in the negotiations. In addition, the Constitutional Committee felt the need to stress that it was not sufficient that the government did not do anything that *contradicted* the views of the EU Committee but instead had to act *in accordance* with the Committee's opinions and positions (cf. Swedish Riksdag 2018: 113, italics added). This is in line with complaints from MPs of other strong mandating parliaments about governments circumventing mandates by simply abstaining from the vote in the Council if a decision reflecting their preferences is likely to gain a majority without them (Auel and Benz 2005), or by 'wriggling out' of their responsibility through a strategic (re-)interpretation of the mandates (Ebben et al. 2013b: 65). Given that A-Points refer to items on the Council agenda that have already been informally agreed at COREPER level, a vote against a proposal at this point can, of course, also be regarded as a fairly safe way of signalling compliance with parliamentary concerns. Indeed, in the 11 cases of EAC opposition to Council A-Points mentioned above, all decisions

were agreed upon by the Council – despite the single no vote from Sweden (Swedish Riksdag 2018: 100).

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To summarise, in the absence of any systematic data it is difficult to determine how much influence the Riksdag actually has in EU politics. The process does seem to ensure that there is an ongoing dialogue on EU affairs between parliament and government, first via the standing committees and then via the EAC. What is especially important is that the obligation to obtain a mandate, before being able to agree to a decision in the Council, acts as a strong motivator for the government to keep parliament fully informed about the EU issues under negotiation and to take parliamentary concerns into account when formulating its position. The fact that the government also has to report back on the outcome of Council meetings means that the scrutiny system can thus work to ensure comprehensive parliamentary accountability. As discussed below, the inability of the Riksdag to focus on important EU dossiers due to the constitutionally mandated exhaustive scrutiny, especially with regard to the EWS, may, however, prevent the Riksdag from fully exercising its power.

4 European Player: Taking Parliamentary Involvement to the Next Level?

The Political Dialogue: We're not Speaking to the Commission – at Least not Officially

According to the Swedish Constitution, it is the government's responsibility to represent Sweden internationally and thus also vis-à-vis EU institutions. As participation in the EWS, based on the Lisbon Treaty provision, is the only exception to this rule, the Riksdag does explicitly not take part in the written Political Dialogue with the European Commission (Hegeland 2015: 436). A paradoxical result is that the standing committees issue statements on EU Green and White Papers, as well as other EU strategic documents, and the Riksdag administration sends these statements to the European Commission – but for information purposes only. The European Commission also automatically treats these statements as Political Dialogue opinions; the opinions, in addition to the Commission's replies, are

⁸ Again, the report does not provide systematic data on the other items on the Council agenda.

also featured on the Commission's website⁹ dedicated to parliamentary opinions. The Riksdag's Committee on the Constitution has even, on occasion, complained when the Commission overlooked one of the Riksdag's statements (see Hegeland 2015: 437). The recent Committee report on the Scrutiny of EU affairs in the Riksdag (Swedish Riksdag 2018: 21) thus conceded that 'it should be possible for the Riksdag to accept the view that the statements of which the Commission has been made aware can be regarded as contributions to a dialogue between the Commission and the Riksdag in its capacity as a national parliament. This means that the Riksdag would be assuming a partly new perspective of the way it participates in dialogues with the Commission.'¹⁰ Yet the committee report also makes clear, that '[a]fter thorough consideration, the Committee has dismissed any thoughts of formalising procedures by submitting scrutiny statements to the Commission by means of a written communication from the Riksdag' (Ibid.).

A Highly Efficient EWS Machine

While the Riksdag takes part in the Political Dialogue only informally, the EWS is of major importance to parliament. As mentioned previously, the standing committees not only have the right, but the legal obligation to examine all EU proposals that fall within their realm of responsibility to ensure their compliance with the principle of subsidiarity. This also means that while parliamentary staff assist with the selection and scrutiny (see below), in contrast to other parliaments (e.g. Germany and Austria, see Auel 2016) they do not 'vet' or filter out relevant proposals; each proposal is scrutinised by MPs.

According to interviews conducted by Mastenbroek et al. (2014: 95ff; see also Hegeland 2015: 432f), the process evolves in three stages: the first stage consists of a preparatory meeting in the responsible standing committee. Based on a memorandum prepared by the committee staff outlining the content and background of the proposal, the committee decides whether to request the opinion of other standing committees, as well as whether to request that the government give its assessment of the draft's adherence the subsidiarity principle. Provided that the government adheres to the two-week deadline of providing the assessment, the committee then moves to the second stage where the legislative

draft – and, if requested, the government's assessment – are deliberated, and a decision on proposing a reasoned opinion is taken, again based on an updated memorandum prepared by the committee staff. Where a minimum number of five MPs request the issuing of a reasoned opinion, the committee staff prepare a draft opinion based on 'informal contacts with MPs, and information from the committee meetings' (Mastenbroek et al. 2014: 96). In the final stage, the draft opinion, which can include dissenting minority positions, is introduced in the plenary, where it is usually adopted without debate. In cases where the committee decided not to draft a reasoned opinion, the plenary is informed via the committee minutes.

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Thus, every single EU legislative draft is potentially¹¹ dealt with in two committee sessions or more, which is a heavy workload for both MPs and staff despite the fact that it is shared among the standing committees. Still, as Cooper (2015: 111) attests, the Riksdag has become a 'highly efficient machine for producing [reasoned opinions]'. Cooper also points out, however, that the decentralisation of the involvement in the EWS to the standing committees may in part explain why the Riksdag has not been as active as the Danish Folketing (or indeed the Dutch Tweede Kamer) in mobilising other national parliaments to join opposition to a proposal. Here, an EAC may be able to act more decisively and strategically in the coordination with other parliaments.

Jonsson Cornell (2016) provides insight on how the standing committees assess whether a legislative proposal is in congruence with the principle of subsidiarity. According to the Committee of the Constitution, the committees should apply a two-step process, with the first step assessing whether it is possible to achieve the aims of the legislative proposal through national measures. If the committee comes to the conclusion that the answer to this question is no, then there is no breach. If the answer is yes, then the com-

⁹ http://ec.europa.eu/dgs/secretariat_general/rerelations/rerelations_other/np0/index_en.htm

¹⁰ All translations from the Swedish original by the author.

¹¹ As Jonsson Cornell (2016: 309) points out, the Committees can develop their own procedure for their involvement in the EWS, and there is no systematic assessment by the Committee on the Constitution of these procedures in its yearly review of the EWS.

mittee needs to assess whether the aims of the proposal can be *better* achieved at the EU level. ‘When considering the second question, the Riksdag recommends that the committees take the following into account: any trans-border effects; whether measures by Member States would violate the Treaties or harm Member States’ interests; and whether measures at the EU level would bring clear advantages in terms of the effect of the proposed measure’ (Jonsson Cornell 2016: 308). Again, it is unclear whether the standing committees are in fact strictly adhering to this procedure, but it does give an impression of the depth of scrutiny at which they are supposed to perform.

Is it Worth the Effort?

The advantage of the process is, of course, that the standing committees, and by extension the EAC (via double membership and alternates) and the plenary, are informed about each EU legislative draft. The disadvantage is, however, that a large amount of parliamentary resources are invested in a mechanism that, so far at least, has produced hardly any tangible results (see below). Indeed, Strelkov (2015: 365f) found that:

both the ruling coalition and the opposition tend to focus on subsidiarity during the scrutiny process and not so much on the content of EU proposals. According to parliamentary administrators, the discussion of the Proposal for a directive on seasonal migrants was stopped as soon as it became clear that no PPG had concerns about subsidiarity. The assessment of the Green Paper [on EU pension systems] also focused on the undesirability of granting the European Commission more competences in the pension sector. An interviewee from the opposition Social Democratic party acknowledged that the main concern of all parties during the discussion of the abovementioned documents was to prevent further EU interference in the Swedish system.

The strong focus on the EWS is surprising, as the Riksdag does seem to share the growing frustration of other national parliaments with the process, criticising that it ‘is unclear to what extent Parliament’s objections to the application of the principle of subsidiarity are taken into account in legislation that is adopted’ (COSAC 2013: 23). Indeed, the European Commission has found it difficult to identify whether and where legislative drafts were changed due to the input from parliaments. While the Commission has started to list amendments to legislative drafts that also address parliamentary criticism in its annual reports, it remains an explicitly open question whether these amendments were due to

parliamentary concerns: ‘Due to the many actors involved, it is not possible to make a direct link between the position of an individual national Parliament and the outcome of the legislative process. Nevertheless, the opinions of national Parliaments constituted an invaluable source of insight and analysis for the Commission’s interactions with the other institutions’ (European Commission 2017: 7).

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Its above statement suggests that the Commission views a parliamentary opinion as one among many that inform its interactions with those EU institutions that really count; the assessment of the Riksdag comes to similar conclusions. Comparing the concerns expressed in the Riksdag’s reasoned opinions with the final wording of the EU legislative acts, if adopted, the parliament found that it ‘is very difficult to say to what extent the Riksdag’s objections in motivated opinions against draft legislative acts affect the EU legislative process’ (Swedish Riksdag 2018: 177). While a large number of concerns had been, at least partially, addressed, the report also concedes that this ‘indicates that the legislator at the EU level, i.e. the Council and, if appropriate, the European Parliament, at least to some extent, had similar concerns with the Commission’s proposal that the Riksdag had’ (Ibid.).

To put it bluntly, as the three yellow cards that have been issued so far clearly demonstrate (Auel 2016), parliamentary reasoned opinions supporting the government’s concerns over a proposal are largely redundant, as the government will represent the same position at the EU level. The reason why the Commission withdrew its proposal for the Monti II regulation, for example, was explicitly not due to the yellow card issued by national parliaments on the proposal, but rather, as the Commission stated, because it was ‘unlikely to gather the necessary political support within the European Parliament and the Council’ (European Commission 2012). Where, however, reasoned opinions *differ* from the government position, they are most likely futile unless parliament can bind the government to its position. Yet in the latter case, parliament could also use its mandating power to achieve the same result through the domestic scrutiny procedure. Given its strong position in EU affairs, it is therefore not entirely clear why the Riksdag chooses to invest so heavily in the EWS. Of the similarly strong parliaments, only the

Dutch Tweede Kamer is actively engaged in the EWS; the Finnish Eduskunta, the Estonian Riigikogu, the German Bundestag, the Austrian Nationalrat have largely ignored the new mechanism, as have, albeit to a lesser extent, the Lithuanian Seimas or the Danish Folketing (see Figure 2).

One explanation is that participation in the EWS is seen as an obligation – rather than a right – that arises from the Lisbon Treaty, an argument reiterated in the recent Committee report on EU affairs scrutiny in the Riksdag (Swedish Riksdag 2018). From this perspective, the Riksdag has no choice but to submit each proposal to a subsidiarity check. Such an interpretation of the Treaty provision as an obligation for national parliaments, is however, somewhat difficult to uphold, not least given the great variation in how the other national parliaments deal with the procedure.

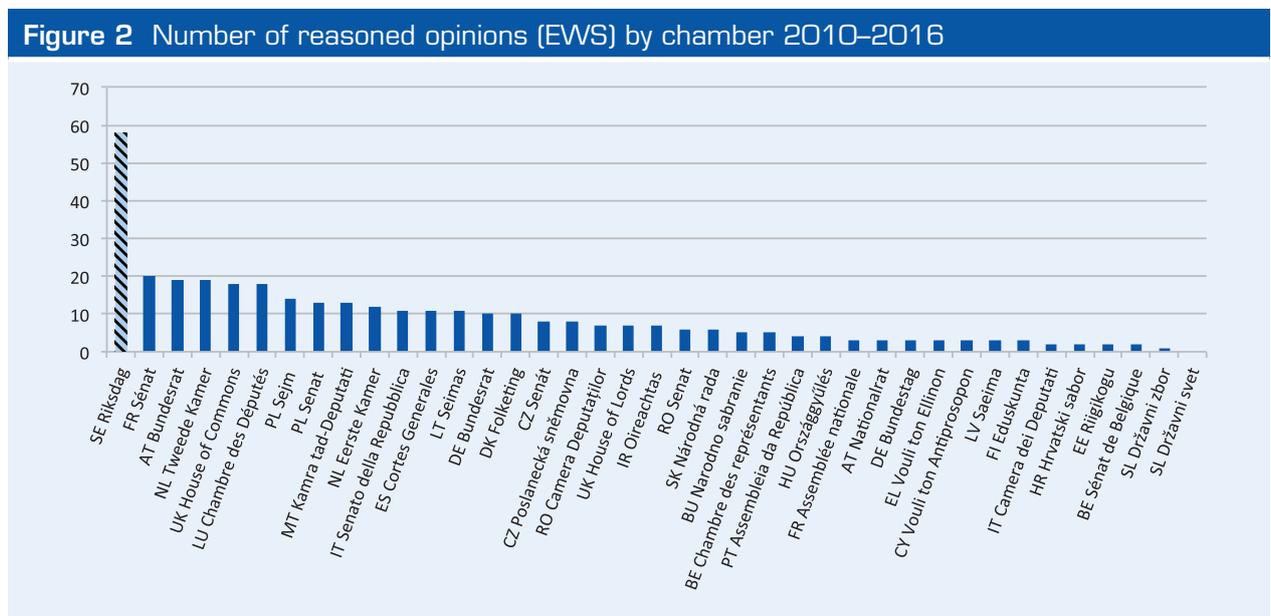
‘We have your back’ – Signalling Parliamentary Involvement to the Public

A more convincing argument is the notion that the real addressee of the reasoned opinions (or opinions issued under the Political Dialogue) is not, in fact, the European Commission, but rather the domestic public (Cooper 2006, see also Auel 2016). Opinions can signal both, specific parliamentary concerns as well as a general assurance that the parliament is involved in EU politics and aims to defend

national prerogatives against supranational ‘competency creep’. Indeed, Mastenbroek et al. (2014: 101) found this to be a strong motive for Swedish MPs to become involved in the EWS:

If it is not for affecting EU policies directly, there is a belief among many MPs that the EWS and the issuing of reasoned opinions as such allows them to demonstrate to Swedish citizens that they are concerned with EU affairs.

Crucially, whether the engagement in the EWS serves this aim depends on whether the Riksdag can actually reach its audience. Reasoned opinions are published on the Riksdag’s website but are largely ignored by the media. According to Mastenbroek et al. (2014: 101), only three articles in leading Swedish newspapers dealt with the yellow card procedure between its establishment and September 2014. An – admittedly superficial – survey of Sweden’s largest newspapers since 2014 conducted for this article resulted in similarly low numbers. The fact that the news value of reasoned opinions seems more than limited, at least once the novelty wore off (Auel 2016), can also be observed in other member states. Of well over 5500 newspaper articles on parliamentary EU involvement in the dataset¹² of Auel et al. (2018), less than 20 mention a reasoned or Political Dialogue opinion.



Source: Annual Reports of the European Commission (https://ec.europa.eu/info/annual-reports-relations-national-parliaments_en).

¹² The dataset consists of all articles on parliamentary involvement in EU affairs over a period of four years (2010–2013) in seven member states (Austria, Finland, France, Germany, Poland, Spain and the UK) and in three newspapers in each.

One of the reasons could well be that reasoned opinions are usually adopted by the plenary without debate. As Auel et al. (2018) show, plenary debates are among the few parliamentary activities in EU affairs that do regularly receive media coverage. It is therefore at least doubtful that citizens encounter detailed information about the Riksdag's activity regarding subsidiarity control.

5 A Little More Conversation? The Riksdag as a Public Forum

The signalling function of parliamentary engagement in the EWS is also related to the more general parliamentary function of information and communication in EU affairs. With regard to the transparency of EU politics, the Riksdag can certainly be considered a public forum; while it does not regularly produce in-depth reports on EU decisions or topics as, for example, the French Assemblée Nationale does (Auel and Benz 2005), it provides access to a wide range of parliamentary, government and EU documents to citizens via its website. This includes EU Council agendas, the government's annotated Council agendas and the explanatory memorandums provided by the government. In addition, the stenographic minutes of the EAC are published after the meetings, with only small amounts redacted for confidentiality reasons.

This is, of course, all very good news. Transparency, however, is not the same as publicity (for the distinction between the two, see Hüller 2007); while transparency means that information is available, publicity means that such information actually reaches its audience, and it is rather questionable whether mere access to documents, which is highly relevant for specialist audiences, reaches the general public. As laudable as these efforts are, searching for and reading often highly technical documents on EU politics are not the most exciting activities, and it is unlikely that many citizens will spend considerable time on them. Here, the Riksdag is one of the few parliaments that have set up a dedicated EU website (eu.riksdagen.se) explicitly aimed at a broader audience, which provides an overview of the EU and its institutions, of the different ways the Riksdag is involved in EU affairs, as well as of EU citizens' rights and opportunities. The website does not, however, provide information on current EU issues or decisions.

While websites can provide access to extensive information, the most important means of parliamentary communication are plenary debates. Debates provide citizens with the opportunity to distinguish between different parties' posi-

tions on EU decisions and to assess which of these positions best represents their own interests. Debates thus allow citizens to make informed political choices and to exercise democratic control – in other words, to take ownership. Importantly, and in contrast to most other parliamentary activities on EU issues such as committee meetings, plenary debates get fairly regular coverage by the media, thus raising the chances of true publicity (Auel et al. 2017).

“While websites can provide access to extensive information, the most important means of parliamentary communication are plenary debates.”

Figure 3 provides an, again somewhat dated, overview over the average number of plenary debates on EU issues across all of the (at the time) 40 parliamentary chambers in the EU (Auel et al. 2015). Unfortunately, more recent comparative research into plenary EU debates (Auel and Raunio 2014; Auel et al. 2016; Rauh and De Wilde 2018; Wendler 2016; Winzen, De Ruiter and Rocabert 2018) does not include the Swedish Riksdag.

As Figure 3 shows, the Riksdag was, together with the Czech Senate, the German Bundestag and the Irish Dail, among the most active parliaments when it comes to EU debates. The sheer number of debates, however, obscures the differences between chambers in terms of debate organisation (e.g. the average length of debates) or parliamentary traditions, especially regarding whether they are more 'debating' or 'working' legislatures. For example, during the period under investigation the total number of hours spent on plenary debates per year ranged from around three hundred hours in the Austrian Nationalrat to over one thousand hours in the Dutch Tweede Kamer or the UK House of Commons, with the Riksdag somewhere in between with around 600 hours¹³. The picture, therefore, rather changes once we look at the *share* of plenary debate time dedicated to EU issues (Figure 4).

The Czech Senate is still clearly in the lead, followed by the Finnish Eduskunta, the two Houses of the Austrian Parliament and the German Bundestag. The Swedish Riksdag, in turn, now ranges slightly below the average of around 5 per cent. Clearly, parliaments do not have the capacity to debate each and every EU issue in the plenary; they have to be se-

¹³ Information based on parliamentary answers to the questionnaire sent out in the context of the OPAL project.

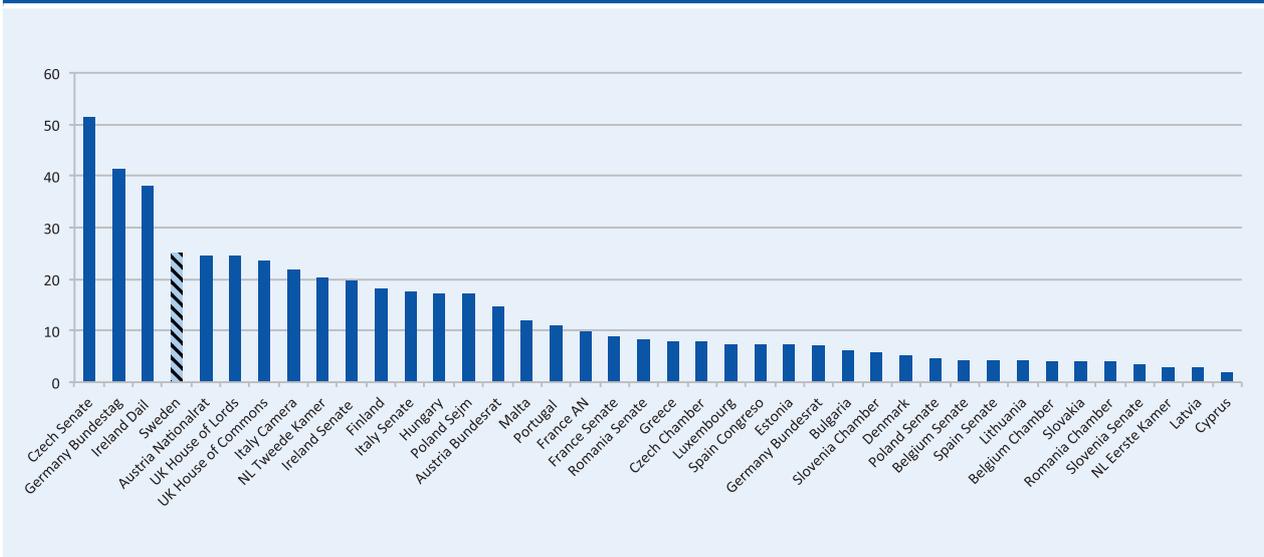
lective. Yet spending, on average, less than 5 per cent of the plenary time on EU issues is maybe a bit more selective than necessary. The aforementioned Committee report on EU affairs scrutiny in the Riksdag (Riksdag 2018: 251) suggests a similar conclusion and advises the Riksdag to ‘consider whether there is room for more ... EU-related parliamentary debates’. In particular, the report suggests holding a broader annual debate on EU issues, for example based on

the government’s EU priorities and linked to the publication of the Commissions annual work programme.

6 Conclusion

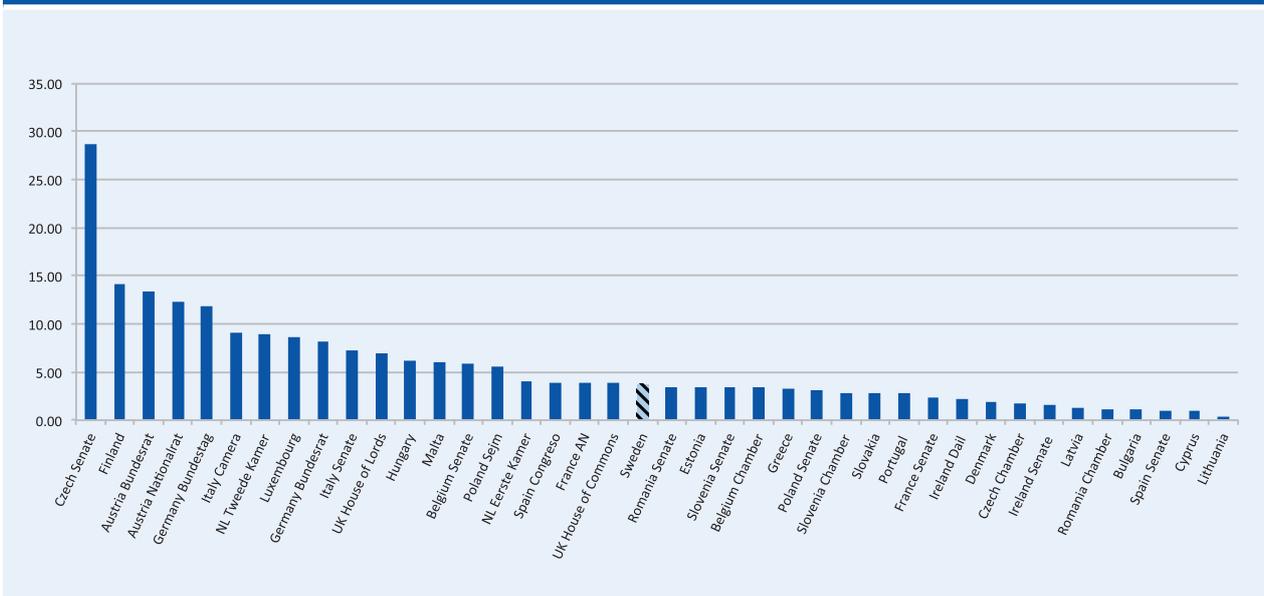
This study drew on ideal types of parliamentary roles in EU affairs, but it should be underlined that any assessment of their involvement also depends on the prior definition of what the role of national parliaments *ought to* consist of.

Figure 3 The average number of annual debates between 2010 to 2012



Source: Based on data from the OPAL project, Auel et al. 2015.

Figure 4 Percentage of plenary time (annual averages from 2010 to 2012)



Source: Based on data from the OPAL project, Auel et al. 2015.

If the domestic roles of ‘Policy Shaper’ and ‘Government Watchdog’ are considered to be most important, the Riksdag performs especially well compared to most other parliaments – even if it is difficult to assess its actual impact on EU politics. The same is true for the role of ‘European Player’, at least with regard to the comprehensive subsidiarity check of all EU legislative documents the Riksdag engages in. Here, any assessment of the involvement of parliaments in the Political Dialogue or the EWS also needs to consider whether such an engagement is indeed desirable. As has been argued in the literature (e.g. De Wilde and Raunio 2018), focusing on these, so far fairly ineffective, new instruments can be time consuming, thus binding scarce parliamentary resources and distracting parliaments from functions that some consider far more important, such as controlling the government and communicating EU politics to the citizens. While the organisation of EU affairs in the Riksdag aims to promote continuous and comprehensive parliamentary involvement, Strelkov’s (2015) findings do suggest that the emphasis of subsidiarity issues in the Riksdag may come at the expense of a focus on the content of EU proposals.

“From this perspective, the role as ‘Public Forum’ becomes most important, and here the Swedish Riksdag could improve its performance.”

More importantly, the question remains to what extent this powerful and active engagement serves to help overcome what Lindseth (2010) has termed the ‘democratic disconnect’: the ‘crucial disconnect ... between [citizens’] perception of European governance as bureaucratic and distant, on the one hand, and attachments to national institutions as the true loci of democratic and constitutional legitimacy,

on the other’ (Lindseth 2010: 10). From this perspective, the role as ‘Public Forum’ becomes most important, and here the Swedish Riksdag could improve its performance. As noted previously, one of the main reasons for the active engagement in the EWS seems to be the motivation to signal parliamentary resistance vis-à-vis the European Union’s meddling in Swedish affairs to the citizens, but it remains more than questionable to what extent citizens are actually aware of these efforts. In addition, and as pointed out above, the impact of the EWS is so far more than limited and, at best, obscure. If the media did report more frequently on issued reasoned opinions and their impact, the effect would, in the best case, be symbolic politics. In the worst case, however, this might actually lead to a greater distrust in EU decision-making on the part of the citizens, given that they would mainly learn what a limited impact their parliament’s expressions of concern actually have.

Opening up Committee meetings to the public, as the Riksdag’s EAC regularly does when the prime minister reports on recent European Council meetings, or providing stenographic minutes of committee meetings is helpful in terms of transparency, but unlikely to generate much publicity, i.e. reach the general public. Plenary EU debates, by contrast, are the most visible type of parliamentary activity and are likely to receive fairly regular media coverage. In the Riksdag, plenary EU debates are rather frequent in number, but represent only a very small percentage of the overall debate activity in the Riksdag. As the recent Committee report on EU affairs scrutiny in the Riksdag pointed out, few opportunities are offered for more strategic and comprehensive EU debates (Riksdag 2018: 249). To conclude, the Riksdag is in many ways a best practices model when it comes to parliamentary involvement in EU affairs; in this case, however, the old saying is certainly true: do good and talk about it!

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