

THE FIVE ROLES OF THE CORTES GENERALES IN EU AFFAIRS*

LOS CINCO ROLES DE LAS CORTES GENERALES EN ASUNTOS EUROPEOS

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ABSTRACT

Considering the context of democratic deficit in the European Union, the growing Europeanisation of national legislation and, therefore, the need to understand the role of National Parliaments in the EU architecture, this study analyses the role of the Cortes Generales in EU affairs. To this end, it examines the tools through which the five main functions of national parliaments in European affairs are implemented: legislation, scrutiny, deliberation, expertise and networking. To this end, it examines the formal capacities and actual activity of the Cortes Generales, traditionally categorised as a weak parliament in European affairs, in each of these roles. The study reveals that, despite advances in political dialogue with the European Commission and participation in interparliamentary cooperation, the Spanish Parliament continues to play a very limited role in influencing European legislation, and underutilises the tools at its disposal in terms of monitoring, information and control. Furthermore, roles tend to be informal, and tasks tend to be concentrated in the Joint Committee for the EU. The article concludes that institutional adaptation to European integration has been more reactive than proactive, and that a greater role in European issues requires internal reforms and better use of available tools.

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Keywords: Spanish Parliament, national parliaments, European Union, Joint committee for the EU, parliamentary control, interparliamentary cooperation.

RESUMEN

Considerando el contexto de déficit democrático en la Unión Europea, la creciente europeización de la legislación nacional y, por tanto, de necesidad de comprender el rol de los Parlamentos Nacionales en la arquitectura comunitaria, el presente estudio analiza el papel de las Cortes Generales en los asuntos de la UE. Con tal fin, se estudian las herramientas a través de las cuales se ejecutan las cinco funciones principales de los Parlamentos Nacionales en materia europea: legislación, control, deliberación, generación de conocimiento y construcción de redes. Para ello, se examinan las capacidades formales y la actividad real de las Cortes Generales, tradicionalmente categorizadas como un Parlamento débil en asuntos europeos, en cada uno de los roles. El estudio revela que, pese a avances en el diálogo político con la Comisión Europea y en la participación en la cooperación interparlamentaria, el Parlamento español sigue teniendo un rol muy limitado en la influencia en la legislación europea, e infrutiliza las herramientas que tiene a su disposición en materias de monitoreo, información y control. Asimismo, los roles tienden a una informalidad y a la concentración de tareas en la Comisión Mixta para la UE. El artículo concluye que la adaptación institucional a la integración europea ha sido más reactiva que proactiva, y que un mayor rol en temas europeos pasa por reformas internas y un mejor uso de las herramientas disponibles.

Palabras clave: Cortes Generales, parlamentos nacionales, Unión Europea, Comisión mixta para la UE, control parlamentario, cooperación interparlamentaria.

SUMMARY: I. INTRODUCTION. II. THEORETICAL FRAMEWORK AND CONTEXT. III. THE FIVE ROLES OF THE CORTES GENERALES IN EU AFFAIRS. 1. Legislation. 2. Scrutiny. 3. Deliberation. 4. Expertise. 5. Networking. IV. CONCLUSIONS. BIBLIOGRAPHY.

I. INTRODUCTION

The role of National Parliaments (NPs) in EU affairs has increasingly caught the attention of scholars and practitioners: they have become one of the main channels of the Europeanization of national legal systems, that is, the “*domestic change and adaptation to pressures emanating directly and indirectly from EU membership*” (Featherstone, 2003, p. 7). In fact, 53% of laws approved in Spain between 2019 and 2024 have direct or indirect European influence (European Parliament Office in Spain, 2024). For NPs, this Europeanization implies a passive role – being subject of “*the pressures, and also the opportunities, emanating from European integration*” – and an active role of responding and adapting to such pressures (Auel & Neuhold, 2017, p. 10).

Moreover, NPs have come to the forefront of debates due to the rising concerns on a ‘democratic deficit’ in the Union since the 1980s (Raunio, 2005). In the framework of a ‘dual legitimacy system’ (Passos, 2008, p. 34), the democratic will in the EU is channelled directly through the elections to the European Parliament (EP), and indirectly through the elections of national Governments, which are represented in the Council. However, the former lacks traditional parliamentary powers (legislative initiative, powers to appoint the executive, etc.) and the European elections are under serious question. On the other hand, indirect control through the national Governments is very complex: it depends on each Member State’s (MS) constitutional, institutional and parliamentary norms – some retaining much power over their executives, others remaining almost excluded from EU affairs. This means that the democratic control of European Council and Council matters remains weak, leading to a ‘dual democratic deficit’, where NPs lose authority to the EU through successive transfers of power, while they also find many difficulties to control their own Governments (Winzen, 2012). It is against this background that there exists a ‘shallow’ academic, political and public consensus that the empowerment of NPs can help compensate this democratic deficit (Kiiver, 2006).

While the scholarly around the function of NPs in EU affairs has grown steadily since the 1980s, very little systematic research on the EU-related role of the Cortes Generales (CG) has been carried

out, leaving the Spanish Parliament outside of most of the academic circles around NP participation. The present essay has the objective of studying *what* the CG does in EU matters, and *how* it does it, with the aim of introducing the necessary framework for further, more specific research. To do so, we will introduce the five roles exercised by NPs in EU matters in general and by the CG in particular: legislation, scrutiny, deliberation, expertise and networking. We will characterize each of the roles, explain the tools through which they are executed and assess the performance of the Spanish Parliament in each of them, according to indicators when possible.

II. THEORETICAL FRAMEWORK AND CONTEXT

Many scholars have tried to study the role of NPs in the context of European integration, with “*most literature painting national parliaments as victims of integration*” (Barrett, 2018, p. 59) – or even the “*sleeping beauties*” (Kaczyński, 2011) of the EU. These claims address both the national and European dimensions. At the EU level, the Union architecture reduces the traditional legislative role of NPs by reducing their direct – albeit very limited – influence to the transposition of Directives. Moreover, the expansion of qualified majority voting and co-decision, the increase in delegated legislation or the empowerment of un-elected institutions as the ECB are further eroding the influence of NPs (Saalfeld, 2005).

On the national side, European integration has affected, or ‘perverted’ (Weiler, 2000), the balance of power between Governments and NPs, reinforcing the preponderance of the former. These have enhanced, or at least recovered, some of the powers which MSs have transferred to the EU, which they now execute in a shared manner and with less accountability (Finke & Herbel, 2015, p. 2); have increased their power in areas which were not of their competence before accession (in the Spanish case, those of the Autonomous Communities); and have piloted (together with the EU institutions which represent them – the Council and the European Council) the processes of conferral of competences and geographical expansion of the Union. This all means that NPs face many difficulties in “*monitoring the EU level policy process in order to identify the conduct of ‘their’ governments*” (Winzen, 2012, p. 659).

However, despite the agreement that the position of NPs has become more complicated, the claim that Union institutions increase their power at their expense may be unfounded (Passos, 2008, p. 35), or at least must be nuanced. Indeed, NPs have learned to “*fight back*” (Raunio & Hix, 2000) and earn greater participation rights: “*they have been kissed and are wide awake*” (Auel *et al.*, 2015, p. 75). Again, this process is twofold: at the European level, improvements have been brought by the Lisbon Treaty and its two Protocols on National Parliaments, as well as the Barroso Commission’s institutionalization of political dialogue with the Commission, or new forms of interparliamentary cooperation (IPC). Between 2010 and 2012, far from being sleeping beauties, NPs issued over 4000 mandates or resolutions on EU affairs, forwarded more than 1500 opinions to the Commission and discussed EU matters during thousands of hours of plenary sessions and committee meetings (Heffftler *et al.*, 2015).

On the other hand, at the national level, NPs have exercised active Europeanization, becoming democratic arbiters together with the EP – with an important increase in oversight of EU matters since the 1990s (COSAC, 2022, pp. 15–16; Winzen, 2022, p. 996). In general, NPs have adapted their regulations and practices to the greater powers granted by the Lisbon Treaty and have ‘refined’ (Finke & Herbel, 2015, p. 3) their capacities in policymaking, scrutiny or production of EU-related expertise, giving rise to the innovative tools to ‘tie’ their Governments to their own parliamentary positions (Sprungk, 2010). Moreover, NPs have reinforced their administrative capacities, mainstreamed EU affairs across the parliamentary organs, and empowered parliamentary European Affairs Committees (EACs) to scrutinize the Government’s action in the EU.

Three important lessons can be highlighted from the body of scholarly on NPs for our current study on the Cortes Generales. First, institutional capabilities (what is written in law), are not automatically translated into parliamentary behaviour (what is actually done). The Lisbon Treaty did not immediately affect the participation of NPs (Maurer & Wessels, 2001, p. 17), and nationally, formal parliamentary rights provide opportunities for activity, but “*institutional opportunities remain latent until they are actually used*” (Auel *et*

al., 2015, p. 64) – meaning that some Parliaments heavily underuse their powers (Miklin, 2015), while others are “*considerably more active than their formal powers would suggest*” (Auel *et al.*, 2015, p. 78). For this reason, our study will include in its analysis of each role elements related to legal prerogatives, but also indicators on actual activity.

Secondly, we must separate the European and national spheres, since NPs are ‘multi-arena players’ (Auel & Neuhold, 2017) which exercise their roles at both levels: legal provisions at the European level have “*more or less efficacy, depending on the organization and constitutional practices of each Member State*” (Ferrer Martín de Vidales, 2008, p. 40). Thus, the national dimension is key in guaranteeing parliamentary participation in EU affairs, especially because many Parliaments already suffered a “*pronounced subordination to the national executive long before European integration intervened*” (Barrett, 2018, p. 54). As put clearly by Hefftlér *et al.*, “*it is a prerogative of each MS to decide the role they want their parliament to play in the ‘European game’ ... this role cannot be designated at the EU level*” (Hefftlér *et al.*, 2015, p. 6). Because of this, our classification will take into consideration that rights of participation by NPs are an internal matter and greater capacities can only be guaranteed through internal reform.

Thirdly, NPs have developed *very* differently from each other – even if there is a degree of mutual ‘learning’ (Buzogány, 2013; in Crum & Fossum, 2013). Beyond some similarities, the collective vision of NPs as losers of integration hides the reality that institutional reforms “*have been far from uniform across the EU Member States*” (Auel *et al.*, 2015, p. 61). Moreover, NPs have different structures and thus many different motives to push – or not – for a greater role (Piedrafita, 2014, p. 451). Thus, we will understand that it is difficult to generalize about NPs and that each has had an individual development: some have fought in order to enhance their powers, while others have remained as ‘laggards’, not having “*impressed with their enthusiasm for a greater role in European policy*” (Barrett, 2018, p. 53).

With these three considerations, we are able to produce a classification of five roles performed by NPs generally, and the CG

specifically, taking inspiration in in Heffler *et al.*'s categorization of NPs into five idealized non-mutually exclusive types (Heffler *et al.*, 2015), which we will apply to the two levels of NP action (European or national), considering the traditional roles of Parliament. These idealized roles are: (1) contributing to legislation and policy-making; (2) scrutinizing and controlling the executives; (3) deliberating and communicating to the public; (4) producing high-level expertise; and (5) networking with other institutions. Figure 1 provides a summary of the roles, their level of action and the tools through which they are executed. The classification is 'idealized' because, as we will see, many of the parliamentary tools studied can be encompassed within different roles¹ – but remains useful to understand what NPs do in EU-related matters.

Figure 1. Summary of the role of NPs in EU affairs

	Level	Tools	Description of the role
Legislation	European	Ordinary Treaty revision	Participating in Conventions.
		Simplified Treaty revision, <i>passerelle</i> clauses, etc.	Ratifying and vetoing proposals for certain EU legal changes.
		Early Warning Mechanism	Issuing Reasoned Opinions on subsidiarity.
	National	Transposition of Directives	Adopting EU law nationally.
		Mandates	Establishing Government position in Council negotiations.
		Scrutiny reserves	Preventing the Government taking positions in Council negotiations.

¹ Subsidiarity encompasses the roles of 'legislation', 'scrutiny' and 'networking', as well as 'debating' (if the NP takes it to plenary, for example) and even 'expertise' (if the NP takes the opportunity to make suggestions to the Commission, or carry out a round of consultations with experts before drafting a RO). Furthermore, the border between politically mandating systems and non-mandating resolutions is very thin, even if we have included the first under 'legislation' and the latter under 'scrutiny'. IPC and political dialogue, even if included in 'networking', are in fact forms of 'scrutiny' and even 'legislation', when there is a clear intent to influence policy outcomes.

	Level	Tools	Description of the role
Scrutiny	European	EWM	Transmitting parliamentary opinions on legislative drafts and other documents.
		Political dialogue	Transmitting opinions to the Commission.
		Commissioner Hearings	Questioning Commissioners.
		Mechanisms within freedom, security and justice area	Joint monitoring (with EP) of Europol, Eurojust and Frontex.
	EU/ nat.	Mechanisms within the Economic and financial area	Monitoring the EMU, Semester and national budgetary decisions.
	Nat.	Government hearings	Scrutinising Government action and strategy in Council and European Council; obtaining EU-related information.
		Motions, resolutions, etc.	
Interpellations and questions			
Deliberation	National	Debates (in plenary and committee)	Deliberating on EU matters. Transmitting information to the electorate.
		Awareness-raising initiatives, publicity	Launching EU- related initiatives and improving EU-related website information.
Expertise	Nat.	Reports	Producing reports on specific EU matters with knowledge from experts and practitioners.
Networking	EU	Political dialogue and Commissioner visits	Building networks at EU level independently of Governments. Providing parliamentary input.
	EU	Interparliamentary cooperation	Participating in conferences/ meetings; IPEX and ECPRD; networking of Brussels representatives.

Source: own elaboration.

III. THE FIVE ROLES OF THE CORTES GENERALES IN EU AFFAIRS

The Cortes Generales has traditionally been regarded as a weak Parliament in terms of EU involvement, being consistently placed among the last positions in the ‘rankings’ produced by schol-

ars² – as opposed to the strong Scandinavian, Dutch, Austrian or German Parliaments; and together with other weak NPs in the south (Greece, Malta, Cyprus, or Portugal). Auel *et al.* consider the CG as a ‘Government watchdog’, centred around scrutinizing the Government rather than influencing legislation (Auel *et al.*, 2015, p. 448) due to its lack of formal parliamentary powers. Despite this, the CG remain relatively *active* in EU matters³, with increasing participation in the EWM or political dialogue with the Commission. To understand the depth and meaning of the CG’s (weak) role in EU affairs, and its positioning in the ‘rankings’, we must look at each role and tool individually, both in its national and European dimensions, and assess its performance when possible. For this analysis, we will refer to the few academic studies carried out by scholars, and the knowledge provided by members of the Parliamentary administration: Delgado-Iribarren, former Clerk of the Joint Committee for the EU; Sánchez-Abarca, Clerk of Parliament and representative of the CG in Brussels; and Eizaguirre, archivist-documentalist of the CG. Moreover, session diaries of the Congress of Deputies and Senate and the Official State Gazette will be examined to provide much-needed updated empirical data on EU-related activities.

1. Legislation

The first role performed by NPs with regard to EU affairs refers to the Parliaments’ traditional function of shaping legislation and intervening in policymaking, translating the democratic will into policy outcomes. At the European level, legal mechanisms allow for the participation of NPs in the legislative process (Treaty revisions and accession of new members; authorization for certain EU decisions as *passerelle* clauses; and the EWM). At the national level, this role

² In Auel, Rozenberg and Tacea’s (2015) ‘*Institutional strength score*’, the Congress of Deputies places 31st/40, and the Senate, 33rd/40. In their ‘*Activity score*’, the Congress places 14th/40 and the Senate, 16th/40. In Winzen’s (2012) ‘*Parliamentary control*’ ranking, the CG place 24th/27. In Karlas (2012), they place in the last position, tied with other NPs (22nd place/27). They also tie in the last positions in Raunio’s (2005) ‘*Level of parliamentary scrutiny*’ ranking (in the 9th/15 position) and in Maurer & Wessels’ (2001) ‘*Parliamentary participation*’ ranking (in the 9th/15 position as well). Finally, the CG rank 14th/15 in Bergman’s (2000) ‘*Scrutiny of EU decisions*’ ranking.

³ See the aforementioned ‘*Activity Score*’ by Auel, Rozenberg and Tacea (2015).

becomes more complex because most Parliaments don't have formal channels to influence the content of legislative drafts apart from their capacity to transpose Directives. However, some NPs indirectly influence the content of European policy through their governments by issuing mandates and scrutiny reserves (more below). NPs which do not enjoy these powers also adopt resolutions presenting their governments with their parliamentary preferences. However, because these are carried out within the process of scrutiny and monitoring of EU action and don't really affect Council negotiations directly, they will be considered under the role of 'scrutiny'.

Direct legislative influence at the European level is provided for in the Treaty revision procedures (Article 48 TEU), participating in Conventions as "*para-constituent authorities*" (Maurer & Wessels, 2001, p. 25) and being later involved in the ratification of the Treaties. Some *passerelle clauses* included in the Treaties also allow very specific Treaty changes with regards to the method of decision-making [some of these clauses are Articles 48(7) and 81(3) TFEU]. Accession Treaties must also be ratified by the MSs "*in accordance with their respective constitutional requirements*" (art. 49 TEU), which usually involves a parliamentary vote. Secondly, legislative influence is also exercised through the Early Warning Mechanism within the subsidiarity procedures provided for in the Protocols to the Treaty of the European Union. Without entering into the legal details, it essentially grants NPs an *ex ante* and *ex post* role in the EU legislative procedures, and its introduction entailed a cross-European surge in parliamentary interest and activity in EU affairs (Kiiver, 2006, p. 4). Similarly to all the tools analysed in this essay, participation in the EWM through the issuing of Reasoned Opinions (ROs) is extremely varied across MSs, running from 80 breaches of subsidiarity communicated until 2020 by the Swedish Riksdag, or around 35 by the French Senate; to scarcely one or two by the Italian Camera dei Deputati or the Estonian Riikigoku (Ares Castro-Conde, 2022, p. 30).

The legislative role of NPs is also performed at the national level. Finke and Herbel clarify that there is still "*no consensus over how much influence parliaments actually have over EU decision making via their governments*" (Finke & Herbel, 2015, p. 4). This is because outside the transposition of EU law into the national legal

order, the degree of participation depends exclusively on the national legal and institutional context, and on the NPs' own agency. The most effective tools to influence legislation are mandate systems and scrutiny reserves, which have garnered great attention and have been seen as the main differentiating element across NPs⁴. Mandates allow NPs to give instructions on their executives determining the limits of the latter's negotiating positions in the Council, and are present in nine MSs – with the Danish Folketing's system usually taken as an example (COSAC, 2017a). Scrutiny reserves, as those of the Dutch Tweede Kamer, have a similar impact and entail that the Government representatives cannot officially agree to a proposal in the Council or COREPER while the parliamentary scrutiny process is still ongoing. Thus, they guarantee the possibility of influencing the Government's negotiating position before agreements are made (Auel & Neuhold, 2017, p. 18).

In the case of the Cortes Generales, the relation between Government and Parliament with regards EU matters and the adoption of the provisions of the TEU and TFEU are grounded on Law 8/1994, of 1 July, 'which Regulates the Joint Committee for the European Union'⁵. The Joint Committee (JCEU) is a body composed of Deputies and Senators representing all parliamentary groups, which oversees EU affairs through the reception of legislative proposals, government reports, and debates (Article 3). The JCEU may adopt Reasoned Opinions on subsidiarity (Article 5), request government appearances and documents (Articles 3 and 7), and propose annulment actions before the CJEU (Article 7). It participates in Treaty revisions, EU enlargement, and oversight of Europol and Eurojust (Article 3), and ensures government accountability before and after Council meetings (Articles 8 and 9). Autonomous Communities may also appear to discuss the regional impact of EU legislation (Article 10).

⁴ COSAC differentiates document-based from mandating systems when classifying NPs; while Hamerly distinguishes between informal channels of influence, document-based scrutiny and mandating systems. COSAC, '8th Bi-Annual Report on Developments in European Union Procedures and Practices Relevant to Parliamentary Scrutiny' (Estoril, 15 October 2007); Ivy Hamerly, 'The Timing of EU Membership and Its Effect on National Legislative Oversight of European Affairs', 2007.

⁵ 'Ley 8/1994, de 19 de mayo, por la que se regula la Comisión Mixta para la Unión Europea'.

This Law is integrated into the parliamentary procedure through the Joint Resolution by the Bureaus of the Congress and the Senate of 21 September 1995⁶.

Having said this, with regards the legislative role specifically at the national level, the CG is generally characterized as an ‘informal influencer’ due to the lack of mandating or scrutiny reserve powers, and its focus on informal dialogue with the Government to achieve some legislative influence (Kölling & Molina, 2015, p. 350; Sánchez-Abarca Gornals, 2018, p. 590) - or ‘hoping’ to do so (Closa & Heywood, 2004, p. 74). In fact, the CG do not seem to have a real interest in actually influencing Government negotiations through mandates, but in supporting the Government negotiating position in Brussels, without questioning its general strategy (Llorente & Molina, 2023, p. 91). Even with the capacity to issue non-legally binding resolutions, their political bindingness is weak due to the lack of systematic accountability of the Government after Council meetings.

Interestingly, the Government does have the obligation to “*take into account in a decisive manner*” the opinion expressed by the Autonomous Communities on EU affairs, as mandated by Law 2/1997⁷, and defend such position in the EU, explaining back to the Autonomous Communities the adopted agreements⁸. No similar procedure is however established for EU affairs. Delgado-Iribarren highlights that actual legislative influence follows informal, contact based channels, with certain MPs able to “*influence at an early moment during legislative procedure*” (Delgado-Iribarren García-Campero, 2018, p. 610). However, in other crucial moments as Brexit, for example, the CG have had “*null influence on Government positionings*” (Bar Cendón,

⁶ ‘Resolución de Las Mesas Del Congreso de Los Diputados y Del Senado, de 21 de Septiembre de 1995, Sobre Desarrollo de La Ley 8/1994, de 19 de Mayo, Por La Que Se Regula La Comisión Mixta Para La Unión Europea. (Modificada Por Resolución de Las Mesas Del Congreso de Los Diputados y Del Senado, de 27 de Mayo de 2010)’.

⁷ ‘Ley 2/1997, de 13 de Marzo, Por La Que Se Regula La Conferencia Para Asuntos Relacionados Con Las Comunidades Europeas’.

⁸ ‘Resolución de 10 de Marzo de 1995, de La Secretaría de Estado Para Las Administraciones Territoriales, Por La Que Se Dispone La Publicación Del Acuerdo de La Conferencia Para Asuntos Relacionados Con Las Comunidades Europeas Sobre La Participación Interna de Las Comunidades Autónomas En Los Asuntos Comunitarios Europeos a Través de Las Conferencias Sectoriales’.

2019, p. 65). Thus, the legislative role of the CG at the national level is reduced to Treaty reform and the transposition of Directives.

With regards to the former, the Constitution provides that it must be approved through Organic Law. In total, the CG has authorized 5 ordinary Treaty modifications, the entry of 16 MSs through four ratifications, and the Treaties on the European Stability Mechanism and on Stability, Coordination and Governance. As we see in Figure 2, all Treaties and amendments have been ratified by near-consensus, aiming to reinforce the Spanish position in the negotiations rather than to scrutinize the Government. Despite this, the CG has on occasion used ratification as a veto power to threaten the Government, mostly in the enlargement negotiations of 2004 (Closa & Heywood, 2004, p. 75) and the Amsterdam Treaty – for which it had approved in 1995 a clear policy indication for the Government⁹, serving as a “*negotiation mandate*” based on a deep Parliament-Government consensus (Basabe Lloréns & González Escudero, 2001, p. 213).

Figure 2. Parliamentary authorization of EU Treaties

		Date of ratification	For	Against	Abstentions
Treaty of Accession of Spain to the EC	Congress	26 June 1985	309	0	0
	Senate	17 July 1985	212	0	0
Single European Act	Congress	2 October 1986	271	1	0
	Senate	29 October 1986	183	0	0
Maastricht Treaty	Congress	29 October 1992	314	3	8
	Senate	25 November 1992	222	0	3
1 st Accession Treaty (AT; FI; SE)	Congress	1 December 1994	287	0	0
	Senate	22 December 1994	134	0	1

⁹ Establishment of a committee to study the consequences for Spain of the enlargement of the European Union (EU) and institutional reforms. 21st December 1995. Legislative dossier here: <https://bit.ly/3Z3IjEP>. It was complemented with the non-legislative motion on the consolidation of a permanent status for the Canary Islands in the amendment of the Treaty on European Union (EU). 26th October 1996. Legislative dossier here: <https://bit.ly/3AMrfeW> and the non-legislative motion to amend the Treaty on European Union (EU) in the field of child protection. 20th March 1997. Legislative dossier here: <https://bit.ly/4dMVvm8>

		Date of ratification	For	Against	Abstentions
Amsterdam Treaty	Congress	1 October 1998	287	15	0
	Senate	24 November 1998	217	1	0
Nice Treaty	Congress	4 October 2001	290	0	7
	Senate	24 October 2001	213	0	2
2 nd Accession Treaty (10 countries)	Congress	25 September 2003	291	1	1
	Senate	14 October 2003	189	0	0
3 rd Accession Treaty (BG; RO)	Congress	24 November 2005	303	1	0
	Senate	14 December 2005	247	1	0
Lisbon Treaty	Congress	26 June 2008	322	6	2
	Senate	15 July 2008	232	6	2
ESM Treaty	Congress	17 May 2012	292	17	7
	Senate	6 June 2012	234	1	0
SCG Treaty	Congress	21 June 2012	309	19	1
	Senate	18 July 2012	240	4	1
4 th Accession Treaty (HR)	Congress	11 October 2012	282	0	0
	Senate	24 October 2012	Vote by assent (unanimity)		

Source: own elaboration, data from the Congress of Deputies and Senate session records.

Secondly, regarding the transposition of Directives, “*the Cortes Generales sees a very limited legislative capacity*” (Quiñonez, 2016, p. 354), even if out of the 246 laws approved in Spain during the 9th EP legislature (2019-2024), 51 adapt Spanish law to Regulations or transpose Directives; and another 81 contain references to EU initiatives – in total, a 53.6% (European Parliament Office in Spain, 2024). The practice involves the relevant sectoral legislative committees, mostly at the initiative of Government. Figure 3 compiles all the laws approved and published in the Official State Gazette¹⁰ from the 9th to the current 15th legislature (up to 1 May 2025), and those which partially (P) or fully (F) transpose EU Directives according to their

¹⁰ Even if there is no official record of transpositions, for each of the laws the Official State Gazette presents an analysis which includes partial or full transpositions. Boletín Oficial del Estado, ‘BOE.Es’.

type: ordinary Law (L), Organic Law (OL) and Royal Decree-Law (RDL). The last two columns show two key indicators: the percentage of transpositions (full and partial) carried out through RDLs, and the average number of transpositions per legal text.

Figure 3. Transposition of Directives and transposition method (2008- 1 May 2025)

		Total laws approved* (L, OL, RDL)	Total laws transposing Directives	Method of transposition***										% RDL	Directives per law	
				L			OL			RDL						
				N**	F	P	N	F	P	N	F	P				
8-9 th	2008	18 (4,2,12)	2	2	1	2	0	0	0	0	0	0	0	0	0%	1.5
9 th	2009	46 (29,3,14)	8	7	8	4	1	9	0	0	0	0	0	0%	2.63	
	2010	68 (44,9,15)	14	12	13	3	1	2	0	1	1	0	5%	1.34		
	2011	73 (38,12,23)	11	10	7	4	0	0	0	1	1	1	15%	1.18		
10 th	2012	54 (17,8,29)	8	3	4	0	0	0	0	5	7	3	71%	1.75		
	2013	54 (27,9,18)	11	6	4	4	2	0	2	3	2	1	23%	1.18		
	2014	61 (36,8,17)	15	13	9	12	0	0	0	2	3	1	16%	1.67		
	2015	84 (48,16,20)	17	14	8	10	3	9	0	0	0	0	0%	1.59		
11-12 th	2016	10 (0,2,8)	1	0	0	0	0	0	0	1	0	1	100%	1		
12 th	2017	34 (12,1,21)	9	3	4	0	0	0	0	6	8	4	75%	1.78		
	2018	44 (11,5,28)	12	5	4	4	0	0	0	7	8	8	67%	2		
12-13 th	2019	26 (5,3,18)	5	3	3	1	1	3	1	1	2	0	20%	2		
14 th	2020	54 (11,3,40)	10	4	1	4	1	1	0	5	4	9	68%	1.9		
	2021	65 (22,11,32)	12	6	2	4	3	1	2	3	14	6	69%	2.42		
	2022	74 (39,15,20)	11	7	12	1	2	3	0	2	1	3	20%	1.81		
14-15 th	2023	25 (13,4,8)	6	4	6	10	0	0	0	2	2	4	27%	3.67		
15 th	2024	24 (7,6,11)	4	1	1	0	2	2	0	1	1	0	25%	1		
	2025	8 (3, 1, 4)	0	0	0	0	0	0	0	0	0	0	-	-		

*Royal Legislative Decrees considered as Royal Decree Laws.

**N=number of laws; F=fully transposes a Directive; P=partially transposes a Directive. L=ordinary Law; OL=Organic Law; RDL=Royal Decree-Law.

***Note that many Laws transpose various Directives. In this case, we have counted the number of Directives transposed as different transpositions. Laws can also fully or partially transpose Directives Partial transpositions for the % RDL are counted as full transpositions.

Source: own elaboration.

If we look at the data, we can confirm the trend towards ‘decretization’, with transpositions through RDLs representing 48%

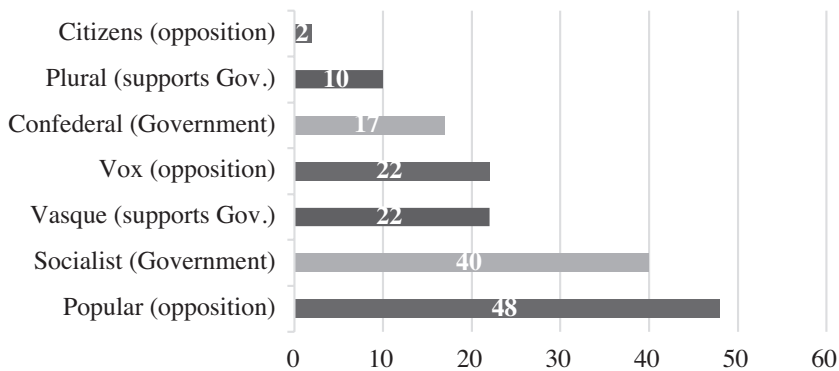
of the cases during the 14th legislature – as opposed to a 5% during the 9th or a 22% in the 10th. Quiñonez (2016, p. 342) also finds a lower rate of RDLs in the 7th and 8th legislatures. This analysis must however be nuanced, since the differences among legislatures can be explained due to the increasing technicality of Directives (Raunio & Wiberg, 2008), or the fact that during the 9th and 10th legislatures Government parties enjoyed absolute (or near absolute) majorities, reducing the incentive to legislate through RDLs. In fact, the proportion of RDLs as opposed to Laws and Organic Laws has increased in general, not only regarding the transposition of Directives. Be that as it may, this trend further consolidates the reduction of the CG’s role in EU-related legislative affairs. Moreover, another trend confirmed by the data is the increasing concentration of transpositions in less legal texts. Laws or RDLs transposing more than 5 Directives at once (a sort of *omnibus transposition*) have become more common in the last years¹¹. This, again, reduces the capacity of Parliament to negotiate the contents in detail, and has been criticized by the opposition throughout the 14th legislature, constituting transposition as a “*predominantly administrative task*” (Closa & Heywood, 2004, p. 74).

Even if the CG’s legislative role at the national level is weak, it has nevertheless been relatively active directly at the European level through subsidiarity and the EWM. This role is centralized in the JCEU, with the Bureau of the JCEU and the Spokespersons of the Parliamentary Groups meeting at least twice a month, examining all the initiatives and EU documents, and deciding whether to launch a procedure of subsidiarity review. Once the legislative drafts are received by the Commission – always accompanied by a explanatory memorandum by the Government [art 3.b Law 8/1994] – the Secretariat of the JCEU transmits them to the Parliamentary Assemblies of the Autonomous Communities, whose opinions are taken into consideration and are fully integrated in the final RO if a subsidiarity breach is found. Since January 2010, Regional Assemblies have been very active, having sent 724 ROs until the 14th legislature (Congreso de los Diputados, 2025)

¹¹ For example: Law 11/2023 (transposes 8 Directives); RDL 5/2023 (5); Law 11/2022 (5); RDL 7/2021 (10); RDL 24/2021 (8); RDL 3/2020 (7)

On paper, subsidiarity procedures are started when at least two parliamentary groups, 1/5 of the MPs or the Bureau and Spokespersons decide so. In practice, however, when a single Spokesperson or parliamentary group has considered it necessary, it has virtually always been carried out automatically (Eizaguirre Massé, 2023, p. 406). A rapporteur is designated for the drafting of the RO, which is debated and voted in the JCEU. This rapporteur usually alternates between Government parties and opposition groups, and there is a certain degree of specialization, where rapporteurs usually are responsible for drafts on the same policy areas (Delgado-Iribarren, 2012). In the 14th legislature, ROs have had rapporteurs from all the parliamentary groups (see Figure 4), demonstrating a level of consensus not common in other committees.

Figure 4. Group membership of subsidiarity rapporteurs in the 14th legislature



Source: own elaboration, data from the Congreso de los Diputados, 2024.

The JCEU systematically receives from the Government a detailed report on the EU legislative draft and its related documents [art 3.j Law 8/1994], which constitutes an “*important element for the debate*” (Delgado-Iribarren García-Campero, 2012, p. 60), can take the debate to the plenary [art. 3.c]. The JCEU can also demand the appearance of the Government to explain the criteria on its positioning [art. 3.c] and ask another sectoral committee for a preliminary report on the matter [article 3 Joint Resolution]. In practice, however, this last element is “*practically impossible to do*” because of the tight deadlines. During the 14th legislature (until 30 May 2023), out of the

EU 338 proposals, 188 reports were provided by the Government (Eizaguirre Massé, 2023, p. 415), even if the practice is becoming less common due to inability to meet the deadlines, and the JCEU's capacity to build its own judgement. The appearance of Government officials has also never been demanded, nor the option to hold a plenary debate. This has meant that subsidiarity affairs are exclusively concealed within the JCEU (Delgado-Iribarren García-Campero, 2012, p. 60).

Figure 5. Subsidiarity-related activities of the Cortes Generales

Legislature**	9 th	10 th	11 th	12 th	13 th	14 th	15 th
EU drafts	207	333	47	300	12	367	48***
Rapporteurships	42	203	9	103	0	157	<i>Not available</i>
ROs (breach)	2	9	0	2	0	0	0
ROs (observations)	2	8	0	1	0	0	1
ROs (no breach)	37	162	9	100	0	155	30
ROs (sub-national)	358	198	17	42	2	101	<i>Not available</i>
JCEU sessions dedicated to subsidiarity							
Entirely	3	21	1	4	0	12	3
Partially	13	24	1	16	0	18	8
No subsidiarity	59	23	3	19	1	27	12
Total sessions	75	68	5	39	1	57	23

Source: own elaboration, data from different sources*

*Sources: *Congreso de los Diputados diary sessions, except 'JCEU sessions dedicated to subsidiarity' in the 10th and 11th legislatures: Bar Cendón (2019, p. 108).*

**Dates: 9th (01/04/2008-12/12/2011); 10th (13/12/2011-12/01/2016); 11th (13/01/2016-18/07/2016); 12th (19/07/2016-20/05/2019); 13th (21/05/2019-02/12/2019); 14th (03/12/2019-16/08/2023); 15th (18/08/2023-currently. Data until 14/05/2025).

***Data on EU drafts only available as of 1 September 2024.

As seen in Figure 5, the CG have been active in the EWM – without significant changes across legislatures – especially because ROs are sent even if a breach of subsidiarity is not found. Surprisingly, however, the last RO finding such a breach was issued in October 2018. Comparatively, the CG places 16 out of 39 Chambers in the number of ROs sent to the Commission until 2020, standing among

the most active half NPs (Ares Castro-Conde, 2022); and a solid third position since then (see Figure 2 below).

If we look at the data, in the 15th legislature (as of May 2025), the JCEU has met 1.1 times per month, a decrease from the 14th legislature (1.3 times per month, or each 23 days) or 10th legislature (1.42 times a month, or each 21 days). The rate of sessions exclusively dedicated to subsidiarity represents about 20% of all JCEU meetings (14th legislature), an increase from a 10% in the 12th legislature, yet a decrease from the 10th legislature (31%). These sessions usually deal with the approval of many ROs at once – in some cases reaching up to 15 opinions. This means that not much time is dedicated to these – in average for each RO, it takes about four minutes for the rapporteur to explain the draft and the JCEU to vote by assent, almost always without any debate¹². The proportion of sessions not dedicated to subsidiarity at all has also increased from the 10th legislature (34%) to a 52% in the 15th and 47% in the 14th legislatures, consequence of this concentration and, perhaps, to a slight diversification of activities (PNLs, questions, appearances of the Minister of Economy, etc.).

Moreover, we can observe that increasing political polarization does not seem to be affecting the subsidiarity-related activities of the JCEU: rapporteurships are diverse across the different party groups – with those carried out by the Eurosceptic parties (mainly, Vox) not finding violations of subsidiarity at a greater degree than pro-EU parties. If we look at the content of ROs, the CG has motivated them on different grounds, as an insufficient motivation by the Commission, interferences with competences of the MSs, the legal grounds selected, proportionality concerns or the substance of the matter itself (Delgado-Iribarren García-Campero, 2018, p. 609). With regards to the latter, even if the CG have not found a breach of subsidiarity in years, it has taken the opportunity to make suggestions to the Commission. For example, in the only Report with observations

¹² We can observe this throughout the 14th legislature. Session 14 of 16th March 2021 approved 12 ROs and carried out a hearing in two hours. Session 11 of 16th February 2021 approved 8 ROs in 35 minutes. Session 5 of 22nd September approved a single RO in four minutes. Session 4 of 30th June 2020 approved 15 ROs and created a subcommittee in 50 minutes. See session diaries of the XIV legislature.

of the 15th legislature (Report 14/2024 of 23 April 2024), the JCEU suggests improvements to the Common Agricultural Policy¹³.

Finally, the CG can also exercise *ex post* subsidiarity as set in the Protocol, in the six weeks after the official publication of the law, and only once a rapporteurship has been established to analyse a violation of subsidiarity. However, the Government can reject such a demand – with proper justification. Only once has this measure been debated, during the first year of the EWS with regards Directive 2010/13/UE on audiovisual communication, but the JCEU did not proceed to ask the Government to lodge such appeal¹⁴.

2. *Scrutiny*

The second EU-related role performed by NPs regards the scrutiny of executive action and the demand for accountability. This can be carried out directly at the EU level – with the scrutiny of the Commission and Agencies; and at the national level, “*controlling what the Government does in Brussels*” (Auel & Neuhold, 2018, p. 15) – mainly in the Council and European Council. In this case, NPs exert their control using a complex and diverse set of tools: hearings with the Government before or after Council meetings and European Councils; non-binding resolutions and motions; or oral and written questions.

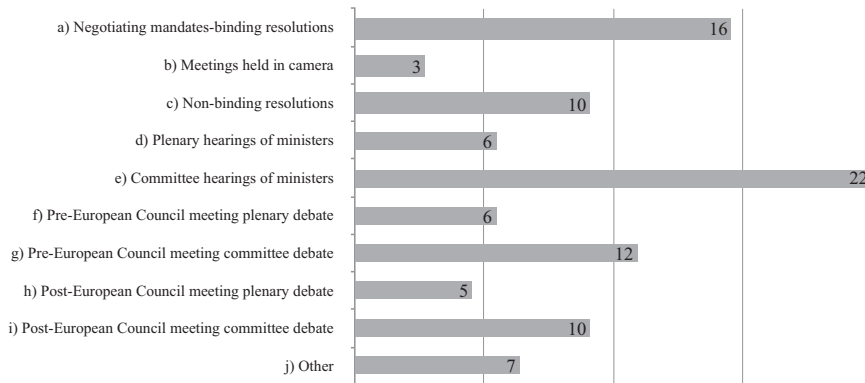
At the EU level directly, Parliaments carry out scrutiny through different channels: (1) the subsidiarity system; (2) political dialogue and Commissioner visits; (3) the examination of EU documents through the legislative process; and through the specific mechanisms envisioned in EU law with regards (4) economic and financial governance and (5) the freedom, security and justice area. Subsidiarity has already been introduced, while political dialogue and Commissioner visits will be studied in the ‘networking’ role even if they are also channels used to transmit their opinions to the Commission.

¹³ Report with observations 14/2024 of the joint committee for the European Union of 23 April 2024. Legislative dossier here: <https://bit.ly/3yQWwKR>

¹⁴ See ‘Comunicación de que la citada Comisión celebrará sesión el día 11/05/2010, en cuyo orden del día figura el Dictamen sobre el cumplimiento del principio de subsidiariedad de la Directiva 2010/13/UE del Parlamento Europeo y del Consejo, de 10 de marzo de 2010’ (282/000011) here: <https://bit.ly/3Z8GdDB>

At the national level, NPs apply to EU affairs those traditional mechanisms through which they control their governments and demand accountability, transparency and deliberation; as well as transmit parliamentary positions on Governments' EU strategies. NPs can carry out oral activities like hearings or debates (in plenary or in committee), and written activities as opinions, resolutions or reports. These tasks are essential, with 93% NPs considering controlling their own Government's EU action as its most important EU-related role, before the scrutiny of the Commission, Council or European Council (COSAC, 2016a, p. 9). According to the 37th COSAC Report – as seen in Figure 6 – the hearing of Ministers at committee level is the most used scrutiny tool, followed by mandates/binding resolutions and pre-European Council committee debates. Here, we must consider that *“there should be a lot of discretion for Parliaments to try to work out what are the most appropriate mechanisms for scrutiny themselves”* (European Union Committee of the House of Lords, 2014, p. 11), even though provisions on scrutiny and monitoring tend to converge cross-nationally (Buzogány, 2013; Raunio, 2009; in Winzen, 2022).

Figure 6. The tools most often used by NPs to scrutinize Governments



Source: COSAC, 2022, p. 1.

As introduced earlier, the CG *“have not been traditionally very active in holding the Government accountable”* (Piedrafita, 2014, p. 259). However, this role has slowly been intensified through the variety of tools at the Parliament's disposal, as non-binding motions and

resolutions (*proposiciones no de ley* or PNLs), interpellations, oral and written questions, institutional declarations, and hearings with Government officials. These allow Parliament to present its opinions independently of Government and monitor its activities in the EU, but, again, mostly to “*help create the necessary consensus for the production of agreements... aiming to guide the Spanish negotiating positions in Brussels*” (Basabe Lloréns & González Escudero, 2001, p. 209).

Scholars have found “*a resistance to change over time*” in the use of these tools, even after the Lisbon Treaty (Piedrafita, 2014, p. 457). However, since 2010, EU-related questions and non-legislative motions have become more frequent, although still representing a very low proportion of the total initiatives, and having little critical content and not leading to a debate or a vote (Llorente & Molina, 2023, p. 90). The number of sessions to question Government on Council matters has also increased, although without evidence on the actual *quality* of control. In the plenary, MPs have increasingly questioned the Government on draft legislative acts under negotiation and on their implementation, especially those on social matters. Moreover, a slight increase in EU-related scrutiny in sectoral committees after the Lisbon Treaty was found, even if only in the Environment, Agriculture and Fisheries Committee did these activities constitute a non-minimal part of the overall work (Piedrafita, 2014, p. 463). Scrutiny activities have been, however, almost exclusively concentrated in the JCEU. Figure 7 compiles the data on these activities.

Figure 7. EU scrutiny-related activities of the JCEU

Legislature	8 th	9 th	10 th	11 th	12 th	13 th	14 th	15 th ***
PNLs presented	21	36	42	8	54	0	59	64
PNLs approved	12	27	25	3	6	0	6	29
Questions with oral answer	0	30	4	0	1	0	0	30
Questions with written answer	23	17	3	0	8	0	4	2
Institutional declarations	0	0	3	1	0	0	1	0

Hearings								
Solicited...	52	175	66	9	88	3	126	32
... of which celebrated*	33	148	35	2	60	0	94	16
- Spanish Government**	19	70	21	1	14	0	20	8
- Other Spanish	5	32	0	1	16	0	45	0
- Commissioners + Vice-presidents	1	3	9	0	11	0	7	1
- High-level EU authorities	2	7	3	0	7	0	6	0
- Other foreign	0	3	0	0	3	0	5	0

*'Celebrated hearings' are higher than the sum of the actual hearings (Spanish Government, Other Spanish, etc.) because some persons condense several demands for apparition in one single appearance (mostly, the Minister for Foreign Affairs)

**Spanish Government (Ministers, Secretaries of State and high-level Ministerial representatives); other Spanish (representatives of enterprises, labour unions, academia, diplomatic corps, regional administrations, etc.); High Level EU authorities (representatives from the Court of Auditors, Members of the EP, etc.); other foreign (ambassadors, MPs, experts, Brexit negotiators, etc.)

*** Until 14 May 2025.

Source: own elaboration, data from Congreso de los Diputados.

With regards PNLs, they have become less and less common, but an important shift can be observed during the current legislature. In the 12th, five out of six adopted PNLs adopted were led by Government or supporting parties. In the 14th, it was five out of six. However, in the 15th, 23 out of 29 are opposition-led. Moreover, there has been a severe intensification of PNL-related activity, implying that, when given the opportunity (due to different voting majorities), the CG *does* intensify its EU scrutiny and its attempts to influence policy. These PNLs, however, address general policy concerns (CAP, rural depopulation, Venezuelan elections, EU-Mercosur, housing, etc.) rather than specific Council or European Council negotiations. Questions, on the other hand, have remained underused in the JCEU – until the 15th legislature, with the activity of the opposition skyrocketing compared to the previous legislatures.

As for hearings, they have remained the main scrutiny activity of the JCEU. In the 14th legislature an increase was observed, with three rapporteurships established (see later) and the Minister of Economy appearing on nine occasions with regards the NextGenerationEU funds. The appearance of EU representatives, as Commissioners or high-level authorities, is also common and allows the CG to obtain

direct information on legislative proposals and non-legislative documents. With regards Spanish authorities, these encompass political figures as former Ministers, practitioners from the diplomatic field, representatives of employer organizations and labour unions, and academics.

More detailed studies must be carried out with regards the content of scrutiny activities (mainly questions) in sectoral committees and the plenary, as did Piedrafita for the July 2008 – June 2011 period. She found that the CG (mainly opposition parties) orally questioned the Government on Council negotiations and on the implementation of EU law on 9 occasions, both in plenary and in the JCEU, and the Government responded in written form to another 71 (Piedrafita, 2014, p. 462), concluding that there *is* EU-related scrutiny in committees other than the JCEU. However, no updated analysis exists on this matter after the 10th legislature.

Special attention must be placed on the scrutiny of European Council and Council meetings. With regards the former, the CG has institutionalized, since 30 years ago (Kölling & Molina, 2015, p. 354), the *ex post* appearance of the President in the plenary to explain the Government's positions and the developments of the rotating Council Presidency. This was later introduced as an obligation in Law 8/1994. However, because it does not place any time limit, on many occasions this appearance has been celebrated long after the European Council. *Ex-ante* appearances for European Councils have been tried, but have not become institutionalized, with Law 8/1994 only requiring a written report [Article 3.e].

As for *ex ante* control of Council meetings, Article 8 of Law 9/1994 gives the JCEU the *capacity* to demand hearings with Government authorities but does not establish on the Government an *obligation* to do so. Thus, this leaves the execution of *ex ante* control of Council meetings to the actual practice. However, the Law does place this obligation *ex post*, with the Government obliged to appear after the end of each Council Presidency. Figure 8 shows the data on these appearances before the JCEU and the plenary in practice.

Figure 8. Scrutiny of European Councils (ECs)

Legislature	10 th	11 th	12 th	13 th	14 th	15 th
N of European Councils**	22	4	14	3	30	11
Appearances related to European Councils						
<i>Ex ante</i> and <i>ex post</i>	15	1	3	0	3	0
Only <i>ex ante</i>	1	0	6	0	1	0
Only <i>ex post</i>	3	0	1	2	14	9
Neither	3	3	4	1	12	2
Appearing Government official						
President (plenary)***	17	1	3 (for 5 ECs) 2 <i>ex ante</i>	1 <i>ex post</i> (for 2 ECs)	10 <i>ex post</i> (for 17 ECs)	5 <i>ex post</i> (for 9 ECs)
Foreign Affairs Min. (JCEU)	1	0	5 (3 non-EC) <i>Ex ante</i>	0	4 (4 non-EC) <i>Ex ante</i>	1 (1 non-EC)
EU Secretary of State (JCEU)	15	1	9 (2 non-EC) <i>Ex ante</i>	0	7 (3 non-EC) <i>Ex ante</i>	3 <i>ex post</i>

Source: own elaboration, data from different sources*

*Sources: for 10th-11th legislatures, Bar Cendón (2019). For 12th-15th legislatures: diary sessions.

**Counting ordinary and extraordinary/special council meetings. Not counting informal meetings, extraordinary sessions without the UK simultaneous to ordinary sessions, euro summits or tripartite social summits

***Note that some of the appearances by the President address more than one European Council meeting (indicated in parenthesis)

We can observe that during the 10th legislature, the Government always appeared in the JCEU *ex ante* except in three justified cases¹⁵, mostly by the Secretary of State for the EU, with some occasional appearances of the Minister for Foreign Affairs. Also, the Prime Minister appeared *ex post* on all but one occasion (because Parliament was dissolved short after the European Council)¹⁶. In the following two legislatures, which were very politically unstable, appearances with regards European Councils were much more irregular – even in moments which were key for Spain, as the negotiation of the Brexit

¹⁵ European Council of 1-2 March 2012; 26-27 June 2015; and 17-18 December 2015. Ibid., 78

¹⁶ European Council of 15 October 2015, Ibid., 78–79.

clauses related to Gibraltar. During the 14th legislature, the President appeared after about half of the European Councils (albeit combining accountability on several meetings in single appearances). This can be explained because there has been an elevated number of special or extraordinary European Councils due to the Covid-19 crisis, which have made the scrutiny of the CG more difficult and irregular. What does not seem to have a proper explanation is the lack of appearances *ex ante*, which have worsened since previous legislatures. In the current 15th legislature, all ordinary European Councils have been addressed *ex post* by the President before the plenary (although two special ECs have *not* been addressed), but no *ex ante* check has been carried out in the CJEU by the Secretary of State – despite the committee officially demanding his appearance on several occasions. The three times he has appeared, he has done so *after* the European Councils, unlike what is stipulated in article 8 of Law 8/1994.

The only times the President has appeared *ex ante* a European Council were in the 12th legislature, for the 28-29 June 2018 and 13-14 December 2018 meetings, appearing the day before the European Council was celebrated. On average, *ex ante* appearances in the JCEU have also been celebrated one or two days before the meeting. This regular appearance of the President after and of the Secretary of State for the EU before European Councils – the former before the plenary and the latter before the JCEU – has however not been translated into ministerial Council meetings – at all. In the JCEU, no official hearings have been celebrated during the 14th and 15th legislatures for the purpose of Council meetings.

With regards sectoral committees, they rarely use their capacity to demand appearances. A much deeper analysis would be needed to examine this dimension. However, it is worth mentioning that during the 14th legislature the Minister for Agriculture, Food and Fisheries, demanded so by the opposition, has appeared twice after Council meetings dealing with fisheries and the CAP, and a third time to inform on general EU policy¹⁷. The Minister for Foreign Affairs appeared before the Committee of Foreign Affairs once to explain the developments in the Council regarding the Russian invasion of

¹⁷ JCEU Sessions of 9 March 2022, 24 September 2020 and 15 February 2023, respectively.

Ukraine¹⁸. However, other sectoral committees show virtually no Council-related demands for hearings, and in some others, as the Committee for Ecological Transition, the opposition has made such demand, but the Government has not responded¹⁹.

In essence, empirical evidence seems to confirm that Council meetings remain largely untouched within the CG, both in the JCEU and the sectoral committees, with the very few *ex post* appearances of Ministers being completely irregular. Despite this, hearings still are the most relevant scrutiny tool used by the JCEU with regards EU affairs, since questions are underused and non-legislative motions voted down by majority parties.

3. *Deliberation*

The third essential role of NPs in EU affairs revolves around providing a forum for deliberation, the representation of different ideas, the transmission of the public will, and the provision of information to voters. Because EU matters have become increasingly politicized, NPs have demonstrated growing interest in their role as communicators (COSAC, 2016b, p. 26, 2017b, p. 28), and have made “*remarkably strong*” efforts especially after the euro crisis (Auel & Neuhold, 2018, p. 22). Initiatives at the EU level have also helped, as the deployment of the European Week celebrated simultaneously in all NPs, when MPs can debate EU affairs directly with Commissioners and MEPs.

This role is difficult to assess, but there are several indicators to give an idea of its intensity. For example, attention and publicity given to EU affairs in the plenary. Although with great disparity among countries, COSAC reports show an increasing politicization of EU matters (European open strategic autonomy, EU energy policies, the EU response to the Russian invasion of Ukraine, or the EU rule of law). As stated by Wendler, “*there are now a considerable number of plenary debates of NPs about the issue of European integration with significant disagreement between involved speakers*” (Wendler, 2014, p. 26). The number of times the EAC meets and how publicly they do so is also an important factor, as is the involvement of MEPs

¹⁸ Session of 25 January 2022.

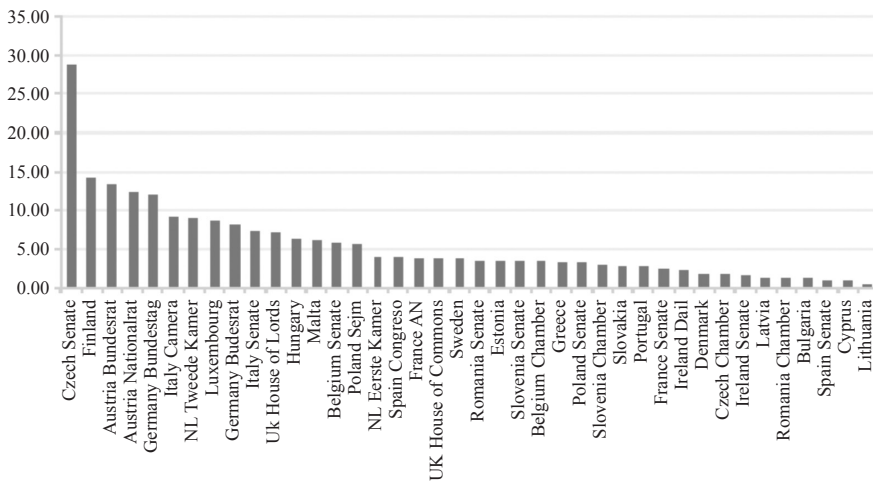
¹⁹ The opposition demanded the appearance of the Minister for Ecological Transition after the Council of Energy Ministers of 28 February 2022 and 26 of October 2021.

in debates at the NP. About half of the NPs organize regular meetings with the MEPs from their country, either systematically inviting them to the EAC or by organizing regular meetings (COSAC, 2022, p. 18).

Finally, there are other proactive parliamentary initiatives which promote awareness-raising about EU matters (e.g. the parliamentary website, publications, events). For example, the Danish Folketing's EU Information Centre provides an EU agenda with important meetings at the national and EU level and provides information on the EU in general. It even includes a live chat with parliamentary staff. Other NPs have dedicated units for the promotion or study of EU affairs, as the Bundestag's 'Topical EU Term' publication or the Polish Sejm's EU Documentation and Information Centre (Auel & Neuhold, 2018).

In the Cortes Generales, historically, most of the debate on the EU-related parliamentary role has centred around the need for "*an increased participation and representation of the regions in the definition of the Spanish negotiating positions at the EU level*" (Basabe Lloréns & González Escudero, 2001, p. 217). It was not until the euro crisis when the deliberative aspect of the CG was reinforced, with the opposition openly criticising EU economic policy and Euro summits, and the public becoming more interested (Kölling & Molina, 2015, p. 350). However, plenary time dedicated to EU affairs has been one of the lowest across NPs in the case of the Senate (37th/40 position), and about average in the case of the Congress (17th/40), as seen in Figure 9.

This is partly explained because, despite the possibility provided by Law 8/1994 for the JCEU to demand a debate on ROs, PNLs, etc. in the plenary, this has never been carried out. Most of the debate occurs in the JCEU, which, as with the rest of NPs, has a much weaker communicative effect than plenaries. On the positive side, the appearances of the President after European Councils are salient and politically intense, fostering debate on EU affairs (Basabe Lloréns & González Escudero, 2001, p. 210). In essence, however, the marginalization of EWM matters and other scrutiny debates in the JCEU negatively affects the deliberative and communicative role of the CG. Further analysis of the content of PNLs, questions and interpellations in the plenary related to the EU should be carried out. No special initiatives with regards EU affairs have been set up in the plenary, as, for example, the Tweede Kamer's annual debate on the 'State of the EU'.

Figure 9. Percentage of plenary time dedicated to EU affairs in NPs (2010-2012)

Source: Auel & Neuhold, 2018, p. 23.

As for the parliamentary websites of the Congress of Deputies and Senate, EU affairs are treated mostly as any other policy area, albeit with full transparency. A special section in the Congress website²⁰ is dedicated to subsidiarity and its legal basis, with statistics on ROs compiled and links to the reports provided. Another page provides links to legislative and non-legislative EU documents (as the Annual Work Programme) and EU institutions and research centres. Furthermore, details on interparliamentary cooperation are also provided (with short explanations of each forum and a link to past agendas). However, all this information is distributed chaotically throughout the different sections of the already cluttered website, making direct access to EU information very difficult. On the other hand, the Senate website²¹ contains explanations on the different interparliamentary conferences. More hidden are links to the EU's main institutions and to the Commission and EP's reports regarding relations with NPs. Certainly, both Chambers have much room for improvement with regards the communication of EU affairs through their websites, especially considering the example of other NPs.

²⁰ <https://www.congreso.es/es/home>

²¹ <https://www.senado.es/web/index.html>

4. *Expertise*

The fourth role of NPs in EU affairs regards the production and diffusion of high-quality, specialized and high-level expertise for which they are in a privileged position, through European policy projects, comparative law analyses, or thematic reports. In fact, this role can represent an opportunity to produce alternative views and positions on EU affairs to those of the Union institutions or the Governments (Heffttler *et al.*, 2015, p. 33), and can exert some political influence on Governments, EU institutions and other NPs if they are strategically and timely distributed. Other ways to build the expertise role include investing and training MPs and parliamentary staff on EU affairs; involving with think-tanks and celebrating conferences on EU matters, or participating in academic journals, among others, but we will focus on the reporting activities of NPs.

Parliamentary reports are an important task carried out by NPs with regards to all policy areas. On EU matters specifically, they are found to be another tool to exert influence on the Government's actions in Brussels and to generally enrich the academic background of the role of NPs. For example, since the Assemblée Nationale has found that its resolutions and motions on EU affairs have little impact and political interest, the Chamber has found *rappports d'information* to be an effective way of influencing EU affairs (Auel & Benz, 2005, p. 2) and making indirect demands to the Government.

In the case of the CG, it has had a surprising EU-related reporting inactivity since the 9th legislature, with no subcommittees or rapporteurships being created for reporting purposes until the 14th legislature, when three reports have been produced. If the positive trend of the last legislature is not continued, we could conclude that this would be the most unused role of all, considering the formal powers held by the committees in this regard. In essence, the CG can appoint reporting bodies for the follow-up and monitoring of specific EU-related matters, which can produce a final non-legally binding report which is presented to the Chambers and the Government. Figure 10 shows all the rapporteurships created within the JCEU, with relatively intense activity in the 2000s, in matters as Brexit, the EMU, enlargements or the 1996/1997 Convention.

The impact of these reports is contested: early reports, as those of 1990, “*added only very limited value to the Government’s EU policy... mainly dealt with behind closed doors*” (Kölling & Molina, 2015, p. 354), while the rapporteurship on the EWM (2008-2009) was practical and presented an adaptation to Law 8/1994. Furthermore, the rapporteurship on Brexit essentially became “*another legal element on the control of Government with regards Brexit*” (Bar Cendón, 2019, p. 72). Some other rapporteurships did not carry out many hearings and met mostly for organizational matters. After a four-legislature long paralysis, reporting was resumed with three different reports, which included hearings with national and European authorities, meetings with other NPs, and visits to other MSs²².

Figure 10. Reporting activities by the Cortes Generales

Leg.	Dates	Topic	N. JCEU sessions	N. meetings	Hearings celebrated	Report
14 th	June 2022 – June 2023	Preparation of the Spanish Presidency of the Council	4	6	10	Yes
	October 2020 – December 2022	Conference on the Future of Europe	12	11	13	Yes
	(November 2016) – June 2020 – December 2021	Consequences of Brexit on Spain	(9) + 6	(13) + 15	(24) + 40	Yes
9 th	September 2010 – October 2011	Study of the specificities of Ceuta and Melilla	5	2	6	Yes
	February 2010 – June 2011	Own resources system, cohesion funds and CAP	11	2	13	Yes
	September 2009 – April 2010	EU ultra-peripheral regions	2	4	8	Yes
	October 2008 – April 2009	Application in Spain of the Lisbon Strategy	9	3	22	Yes
	June 2008 – March 2009	Effects of the Lisbon Treaty on the CG				No*

²² Comisión Mixta para la Unión Europea, ‘Informe de La Ponencia Para Participar En La Preparación de La Presidencia Española Del Consejo de La Unión Europea Durante El Segundo Semestre de 2023’.

Leg.	Dates	Topic	N. JCEU sessions	N. meetings	Hearings celebrated	Report
7 th	April 2001 – December 2003	Monitoring of the 2004 IGC	15		9	Yes
6 th	March 1998 – November 1999	Study of EU enlargement and Agenda 2000	9		7	Yes
5 th	February 1994 – December 1995	Enlargement and institutional reform	14		9	Yes
4 th	June 1990 – expired	Treaty of Accession and SEA	**			Yes
	June 1990 – May 1991	Economic and Monetary Union	21		20	Yes
	June 1990 – December 1991	Political Union	**			Yes

*A proposal for a modification of Law 8/1994 was presented.

**Information not provided in the reports. Some hearings and meetings were celebrated jointly with the other rapporteurships.

Source: own elaboration

An introductory analysis of the CG’s reporting activity allows us to conclude that, again, it has followed the consensual logic of EU politics in the CG, and the functioning through “*tight networks of personal links among a small group of officials and politicians*”, with reports concluding ‘strikingly similar’ positions as those of the Government (Closa & Heywood, 2004, p. 77). In fact, most personalities invited have been Spanish, either academics, former Ministers, MEPs or high-level EU authorities, and we can observe some duplicity where some appear repeatedly²³. Moreover, rapporteurships have had a focus on the obtention of information rather than control of the Government (hearings with Ministers have not been very common) – with the exception of the mandating report for the 1996 Convention.

Even if further studies need to be carried out on the impact of the reports, it is clear that they have contributed to the intensification

²³ For example, Professor Mangas Martín has appeared before the Rapporteurship on Brexit and that of the Future of Europe. Elorza Zuribia, the Foreign Affairs representative of the Basque Country also appeared before the Future of Europe and Spanish Presidency rapporteurship. Areilza Carvajal, of the Aspen Institute, appeared before the Brexit and Future of Europe rapporteurships.

of JCEU activities: from visits to Hungary and Czechia and the hearing of six ambassadors from the East in the enlargement report; to the presentation of a legislative proposal for the modification of Law 8/1994; the establishment of a Convention mandate; or the proposal of many different reforms throughout all the reports, these have the ability to present the CG with a diverse array of tools to enhance its EU-related role. It is yet to be seen whether the JCEU will keep up its re-launching of reporting activity after years being paralyzed.

5. *Networking*

The final role which NPs perform refers to them being active political actors which formally and informally interact, involve and build a network of contacts with EU institutions and other NPs. Because of the nature of this role, we will find it directly at the EU and not at the national level. However, this is not to say that NPs do not build a network of EU-related agents at the national level, as the network conformed between MPs and MEPs: over 70% of MEPs are in contact with their home MPs at least once a month and approximately 30% communicate on a weekly basis (Finke & Herbel, 2015, p. 8). The main tools for the exercise of this role are political dialogue with the Commission and Commission visits to NPs, and through the diverse forms of interparliamentary cooperation. Both elements intensified after Lisbon, and are important to communicate parliamentary positions, exert individual and collective legislative influence, and set the political agenda early during the EU policy cycle (Auel *et al.*, 2015).

The system put in place by the Barroso presidency gives NPs the opportunity to directly engage with the Commission. The motive was to create a system “*under which Parliaments could invite the Commission to develop legislative proposals which they believe to be necessary, or to review and adapt existing proposals for specific stated reasons*” (COSAC, 2013). Thus, this system constitutes a ‘pre-legislative scrutiny’ through which to “*feed views into... EU proposals*” (COSAC, 2012). Even if most opinions usually relate to specific drafts, many others are sent in the NP’s own initiative and make suggestions for institutional and legal change. NPs also establish networks with the European Parliament and other NPs through the diverse mechanisms of IPC and direct close bilateral contacts, both of

which have seen great dynamism in the last years due to the need for collaboration for the effective action within the EWM. The array of forums of IPC has intensified during the last years, with multiple institutional arrangements now functioning systematically and regulated through their own Guidelines²⁴. Because they lack formal powers of control, they usually focus on EU monitoring, debating and sharing expertise and good practice (Winzen, 2022, p. 999). They have been demonstrated, however, to “*strengthen their oversight capacity in their respective spheres of action*” (Tacea & Trauner, 2023, p. 521). Figure 11 shows a summary of the main forms of IPC.

Figure 11. Interparliamentary cooperation forums and networks

	First meeting / establishment	Legal basis	Aim
COSAC	1989. Biannual meetings	Art. 10 Protocol No. 1	Submit contributions, debate and exchange information
Conference of Speakers of EU Parliaments (EUSC)	1963. 2000 (current). Annual meetings	Stockholm Guidelines	Adopt conclusions, coordinate IPC
Conference of Secretaries-General of EU Parliaments	Annual meetings	Stockholm Guidelines	Debate, prepare EUSC
Conference for CFSP/ CSDP	September 2012. Biannual meetings	EUSC decision.	Debate and exchange information
Conference for Stability, Economic Coordination and Governance	October 2013. Biannual meetings	Art. 13 SCG Treaty	Debate and exchange information
Joint Parliamentary Scrutiny Group for Europol	October 2017. Biannual meetings	Art. 12 TEU, Art. 88 TFEU, R2016/794	Monitor Europol activities
Other informal meetings	- Anytime	Arts. 9 and 10 Protocol No. 1	Debate and scrutiny of legislative drafts
IPEX	2006. Online. Annual meetings	EUSC decision.	Share documents
ECPRD	1977. Online. Annual meetings	EUSC decision.	Raise inquiries, share knowledge and practice
Representatives in Brussels	1991. Weekly meetings	-	Coordinate with NPs, inform NPs, share knowledge

Source: own elaboration.

²⁴ Conference of Speakers of the European Union Parliaments, ‘Guidelines for Inter-Parliamentary Cooperation in the EU’ (2020).

In this case, the CG have recently steadily reinforced their ‘networking’ role with EU institutions and other NPs. Despite the capacity of the JCEU to establish independent and regular relations with the EP, direct contact was “scarce” (Basabe Lloréns & González Escudero, 2001, p. 211) during the 2000s. Moreover, the office of the representative in Brussels only set in 2010 – the second last Parliament only after Malta to do so. However, participation in IPC has increased since the 2010s after the introduction of the European Semester and the 2009 Spanish Council Presidency. Scholars have noted an increase in the number of delegations sent to the meetings, currently attending to the practical totality of them, and an increase in COSAC attendance since 1998s (Basabe Lloréns & González Escudero, 2001, p. 219), including participation in pilot projects on subsidiarity and scrutiny.

Moreover, certain organization and expertise has been accumulated thanks to the same specific MPs going to these conferences (Sánchez-Abarca Gornals, 2018, p. 589). More recently, the 2023 Spanish Presidency of the Council has heavily increased the networking role of the CG, hosting COSAC meetings, the joint parliamentary conferences contemplated previously, or the Global Conference to Commemorate the International Day of Parliamentarism. A deeper quantitative study must be carried out in order to determine the factual evolution of participation within IPC. With regards opinions forwarded to the EP in accordance with the Protocols, the CG is among the most active ones, with 27 sent in 2023 – the 5th NP after the Portuguese Assembleia, the Czech Chambers and the German Bundesrat (European Parliament, 2024, p. 102).

Figure 12. Networking activity of the Cortes Generales with the Commission

Year	N of opinions (of which find breaches of subsidiarity)	Relative position to other NPs	N of visits
2023	24 (0)	9/37	8
2022	46 (0)	2/37	11
2021	57 (0)	1/37	4
2020	28 (0)	2/37	4
2019	8 (0)	7/39	8
2018	53 (1)	3/39	7

Year	N of opinions (of which find breaches of subsidiarity)	Relative position to other NPs	N of visits
2017	38 (2)	7/41	20
2016	13 (0)	14/41	-
2015	11 (1)	9/39	-
2014	45 (1)	3/39	-
2013	17 (5)	10/39	-
2012	7 (2)	17/40	-
2011	2 (2)	26/40	-
2010	4 (0)	17/40	-

Source: own elaboration, data from European Commission Annual Reports.

As for the Commission, the CG has become an active player in political dialogue, and Commissioner visits are becoming more common. As seen in Figure 12, from a very limited participation in the last decade, participation has now skyrocketed to the point where the CG has been the second or first most active Parliament/Chamber in 2022, 2021 and 2020. In fact, the JCEU seems to have focused on political dialogue rather than the submission of ROs. Again, the impact of this is difficult to measure, and the CG still values personal, intra-party and informal connections to lobby in European networks (Kölling & Molina, 2015, p. 359). However, it seems to be increasingly participating in formal mechanisms of networking.

IV. CONCLUSIONS

in the context of a debated democratic deficit in the EU, a huge gap exists around the democratic control by National Parliaments with regards EU matters – even if NPs are ideally positioned to address this deficit. In this line, it is essential to understand which roles NPs can perform in EU affairs: influencing legislation, scrutinizing the executives, deliberating EU affairs, building high-level expertise, and constructing EU networks; and through which tools and parliamentary mechanisms. Regarded as one of the weakest Parliaments in its EU role, the CG has in fact been marked by a lack of formal prerogatives to influence EU legislation or the Government's position in the negotiations in the Council. As in other cases, European integration

has changed the balance in the “*constitutional power equilibrium between Parliament and the executive*”, with the Government enjoying a qualified participation in EU matters (Quiñonez, 2016, p. 332). Moreover, the CG has not done much itself in order to surpass its structural weakness (Bar Cendón, 2019, p. 64), underusing the capacity to bring hearings before Council meetings, the power to take debates on subsidiarity to the plenary, the invitation of EU officials to the committee, or the creation of *ad hoc* rapporteurships.

An analysis of each specific role can shed light on how the CG actually involves with EU affairs, identify the main knots and problems, and may serve as a basis for future change. The (1) legislative role at the national level is very weak because the Parliament lacks legal mandating powers and the Government is not obliged to appear *ex ante* Council meetings. Appearances are irregular and legislative influence is mainly carried out through informal, personal and intra-party links. The transposition of directives is increasingly carried out by Royal Decree Laws, and also tends to be concentrated in few legal texts, reducing the capacity of influence of the CG. At the EU level, the CG have become very active within the EWM. However, very little time is dedicated to ROs (about four minutes each), and they seem to be concentrated on few sessions where many are approved (up to 15 per session).

As for (2) scrutiny, parliamentary majorities have tended to block monitoring activities, and the CG underuses some tools as the possibility to demand *ex ante* Council appearances. However, hearings with Government and Commission officials have intensified, and the 15th legislature has seen a reactivation of mechanisms as questions and PNLs thanks to the opposition having better voting margins. The appearance of the President in the plenary after European Councils has been institutionalized for decades, although the appearance of the Secretary State for EU affairs *ex ante* European Councils seems to be more irregular. However, these debates are dominated by party politics, with little opposition from the majority parties to the Government, and are used for “*forging consensus among the main political parties on the government’s policy on the EU*” rather than controlling the Government (Kölling & Molina, 2015, p. 352). More studies must

be carried out with regards scrutiny activities in sectoral committees and the plenary.

The (3) deliberative role of the CG has been strengthened thanks to the increasing politization of EU affairs. However, there are no institutional and parliamentary initiatives with the objective of promoting EU affairs (as an annual EU debate), and the parliamentary websites have much room for improvement. The CG has also not taken advantage of possibilities like holding plenary debates on subsidiarity or non-legislative EU documents. More research needs to be carried out on the actual time dedicated to EU affairs and its communicative effect. The (4) expertise role has been one of the most unused parliamentary powers between the 9th and 14th legislatures, despite the CG's formal powers in that regard. 3 rapporteurships have been established in the 14th legislature, but it is yet to be seen if this practice will continue in the current and future legislatures. Finally, the CG have considerably intensified their (5) networking role, being one of the most active chambers in political dialogue with the Commission for three successive years, and increasing their participation on IPC networks. More quantitative research is needed with regards the latter, and the actual impact of such intensification.

Despite improvement, scholars agree that the increasing role of the CG has more to do to European integration (increase in policy areas, intensification of networking at the EU level, and so on) rather than a consequence of active steps by the Spanish Government or the Parliament (Basabe Lloréns & González Escudero, 2001, p. 219). As Kölling and Molina write, recent improvements are not the result of “*particular demands by Parliament, but mainly of progressive steps in the integration process*” (Kölling & Molina, 2015, p. 363). In the current legislature, there is a reactivation in opposition-led initiatives (PNLs, questions, etc.), but not so much from Government-dependent initiatives (appearances). It will be interesting to see if this dynamic consolidates throughout the legislatures or whether there will be a halt once a government has ampler majorities in Parliament.

Other Parliaments seem to have found some of the necessary tools to compensate their institutional weakness. Intensification of scrutiny activities, interparliamentary cooperation or direct dialogue with the Commission can be articulated to compensate for the lack

of formal powers (Neuhold & Strelkov, 2012, p. 11). In other words, the lack of ‘legislative’ powers as mandating does not preclude the Parliament of executing the equally important roles of scrutinising, deliberating, producing expertise and networking. Unlocking the full potential of the Cortes Generales will require not only further legal reforms but also a cultural shift towards more assertive and systematic use of existing powers, greater transparency, and a stronger commitment to public deliberation and expertise.

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