

SSM Accountability: Lessons Learned for the Monetary Dialogues

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Lessons Learned for the Monetary Dialogues

Abstract

This study evaluates the European Parliament's accountability instruments in the Single Supervisory Mechanism (SSM) in light of their comparability to existing arrangements in monetary policy. The analysis shows that the Inter-Institutional Agreement with the European Central Bank in banking supervision did not result in a significantly different accountability relationship than the one between the two institutions in monetary policy. The results are based on interviews with Members of the European Parliament and an examination of questions asked in public hearings with the Chair of the Supervisory Board.

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LIST OF ABBREVIATIONS

ALDE	Alliance of Liberals and Democrats for Europe
BRRD	Bank Recovery and Resolution Directive
CRD	Capital Requirements Directive
CRR	Capital Requirements Regulation
DGSD	Deposit Guarantee Scheme Directive
ECB	European Central Bank
ECON	Committee on Economic and Monetary Affairs
ECR	European Conservatives and Reformists
EFDD	Europe of Freedom and Direct Democracy Group
ENF	Europe of Nations and Freedom
EP	European Parliament
EPP	Group of the European People's Party
EU	European Union
Greens/EFA	The Greens/European Free Alliance
GUE/NGL	European United Left/Nordic Green Left
ID	Identity and Democracy Group
MEP	Member of the European Parliament
NCA	National Competent Authority
NPLs	Non-Performing Loans
S&D	Group of the Progressive Alliance of Socialists and Democrats
SSM	Single Supervisory Mechanism
TFEU	Treaty on the Functioning of the European Union

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EXECUTIVE SUMMARY

Background

In November 2014, the European Central Bank (ECB) became responsible for banking supervision in the euro area in the framework of the Single Supervisory Mechanism (SSM). As ECB powers expanded beyond monetary policy to banking supervision, new accountability mechanisms were established at the political, legal, and administrative levels. In terms of political accountability, the relationship with the European Parliament (EP) took centre stage, with regular interactions between the two institutions occurring in parallel with monetary policy arrangements.

Aim

This study examines the EP's accountability instruments in the SSM in view of their comparability to similar mechanisms available in monetary policy. The analysis has two dimensions. First, the study explores perceptions among Members of the European Parliament (MEPs) concerning the effectiveness of the current accountability framework in the SSM. The analysis is based on input provided by 7 MEPs during April-May 2022 in the form of interviews or questionnaires returned to the author. Second, the study compares the content of public hearings with the ECB's Chair of the Supervisory Board in the 8th and 9th parliamentary terms. The goal is to investigate the type of questions asked by MEPs in this format and their evolution over time (during 2014-2016 and 2019-2021 respectively). Finally, the study reflects on the similarities and differences between banking supervision and monetary policy, taking into consideration the potential negotiation of an Interinstitutional Agreement (IIA) between the EP and the ECB in monetary policy.

Key takeaways

- The IIA between the ECB and the EP in banking supervision has not created a radically different accountability relationship than the one between the two institutions in monetary policy.
- On average, MEPs find the in-camera meetings, the public hearings, and the supervisory minutes the most useful accountability instruments in the SSM. Members disagree on their relative importance depending on the value they place on the exercise of accountability in public or behind closed doors. Among the study's interviewees, MEPs who served in the EP before 2019 placed a greater emphasis on supervisory minutes than those in their first term.
- MEPs take seriously the secrecy requirements in the SSM but criticize the accessibility of confidential information via the EP's Reading Room. They also object to the availability of information on past decisions, such as putting a bank into resolution.
- In the Committee on Economic and Monetary Affairs (ECON), the format of public hearings is a continuous topic for improvement. However, the challenge of accommodating diversity – in terms of MEPs' political affiliation and national interests – makes it difficult to find a better format to ask follow-up questions.
- The attention MEPs devote to public hearings with the Chair of the Supervisory Board depends on the controversiality of banking supervision at a given moment in time. There were far more

questions and interest in the topic in the first half of the 8th parliamentary term (2014-2016) compared to the 9th (2019-2021). This suggests that MEPs are more engaged in 'fire-alarm' rather than 'police-patrol' oversight in banking supervision.

- MEPs consider the accountability instruments in monetary policy and banking supervision practically identical, but they acknowledge the substantive differences between the two policy fields. Most MEPs agree that the ECB has (and should have) far more independence in monetary policy than in banking supervision.

1. INTRODUCTION

The European Central Bank (ECB) is accountable to the European Parliament (EP) in two capacities: first, as the central bank responsible for monetary policy in the euro area, and second, as the chief banking supervisor for countries participating in the Single Supervisory Mechanism (SSM).¹ Mirroring the separation between monetary policy and banking supervision within the ECB, the EP has different accountability arrangements to oversee the ECB's monetary and supervisory functions. Since the SSM became operational in 2014 – 16 years after the establishment of the ECB – the accountability framework in banking supervision is newer and hence less studied than its counterpart in monetary policy.

The purpose of this study is to **examine the EP's accountability arrangements in the SSM in view of their comparability to similar instruments available in monetary policy**. Although conducted by the same institution, monetary policy and banking supervision are distinct tasks and require separate accountability mechanisms. If in monetary policy the ECB is independent to decide and implement its preferred policy instruments within the confines of the Treaty (especially Articles 119 and 123 TFEU), banking supervision requires the application of secondary law.² The SSM legal framework is based on the Basel Accords, which were translated into EU legislation through multiple instruments: the Capital Requirements Directive (CRD), the Capital Requirements Regulation (CRR), the Deposit Guarantee Scheme Directive (DGSD), and the Bank Recovery and Resolution Directive (BRRD) among others. This means that when it comes to banking supervision, the ECB is responsible for enforcing tangible legal rules which are subject to change by the co-legislators – the EP and the Council. In other words, banking supervision leaves the ECB more limited room for discretion than monetary policy.

This study provides a two-part analysis of SSM accountability. The first part (section 2) explores perceptions of MEPs on SSM accountability and their views on the usefulness of current instruments. The discussion is based on 5 interviews and 2 questionnaires submitted by MEPs for the purposes of this study during April-May 2022. The second part (section 3) focuses on public hearings with the Chair of the Supervisory Board, which are the equivalent of the Monetary Dialogues with the ECB President. The analysis compares hearings which took place in the 8th and 9th parliamentary terms in order to examine the evolution of questions asked by MEPs on the SSM (during 2014-2016 and 2019-2021 respectively). To provide context, the report starts with an overview of ECB accountability before the SSM (section 1.1) and a summary of existing accountability instruments in banking supervision (section 1.2). The final part (section 4) compares SSM accountability with similar arrangements in monetary policy and addresses the potential for 'lesson-learning' from one field to another.

1.1. ECB accountability before the SSM

The accountability of the ECB is typically discussed from the perspective of **the tension between the Bank's high level of independence and the scope for holding it accountable for its decisions**.³ The

¹ As of July 2022, all 19 euro area countries participate in the SSM, as well as Croatia (which will become a member in January 2023) and Bulgaria.

² Gijsbert ter Kuile, Laura Wissink and Willem Bovenschen, 'Tailor-Made Accountability within the Single Supervisory Mechanism' (2015) 52 *Common Market Law Review* 155, 167–8.

³ For a summary, see Mark Dawson, Adina Maricut-Akbik and Ana Bobić, 'Reconciling Independence and Accountability at the European Central Bank: The False Promise of Proceduralism' (2019) 25 *European Law Journal* 75.

independence of the ECB is constitutionally enshrined in the Treaties: Article 130 TFEU prohibits the ECB from seeking or taking “instructions from Union institutions, bodies, offices or agencies, from any government of a Member State or from any other body.” Moreover, Article 282(3) TFEU specifies that the ECB “shall be independent in the exercise of its powers and in the management of its finances” and that “Union institutions, bodies, offices and agencies and the governments of the Member States shall respect that independence.” In contrast to national central banks, whose mandate can be changed through parliamentary majorities, the ECB’s legal framework can only be altered through Treaty changes and hence the unanimous vote of all EU Member States. In official institutional discourse, the ECB does not see its independence as a hindrance to democratic accountability; conversely, the two are often presented as ‘two sides of the same coin’ – equally necessary to ensure the Bank’s legitimacy.⁴

Academic and political **views on ECB accountability depend on definitions of the concept** and expectations about an independent institution in a democratic system of governance. At a basic level, accountability requires public officials – whether elected or not – to justify their conduct in front of a higher authority.⁵ In a broader sense, accountability is about making amends for past errors and thus correcting inappropriate conduct or ill-conceived policies.⁶ The ability to hold public actors accountable is linked to legitimacy considerations, namely the extent to which government decisions are seen as acceptable because they can be justified through rules, evidence, or consent by the population.⁷ In this respect, the EU should be no different than any other polity that aspires to be democratic.

A commonly-used definition of accountability in this setting describes an institutionalized **relationship between two parties (an actor and a forum), where the actor has the obligation to provide information to the forum about its activities and justify its conduct, whereas the forum can pass judgement on the appropriateness of the actor’s decisions.**⁸ In this logic, the EP is the primary ‘forum’ responsible for holding the ECB (the actor) accountable in its monetary policy capacity. Effectively, there are 3 instruments to this accountability relationship: first, the ECB presents an annual report of activity before the EP, which triggers a parliamentary resolution in response; second, the ECB President participates in quarterly meetings in the Committee on Economic and Monetary Affairs (ECON), where MEPs can ask oral questions (the so-called Monetary Dialogues); and (3) MEPs can submit written questions to the ECB on different monetary policy topics.⁹ On paper, the ECB provides information to the EP about its activities through the annual report and justifies its conduct in the Monetary Dialogues as well as in response to written questions. The resolution on the annual report could technically constitute a form of ‘passing judgement’ on the ECB’s performance in the previous year, but this is limited by the confines of ECB independence as described above.

⁴ European Central Bank, ‘The Accountability of the ECB’ (ECB Monthly Bulletin 2002) <https://www.ecb.europa.eu/pub/pdf/other/pp45_57_mb200211en.pdf?26663bc0462f8f171df27a3fa3a78e32> accessed 11 January 2018.

⁵ Richard Mulgan, ‘“Accountability”: An Ever-Expanding Concept?’ (2000) 78 *Public Administration* 555.

⁶ Dawn Oliver, *Government in the United Kingdom: The Search for Accountability, Effectiveness, and Citizenship* (Open University Press 1991) 28.

⁷ David Beetham, *The Legitimation of Power* (Palgrave Macmillan 1991) 3.

⁸ Mark Bovens, ‘Analysing and Assessing Accountability: A Conceptual Framework’ (2007) 13 *European Law Journal* 447.

⁹ The legal basis for this relationship is Article 284(3) TFEU; furthermore, the frequency and details of the relationship are specified in the EP’s Rules of Procedure (Rules 135 and 140 for the 9th parliamentary term).

Among the accountability instruments listed, **the Monetary Dialogues receive the most attention – as the key platform for MEPs to engage with the ECB President** directly. In practice, however, the effectiveness of the Monetary Dialogues is disputed. Previous research pointed to the generic and sometimes superficial scope of the Monetary Dialogue, which was focused – especially in the early years – on debating economic and financial policies rather than contesting ECB performance.¹⁰ Other studies found that the ECB President often repeats to MEPs the information conveyed in the Bank’s regular press conferences, which receive more media attention than the Monetary Dialogues.¹¹ In addition, the format of Monetary Dialogues is widely criticized for preventing MEPs from asking follow-up questions and thus engaging in a genuine back-and-forth with the ECB President.¹² Nonetheless, it is acknowledged that the Monetary Dialogues have improved over the years: MEPs ask questions that are both more frequent and more relevant, while the ECB is generally responsive to their requests.¹³

It was against this background that the ECB received additional powers to supervise the banking system in the euro area through the establishment of the SSM. In fact, the SSM was one of the key institutional reforms adopted at the EU level in response to the euro crisis. Its rationale was twofold: 1) pre-crisis banking supervision at the national level in Member States was often seen as too lenient, and 2) a European system of banking supervision was portrayed as the necessary counterpart to the potential direct recapitalization of banks through the European Stability Mechanism (ESM),¹⁴ although the latter never materialized. In June 2012, Member States agreed in principle to delegate the microprudential supervision of banks in the euro area to the ECB. This political commitment was then translated into legislation through Council Regulation 1024/2013 (henceforth ‘the SSM Regulation’).

The SSM Regulation specifies the ECB’s supervisory objective, namely “**the safety and soundness of credit institutions and the stability of the financial system within the Union and each Member State**” (Article 1). It thus makes clear that the ECB is supposed to conduct prudential supervision as opposed to other functions such as consumer protection or the prosecution of financial crimes. Consistent supervision and financial integration are also cited among the main goals of the SSM. So far, the ECB has not provided measurable indicators for each objective, as it did in monetary policy with the inflation target. Nevertheless, the first Chair of the Supervisory Board, Danièle Nouy, often referred in speeches to the need to act as a ‘tough and fair’ bank supervisor.¹⁵

¹⁰ Fabian Amtenbrink and Kees van Duin, ‘The European Central Bank Before the European Parliament: Theory and Practice After Ten Years of Monetary Dialogue’ (2009) 34 *European Law Review* 561; Benjamin Braun, *Two Sides of the Same Coin? Independence and Accountability at the ECB* (Transparency International EU 2017) <https://transparency.eu/wp-content/uploads/2017/03/TI-EU_ECB_Report_DIGITAL.pdf> accessed 11 January 2018.

¹¹ Ansgar Belke, ‘Monetary Dialogue 2009–2014: Looking Backward, Looking Forward’ (2014) 49 *Intereconomics* 204; Grégory Claeys, Mark Hallerberg and Olga Tschekassin, ‘European Central Bank Accountability: How the Monetary Dialogue Could Be Improved’ (2014) 2014/04 *Bruegel Policy Contribution* <<http://bruegel.org/2014/03/european-central-bank-accountability-how-the-monetary-dialogue-could-be-improved/>> accessed 18 October 2017.

¹² Rosa M Lastra, *Accountability Mechanisms of the Bank of England and of the European Central Bank* Study requested by the ECON Committee, PE 652744 (European Parliament 2020); Karl Whelan, *Accountability at the Fed and the ECB* In-depth analysis requested by the ECON Committee, PE 652745 (European Parliament 2020); Grégory Claeys and Marta Domínguez-Jiménez, *How Can the European Parliament Better Oversee the European Central Bank?* In-depth analysis requested by the ECON Committee, PE 652747 (European Parliament 2020).

¹³ Stefan Collignon and Sebastian Diessner, ‘The ECB’s Monetary Dialogue with the European Parliament: Efficiency and Accountability during the Euro Crisis?’ (2016) 54 *Journal of Common Market Studies* 1296; Nicolò Fraccaroli, Alessandro Giovannini and Jean-François Jamet, ‘The Evolution of the ECB’s Accountability Practices during the Crisis’ [2018] *ECB Economic Bulletin* 47.

¹⁴ Euro Area Summit, ‘Euro Area Summit Statement 29 June 2012’ <<https://www.consilium.europa.eu/media/21400/20120629-euro-area-summit-statement-en.pdf>> accessed 5 July 2018.

¹⁵ Danièle Nouy, ‘The Banking Union, One Year On’ (*Speech at the Center for European Reform, London, 21 October 2015*) <<https://www.bankingsupervision.europa.eu/press/speeches/date/2015/html/se151021.en.html>> accessed 29 June 2018.

To balance the expansion of ECB powers in banking supervision, separate accountability obligations were put in place at the political, legal, and administrative levels, hence adding to the already existing accountability toolbox on the monetary policy side of the ECB. In terms of political accountability, the relationship with the EP became central – in a similar way to monetary policy arrangements. However, unlike in monetary policy, the ECB has additional political accountability obligations in banking supervision towards the Eurogroup and national parliaments (Articles 20-21, SSM Regulation). Interactions with the Eurogroup are confidential, while visits to national parliaments take place on an ad hoc basis, so it is difficult to assess their functioning in a systematic manner. In contrast, EP hearings with the Chair of the Supervisory Board and the exchange of documents between the two institutions are public and occur regularly. The main arrangements between the two institutions are discussed in the next section.

1.2. Background to SSM accountability – a victory for the EP?

The accountability obligations of ECB Banking Supervision towards the EP are detailed in a **first-time Interinstitutional Agreement (IIA) between the two institutions**, signed in 2013. Based on Article 20 of the SSM Regulation, the IIA specifies several instruments that aim to help the EP to hold the ECB accountable in banking supervision:

1. **The Annual Report:** Every year, the ECB publishes an annual report on the execution of supervisory tasks conferred by the SSM Regulation.
2. **Public Hearings:** The Chair of the Supervisory Board participates in ordinary and ad hoc public hearings at the ECON Committee (typically 3 times a year).
3. **In-camera meetings:** The Chair of the Supervisory Board participates in confidential ‘in-camera meetings’ that take place before public hearings at the ECON Committee.
4. **Letters:** The ECB responds in writing and within five weeks to written questions asked by Members of the European Parliament (MEPs) in relation to the SSM.
5. **Supervisory minutes:** The ECB transmits confidential, annotated Records of Proceedings of the Supervisory Board that summarize the substance of the discussions and decisions taken.¹⁶

The origins of the IIA are interesting and anchored in the context of the euro crisis. As explained by one MEP who was part of the ECON Committee at the time:

« As for the SSM [Regulation], this has to be connected with the proposal on the ESM. The EP was under shock when the proposal came on the table. On the ESM we played badly, we accepted stupid things, there was the time pressure and blah blah blah. And in the end, we had nothing in our hand. [...]

And when the SSM came, there were two battles. One was to find out how the Parliament would improve its accountability process for this new body. Also because MEPs were very eager to find out what was going to happen for their own banks and their country. So they were on the ‘fear’ side. They wanted to be part of the game as much

¹⁶ European Central Bank, ‘Interinstitutional Agreement between the European Parliament and the European Central Bank on the Practical Modalities of the Exercise of Democratic Accountability and Oversight over the Exercise of the Tasks Conferred on the ECB within the Framework of the Single Supervisory Mechanism (2013/694/EU)’ <https://www.ecb.europa.eu/ecb/legal/pdf/celex_32013q113001_en_txt.pdf> accessed 23 October 2018.

as possible. But the other thing was that it was only a consultation power. [...] so the clever move by the Parliament was to have a bridge [with Regulation 1022/2013 on the European Banking Authority (EBA)], so that there would be no agreement on the SSM if there was no agreement on the EBA. And so the Parliament could hold it all together.» (Interview #6, 12 May 2022).

In academic studies, **'arena-linking' is a well-known legislative strategy** which allows MEPs to use their formal veto powers (for instance, in co-decision) to gain influence in areas where the EP is only consulted.¹⁷ Moreover, the euro crisis added a sense of urgency to the negotiations on the SSM Regulation, which meant that MEPs could **use delaying as a successful tactic** to obtain an institutional change in their favour – in this case, in the form of an IIA with the ECB.¹⁸

On paper, the adoption of the IIA looked promising. In one of the first public hearings on the SSM, Danièle Nouy – the first Chair of the Supervisory Board of the ECB – commended the new accountability framework with the EP. She argued that 'this framework is perhaps one of the most far-reaching that is in place for an independent central bank that is responsible for supervision. I believe we have already lived up to the word and spirit of this framework.'¹⁹ Academic observers also praised the accountability framework in the SSM, seen as a marked improvement over similar arrangements in monetary policy.²⁰ Eight years later, to what extent do MEPs agree with this assessment? The next section reviews the perceptions of MEPs about SSM accountability.

2. IS THE CURRENT ACCOUNTABILITY FRAMEWORK IN THE SSM EFFECTIVE?

As part of a stakeholder approach to policy evaluation²¹, one way to understand the effectiveness of the SSM accountability framework is to ask the people who are directly involved in the process within the EP. The analysis below is based on 5 interviews and 2 questionnaires returned by MEPs who follow closely EU banking supervision and the Monetary Dialogues. The 7 MEPs come from 5 different political groups: the European People's Party (EPP); the Progressive Alliance of Socialists and Democrats in the European Parliament (S&D); the Greens/European Free Alliance (EFA); the European Conservatives and Reformists (ECR), and the Left Group in the European Parliament (GUE/NGL).²² While the number of interviews might be limited, this is also related to the technical nature of banking supervision. As explained by one interviewee:

¹⁷ Henry Farrell and Adrienne Héritier, 'Codecision and Institutional Change' (2007) 30 *West European Politics* 285.

¹⁸ Magnus G Schoeller and Adrienne Héritier, 'Driving Informal Institutional Change: The European Parliament and the Reform of the Economic and Monetary Union' (2019) 41 *Journal of European Integration* 277.

¹⁹ Danièle Nouy, 'Introductory Remarks by Danièle Nouy, Chair of the Supervisory Board of the ECB, Regular Hearing at the European Parliament's Economic and Monetary Affairs Committee, Brussels, 3 November 2014' (ECB Banking Supervision, 2014) <<https://www.bankingsupervision.europa.eu/press/speeches/date/2014/html/se141103.en.html>> accessed 4 June 2018.

²⁰ Braun (n 10) 47; Diane Fromage and Renato Ibrido, 'The "Banking Dialogue" as a Model to Improve Parliamentary Involvement in the Monetary Dialogue?' (2018) 40 *Journal of European Integration* 295, 306; ter Kuile, Wissink and Bovenschen (n 2) 155.

²¹ Egon G Guba and Yvonna S Lincoln, *Fourth Generation Evaluation* (Sage Publications, Inc 1989).

²² The author sent 36 invitations for interviews to MEPs who are ECON members or substitutes and are part of the Banking Union Working Group or have been active in hearings with the Chair of the Supervisory Board in the past. There were no positive responses from MEPs from Renew Europe or the Identity and Democracy Group. Among the MEPs who agreed to participate in the study, two members offered to answer the questions in writing due to availability constraints. The interviews took place during April and May 2022 and were conducted by the author via telephone or video call.

« I have to say that in ECON, [the] people following very closely banking affairs - it's not a very big number of members [...] I think it's mainly the coordinators and some specific members. So no, not more than that. So in an in-camera meeting with the SSM, you don't have more than six or seven members in the room. This, by the way, is normal because the amount of issues that we [in ECON] have to cover is huge. » (Interview #7, 16 May 2022).

Indeed, in the work of the ECON Committee, SSM accountability is one issue among many, including legislative files and meetings with other executive actors, such as the Economic Dialogues with the Commission, the Council, or the Eurogroup.²³ For individual MEPs, the choice to focus on the SSM thus depends on political priorities and specific developments in the banking sector at a given moment in time. The next section explores this dynamic in depth.

2.1. Perceptions of accountability in the SSM among MEPs

How do MEPs perceive the accountability of the ECB in banking supervision? One member raised the issue in general terms:

« The way I see the current role of the ECB: it's not accountable to the EP, but to the people. And since we are directly elected, there is a strong incentive for the ECB to be accountable via us. In practice, it [accountability] is not as strong as we would want. » (Interview #5, 12 May 2022).

This is a typical understanding of accountability in a parliamentary system of government: the citizens elect their representatives, who hold executive actors to account. In addition, some MEPs distinguish between their ability to engage in *ex ante* and *ex post* scrutiny of the ECB:

« We do well on democratic accountability *ex ante*: the ECB provides information on what it does, if there are changes... But on *ex post* scrutiny, this is where I worry: there have been no major f*cks-ups that I know of, but if there were, we should be able to study what has happened in the past. » (Interview #4, 6 May 2022).

The point here is that the EP lacks the competence of national parliaments to organize public inquiries to find out what went wrong in specific cases. In this line of argument, there is “a difference between an incident and an accident” in banking supervision, and the EP requires a broader mandate to investigate both (Interview #4, 6 May 2022). The point is not shared by all MEPs, who feel that there is room for improvement on the *ex ante* dimension as well: “we would need more instruments to access more information on how they take their decisions” (Interview #7, 16 May 2022).

Another crucial aspect concerns the visibility of the SSM, which in turn is correlated with the attention MEPs devote to the topic:

« The SSM is not getting sufficient attention because it's on the control side of the mandate. It's not rewarding for MEPs [compared to legislation]. Only if there's a scandal – concrete cases – then you can have a look and squeeze the ECB for answers. When things go fine, people don't care [about the SSM]. » (Interview #6, 12 May 2022).

« A politician always follows where public attention is. [This] is normal. So if there's a big scandal with a bank that all the newspapers are talking about, then members immediately jump in. This is our job as well. » (Interview #7, 16 May 2022).

Since MEPs have to prioritize how they spend their time, the SSM attracts attention when there is media pressure on a topic. This is not unusual for elected representatives, who must fulfil multiple functions

²³ Adina Akbik, *The European Parliament as an Accountability Forum: Overseeing the Economic and Monetary Union* (Cambridge University Press 2022).

simultaneously: the articulation of societal interests, producing legislation, and controlling the executive.²⁴ In the universe of parliamentary assemblies, the EP is typically seen as a law-making body – focused on the legislative process.²⁵ Consequently, MEPs are bound to devote less time to parliamentary oversight compared to legislative files. This does not mean that they do not value the importance of oversight, as described below.

2.2. The usefulness of different accountability instruments

Among the MEPs interviewed, there is consensus that the ECB annual report on supervisory activities and the letters with questions are the least important accountability instruments at their disposal. There is, however, disagreement about the most useful instrument:

« I find the in-camera meetings the most useful because they allow the ECB to discuss delicate issues that are avoided in public hearings. Not that you get all the answers, but you get some. The public hearings are less fruitful, they are more of a politeness exercise. The replies remain general, not improving the EP's understanding of specific issues. » (Interview #1, 19 April 2022).

« Of course, the supervisory minutes are the most important. As long as the MEPs are able to do the work, this is the most important. And the follow-up would be the in-camera meetings because this is where you can use these supervisory minutes. » (Interview #6, 12 May 2022).

« Public hearings may be the most effective instrument due to the possibility of raising public awareness on ECB's decisions. Letters are unfortunately less effective – since the answers are usually elusive or not very clear. » (Questionnaire #3, 27 April 2022).

« Public hearings are the best [...] They are an instrument of *public* accountability: one doesn't want to fail, they have to explain things publicly. The ECB realizes that it needs public and political support, so it is in their interest to cooperate with the EP and make a good figure. » (Interview #4, 6 May 2022)

The four quotes illustrate variation in what MEPs value about the accountability of the ECB, namely whether the ECB provides concrete answers on policy substance or whether the ECB provides answers in public, even if these might be more ambiguous. One could argue that the 3 instruments – **the supervisory minutes, the in-camera meetings, and the public hearings** – are complementary; they each serve their own purpose. The supervisory minutes have the highest accessibility threshold, as it difficult to (1) read them in the first place, and (2) understand them without an expert background in the field. As another MEP explains:

« The potential to have access to the minutes of the SSM Board is useful, however the minutes are often only transmitted with considerable delay and access conditions (via the Secure Reading Room) are difficult. Furthermore, the content of the information transferred is often highly technical and not easy to digest. » (Questionnaire #2, 26 April 2022).

By contrast, other MEPs find the supervisory minutes the most crucial piece of information provided by the ECB. However, even they acknowledge that the time investment required to understand them is significant:

²⁴ Klaus von Beyme, 'Functions of Parliaments' in Klaus von Beyme (ed), *Parliamentary Democracy: Democratization, Destabilization, Reconsolidation, 1789–1999* (Palgrave Macmillan UK 2000).

²⁵ Akbik (n 23) 5.

« The information is there if you're willing to put in the work. Take 2-3 hours, go to the Silent Room and read the supervisory minutes. I was impressed by the people guiding you in the Silent Room. They knew exactly what we were looking for. » (Interview #6, 12 May 2022).

There is, however, a trade-off between the time required to access and understand the supervisory minutes and the benefits of raising the issues with the ECB. One MEP explained the problem:

« Well, in general, I don't like the system of the Reading Room [...] I always found that it's like putting parliamentarians into a kind of control of the information they access. I think that our duty is to make the institutions accountable, having all the information we need. The reading rooms are extremely complicated. You cannot do copies, you cannot do pictures. You only can take notes, and also take into account that we are dealing with extremely complex matters. And a lot of the times we need the assistance of our technical teams to evaluate, well, why a decision has been taken or what does it concretely mean. » (Interview #7, 16 May 2022).

Ultimately, the use of this instruments depends on the interest of MEPs and the extent to which these items are popular in their constituency:

« Well, I think the instruments are there. For me, there might be one or two things that you could change, but major instruments are there and after that, the efficiency of things [depends on] the knowledge and investment of MEPs. And what I've seen is when an MEP gets a mandate from home or information from home, then they become really curious about what's happening. They go with the minutes and it helps them to engage in a more thrilling debate with the SSM. » (Interview #6, 12 May 2022).

However, even when MEPs invest the time in following SSM decisions more closely, there are objective obstacles to parliamentary scrutiny. These are outlined in the next section.

2.3. The obstacle of confidentiality

In terms of policy substance, one of the most contentious accountability issues in banking supervision concerns the transparency of supervisory decisions and bank-level information. Here there is a large gap between American and European practices regarding the disclosure of financial supervisory data, with the latter traditionally more inclined towards confidentiality.²⁶ The reasons for secrecy concern legalities, trust between the supervisor and the supervisee, and financial stability at large. Legally, EU bank supervisors are not allowed to disclose information that would endanger the competitive position of a credit institution on the market.²⁷ In relation to trust, banks are more likely to share sensitive information with the supervisor if they are confident that this will be treated confidentially. From the perspective of financial stability, liquidity problems at a bank can trigger bank runs and panic in the population.²⁸ Conversely, the arguments for transparency are more general: transparency is a precondition for accountability which increases the legitimacy of the supervisors by allowing accountability forums to judge whether the supervisor is acting in the public interest. Moreover, transparency reduces the scope for arbitrary decisions and creates stable expectations that incentivise

²⁶ Christopher Gandrud and Mark Hallerberg, 'Explaining Variation and Change in Supervisory Confidentiality in the European Union' (2018) 41 *West European Politics* 1025, 1029.

²⁷ Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse).

²⁸ Ignazio Angeloni, 'Transparency and Banking Supervision' (Remarks by Ignazio Angeloni, Member of the Supervisory Board of the European Central Bank at the ICMA Capital Market Lecture Series, Frankfurt am Main, 27 January, 2015) <<https://www.bankingsupervision.europa.eu/press/speeches/date/2015/html/se150127.en.html>> accessed 19 October 2018.

banks to adhere to regulations.²⁹ In the IIA with the ECB, the EP consented to balance accountability obligations with secrecy requirements (Article 5).

Against this background, some MEPs consider that they have “sufficient information” to form a “solid opinion” about what the ECB does in the field (Interview #1, 19 April 2022). Several MEPs argued that they do not consider confidentiality a problem because “the issues covered by the ECB have market sensitivity. I understand why this is the case, you don’t want to cause markets to react.” (Interview #5, 12 May 2022). Another MEP supports the point: “That’s a self-fulfilling prophecy, the problems get enlarged by discussing them. To discuss the file of a bank in the ECON Committee would be like a ‘red bull’, the bank would close immediately.” (Interview #1, 19 April 2022). Others disagree with the assessment:

« This [confidentiality] is indeed a problem, as this means that we often do not get the answers that we need. I understand that the SSM is reluctant to discuss specific cases, particularly in a public setting, but it does limit the effectiveness of the scrutiny. » (Questionnaire #2, 26 April 2022).

« It is certainly a problem. It undermines the IIA and, more importantly, it undermines the public credibility of the central bank. » (Questionnaire #3, 27 April 2022).

Previous research on the 8th parliamentary term has shown that MEPs ask frequent questions about specific banks in both hearings and letters sent to the ECB.³⁰ Banks that attract the most attention are usually those that performed poorly in stress tests and had a high level of non-performing loans (NPLs), such as the Italian banks Montedei Paschi di Siena, Banca Popolare di Vicenza, and Veneto Banca. Other examples include banks that were formally declared failing or likely to fail (e.g. the Spanish Banco Popular) or alternatively were considered to receive preferential treatment in stress tests (e.g. the German Deutsche Bank). MEPs also ask many questions about the resolution of less significant institutions (e.g. the Portuguese bank Banif) or the recapitalization of state-owned significant banks with the approval of the Commission (e.g. the Portuguese bank Caixa Geral de Depósitos). Unsurprisingly, these are also the banks that are most often mentioned in press reports regarding the performance of the SSM.

However, given the professional secrecy requirements laid down in the Interinstitutional Agreement between the EP and the ECB and in the CRD IV, the ECB “cannot comment on the interactions with individual supervised institutions or on the supervisory measures taken with regard to them.”³¹ There is thus a tension between the issues prioritized by MEPs and the likelihood that they will receive the information they publicly seek. In the interviews conducted, an MEP commented on the situation:

« The level of confidentiality kept for months and months after the Spanish Banco Popular was put into resolution – that was not normal. They still refuse to disclose some of the information. On the evaluations and then all the exercises they did. [...] Again, this is ex post control, it's not ex ante. They do their job, they do the supervision, they do the resolution, they take their decisions. But then somebody needs to control if they got it right or wrong. And

²⁹ Franka Liedorp and others, ‘Transparency of Banking Supervisors’ (2013) 61 *IMF Economic Review* 310, 311.

³⁰ These findings are based on Adina Maricut-Akbik, ‘Holding the Supervisor to Account: The European Parliament and the European Central Bank in Banking Supervision’ (2018) Policy Paper 19 November 2018, Jacques Delors Institute Berlin/Bertelsmann Stiftung <https://www.bertelsmann-stiftung.de/fileadmin/files/BSSt/Publikationen/GrauePublikationen/EZ_JDL_Policy_Paper_Banking_Supervision_2018_ENG.pdf> accessed 19 November 2018.

³¹ Danièle Nouy, ‘Letter from Danièle Nouy, Chair of the Supervisory Board, to Mr José Manuel Fernandes, MEP, with Respect to a Credit Institution under ECB Supervision’ (*ECB Banking Supervision*, 22 November 2016) <https://www.bankingsupervision.europa.eu/ecb/pub/pdf/161122letter_fernandes.en.pdf> accessed 29 August 2018.

this is our job. I mean, nobody is asking them that the Parliament controls the decisions ex ante or participate in the decisions of why a bank has been put in the resolution.” (Interview #7, 16 May 2022).

The other element where MEPs see a possible improvement of accountability in the SSM concerns the format of public hearings, as shown below.

2.4. The format of hearings

In the EP, each committee has its own practices for organizing hearings or dialogues with other EU institutions. As regards the SSM, ECON hearings usually last between 90 and 120 minutes and follow a specific structure, starting with 1) welcome announcements by the Committee Chair, followed by 2) an introductory statement by the Chair of the Supervisory Board, and then moving to 3) questions and answers from MEPs. Each MEP has five minutes to address questions and receive answers, so it is straightforward to observe how the Chair of the Supervisory Board responds to questions. In accordance with the EP's Internal Rules of Procedure, speaking time is first allocated equally to political groups based on their size and then proportionally to their number of members (Rule 171 for the 9th parliamentary term). If there is extra time, the ECON Chair will allow MEPs to ask questions according to the catch-the-eye principle.

Within public hearings, **MEPs generally expect different levels of engagement from the Chair of the Supervisory Board, depending on the incumbent.** One MEP explained that the “dialogue can be a complete waste of time because you can have a Chair that doesn't want to share any information. So it just comes there to fulfil their duties” (Interview #7, 16 May 2022). The same MEP agreed that this is not the case for Mr Andrea Enria, the current Chair of the Supervisory Board, who “really tries to answer our questions. [...] I would say he has a great understanding of the needs of the Parliament” (Interview #7, 16 May 2022).

On average, ECON has a more efficient system of asking questions than other EP committees, where multiple speakers take the floor and receive an aggregated (and often generic) response. However, the duration of public hearings is short, so MEPs cannot really ask follow-up questions. Several interviewees complained about this limitation:

« I would support a reorganization [of hearings] because I think we need to be able to ask follow-up questions. They [the ECB] get away with no answers. We are experimenting with that and hope to improve [in the next years]. » (Interview #4, 6 May 2022).

« My specific setting would be to have only 1-2 people asking questions from each group. Then groups can work by rotation, only one person per group. And they are allowed to ask 3 questions (2 follow-ups). I think this would create a much better discussion, a deep dive about policy. It would also be better to understand different perspectives from the groups. For instance, groups get to ask questions from the largest to the smallest group. This means that the EPP asks the same questions I prepared, so I have to have at least 5 questions. » (Interview #5, 12 May 2022).

Concerning the possibility to coordinate across groups and thus ensure more efficient questioning of the ECB, the respondents disagreed – explaining that politics is about ‘competition between political groups’, so coordination is not desirable (Interview #5, 12 May 2022). Moreover, MEPs also reject the option of institutionalizing a system where only one speaker per political group takes the floor in each hearing:

« I think one question per group is difficult. ECON is a committee with lots of members. You need to give room to the different members to participate. So if you limit that to one speaker, then you will have a situation where some regular members have difficulties to speak in the committee. So limiting the number of slots, maybe yes. But [...] if we are reduced [to only one member], then it means that I have to rotate with my other colleagues who follow banking, [...] it means that maybe I can only get to ask Mr. Enria one question every year or two questions a year.» (Interview #7, 16 May 2022).

In other words, MEPs are aware of the problems with the format of hearings, and they are considering possible reforms in the future. However, the challenge of accommodating the EP's diversity – in terms of both political groups and nationality – is unlikely to disappear in the future.

To understand better the dynamics of public hearings over time, the next section zooms in on the content of questions asked orally to the ECB's Chairs of the Supervisory Board.

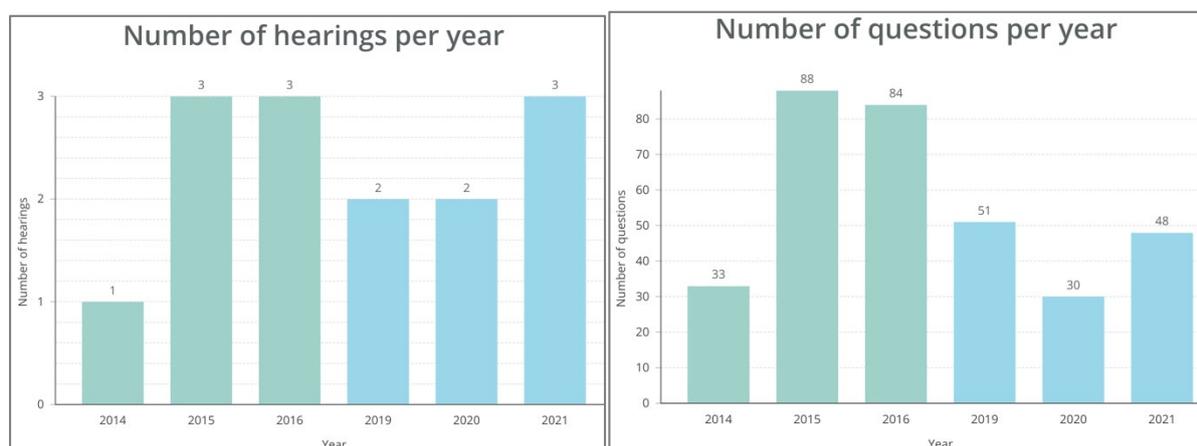
3. CASE STUDY: COMPARING PUBLIC HEARINGS WITH THE CHAIR OF THE SUPERVISORY BOARD IN THE 8TH AND 9TH PARLIAMENTARY TERMS

For the purposes of comparability, the analysis below examines the first half of the 8th parliamentary term (2014-2016) with the corresponding period of the 9th parliamentary term (2019-2021).³² During this time, the ECON Committee organized 7 public hearings with Danièle Nouy and 7 public hearings with Andrea Enria, who served as the first and second Chairs of the ECB's Supervisory Board respectively. Figure 1 (left panel) shows that the distribution of hearings in the two periods follows a similar pattern, albeit the ECON Committee held more hearings in the first year of its tenure in the 9th as opposed to the 8th parliamentary term. By contrast, the start of the Covid-19 pandemic led to the cancellation of the hearing on the annual report in March 2020. Despite the equal number of hearings held during the periods under investigation, we can observe a significant difference between the number of individual questions³³ asked during the two terms. Figure 1 (right panel) illustrates the contrast: in the period 2014-2016, MEPs asked 205 individual questions; in the period 2019-2021, they only asked 129 questions – although they had the same number of hearings to interact with the Chair of the Supervisory Board. The difference is likely the consequence of Covid-19, which changed not only the format of EP committee hearings (from in-person to online meetings), but also the topics of debate. As the pandemic dominated the attention of MEPs in 2020-2021, banking supervision attracted less attention than in the aftermath of the euro crisis (2014-2016).

³² At the time of writing (June 2022), the transcript of the public hearing from March 2022 was not yet available on the EP's website. As a result, the analysis is limited to 2019-2021.

³³ Individual questions address a specific subject in banking supervision. When taking the floor in a public hearing, an MEP can ask between 2 and 4 individual questions, depending on their length.

Figure 1: ECON interactions with the Chair of the Supervisory Board in the first half of the 8th (2014-2016) and 9th parliamentary terms (2019-2021), including public hearings (left panel) and number of oral questions addressed within each hearing (right panel).



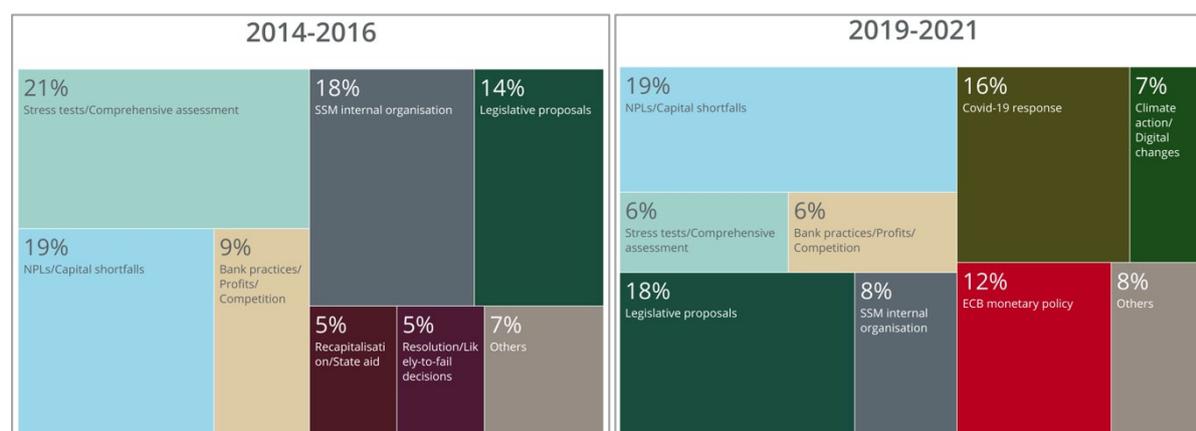
The following pages provide a discussion of the subject of questions (section 3.1), the type of questions asked (section 3.2), and the profile of MEPs posing them (section 3.3).

3.1. Subject of questions

To begin with, there are changes to the topic of questions raised in public hearings with the Chair of the Supervisory Board. Figure 2 reveals the emphasis placed on stress tests and the comprehensive assessment in the 8th parliamentary term (present in 21% of all topics) as opposed to the 9th parliamentary term (when stress tests were mentioned in just 6% of all questions). The difference is related to the evolution of the SSM: 2014 was the year of the first comprehensive assessment, a wide-ranging health check of 130 significant banks that were going to be supervised by the ECB directly. Since then, the ECB conducted comprehensive assessments on a handful of banks³⁴, while stress tests continued to be organized regularly. Simultaneously, there is a change in the attention given to the internal organization of the SSM during 2014-2016 (present in 18% of all questions) in contrast with 2019-2021 (8% of topics). Again, the timing of the SSM is relevant: the SSM Regulation was adopted in 2013 and the ECB formally took over banking supervision in the euro area in November 2014. It is thus unsurprising that MEPs asked questions about the institutional structure of the SSM: the separation from monetary policy decisions, the division of tasks between the ECB and national competent authorities (NCAs), the reporting requirements imposed on significant and less significant banks, etc. Once the internal organization of the SSM became settled, the topic received less attention from MEPs in public hearings with the Chair of the Supervisory Board.

³⁴ European Central Bank, 'Comprehensive Assessments' (European Central Bank - Banking supervision, 18 November 2021) <https://www.bankingsupervision.europa.eu/banking/tasks/comprehensive_assessment/html/index.en.html> accessed 21 June 2022.

Figure 2: Policy topics raised in public hearings with the Chair of the Supervisory Board during 2014-2016 (left panel, total questions=205) and 2019-2021 (right panel, total questions=129).



Other topics that are clearly distinct during 2019-2021 concern the fallout and response to Covid-19 (present in 16% of all questions) as well as the environmental agenda (7% of questions), which are strictly related to the circumstances and political priorities of the 9th parliamentary term (Figure 2, right panel). In addition, the 9th parliamentary term includes multiple questions about ECB monetary policy, which formally falls outside the scope of the Chair of the Supervisory Board. However, many MEPs were interested in the consequences of the low interest rate environment on banks as well as in the 2020 decision of the German Federal Constitutional Court on the legality of the Public Sector Purchase Program (12% of all questions). By contrast, the 8th parliamentary term included questions about banks that required recapitalization or state aid (5% of all topics) as well as banks that were put into resolution or declared failing or likely to fail (5% of questions).

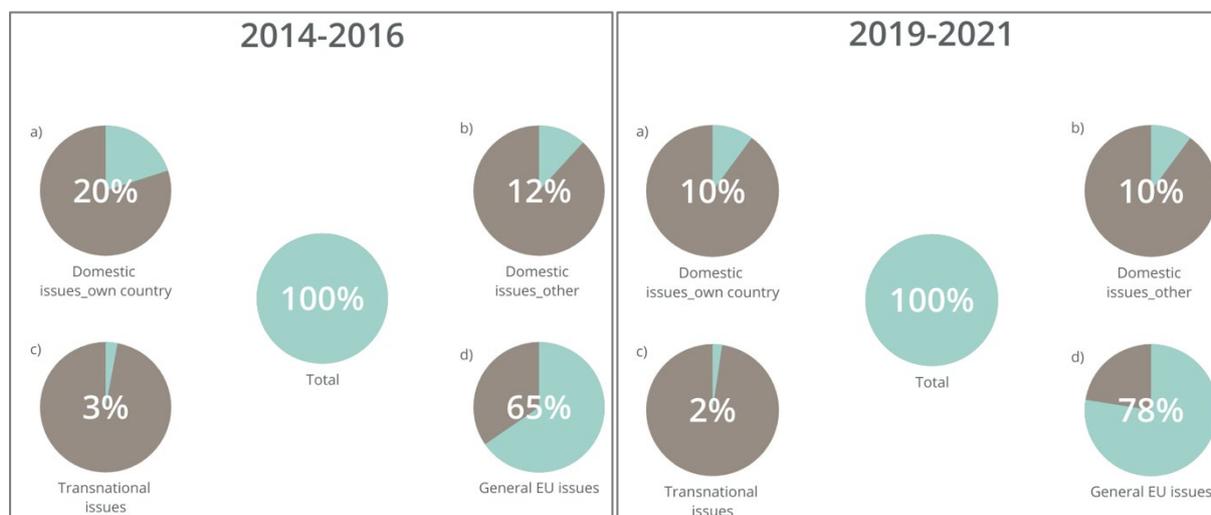
Furthermore, there were also topics that remained constant across the two periods (Figure 2). One such item concerns NPLs and general questions about capital shortfalls in supervised banks (19% of all questions during both terms). Since the reduction of NPLs is one of the central reasons why the SSM was established, it is natural that MEPs would ask the ECB about their evolution. Another topic that attracted continuous attention from MEPs referred to ongoing developments in the banking sector, e.g. the emergence of FinTech, bank practices, profits and competition, etc. Such questions were present in 9% of the questions during 2014-2016 and in 6% of the questions during 2019-2021. Moreover, MEPs have a similarly high interest in legislative proposals relating to the completion of the Banking Union and the Capital Markets Union (14% of all topics in the 8th parliamentary term, and 18% in the 9th parliamentary term). These are questions where MEPs ask for the ECB's expert opinion or what can be done to push certain dossiers forward, such as the European Deposit Insurance Scheme.

Furthermore, previous research on the topic of parliamentary questions in the SSM showed that MEPs were very interested – during 2014-2019 – in supervisory decisions concerning specific banks, which are subject to confidentiality provisions³⁵. Figure 3 puts the analysis into perspective by illustrating the 'constituency focus' of the questions under investigation. In this context, the constituency focus denotes the geographical emphasis of MEPs, namely whether they ask a question about their a) own country, b) another country, c) several Member States, or d) the EU as a whole. Questions of type a, b,

³⁵ Maricut-Akbik (n 30); Adina Maricut-Akbik, 'Contesting the European Central Bank in Banking Supervision: Accountability in Practice at the European Parliament' (2020) 58 *Journal of Common Market Studies* 1199.

and c are typically about specific banks and, to a lesser extent, about policy developments at the national level. Questions of type d refer to the ECB's supervisory approach, the institutional organization of the SSM, developments across the EU, or ongoing legislative and policy proposals.

Figure 3: Constituency focus of questions asked by MEPs in hearings with the Chair of the Supervisory Board during 2014-2016 (left panel, total questions=205) and 2019-2021 (right panel, total questions=129).



A striking difference between the two periods is that MEPs asked fewer general EU questions during 2014-2016 (65% of all topics), as opposed to 2019-2021 (78% of all topics). This can be explained by the all-encompassing effect of Covid-19, which impacted all Member States – as opposed to the euro crisis which affected some countries far more than others (see also Figure 2, right panel). Moreover, the inclusion of environmental concerns in the ECB's supervisory approach is related to the broader context of the EU's Green Deal in the 9th parliamentary term. By contrast, MEPs in the 8th parliamentary brought up their own Member State in 20% of the questions, making specific inquiries about banks at the national level who performed poorly in stress tests or experienced capital shortfalls and were in danger of resolution (see section 2.3).

More generally, the reduced interest in national issues can be linked to the lack of salience of banking supervision during the second period. As one MEP put it, **banking supervision used to be a “much hotter potato” [in the aftermath of the euro crisis] and this was not the case anymore during 2019-2021** (Interview #6, 12 May 2022). Indeed:

« ... five years ago, the banking sector in Europe was more, much more in trouble. After the financial crisis and the massive bailouts in Spain, for instance, where the banking sector was bailed out in 2011 or 2012 and all those follow-ups, and Banco Popular being put in resolution and all these issues, I think that created more political attention. Now, there is less political attention because the financial system is more stable, but I'm pretty sure that the next three years are going to be different because with the economic crisis, the banks will suffer again and we will have financial distress probably in the coming months. These issues will come up again. So yeah, maybe Mr. Enria is not having a really tough time lately. But we will get there, unfortunately. » (Interview #7, 16 May 2022).

The importance of crises in generating political attention is well documented in the literature on parliamentary oversight. In this respect, political scientists distinguish between **oversight mechanisms which are (1) permanent and centralized (known as ‘police patrols’) or (2) ad hoc**

and decentralized, activated in case of necessity in response to complaints (**known as ‘fire alarms’**).³⁶ Following this logic, banking supervision is a field where MEPs are more likely to engage in fire-alarm rather than police-patrol oversight because the absence of scandals influences the types of questions posed to the ECB, as discussed below.

3.2. Types of questions

There are different ways to categorize the type of questions addressed to the ECB in banking supervision (Figure 4). Based on earlier work³⁷, questions are organised along two dimensions. First, questions are classified as ‘initial’ or ‘follow-ups’ depending on whether an MEP raises an issue for the first time in a hearing or continues an earlier line of inquiry, even when pursued by another MEP (initial vs follow-up questions). Second, questions are categorized based on their content and the type of requests made by MEPs concerning the SSM. Accordingly, requests of type 1 refer to ongoing legislative proposals and ask the Chair of the Supervisory Board to share their policy views on the topic. In the logic of parliamentary accountability, they are considered a weak oversight question because they do not challenge the activities of the ECB in any way. Next, there are requests for information (type 2) that allow MEPs to find out how the ECB has acted as a bank supervisor in terms of its general approach or more specific decisions. Requests for the justification of conduct (type 3) are seen as stronger oversight questions, asking the ECB why it chose a particular course of action or what the rationale was behind a decision. Finally, requests for change (type 4) presuppose a clear statement from MEPs about the correct course of action in a given case and demand the ECB to act accordingly.

Figure 4: Types of questions asked by MEPs in hearings with the Chair of the Supervisory Board during 2014-2016 (left panel, total questions=205) and 2019-2021 (right panel, total questions=129).

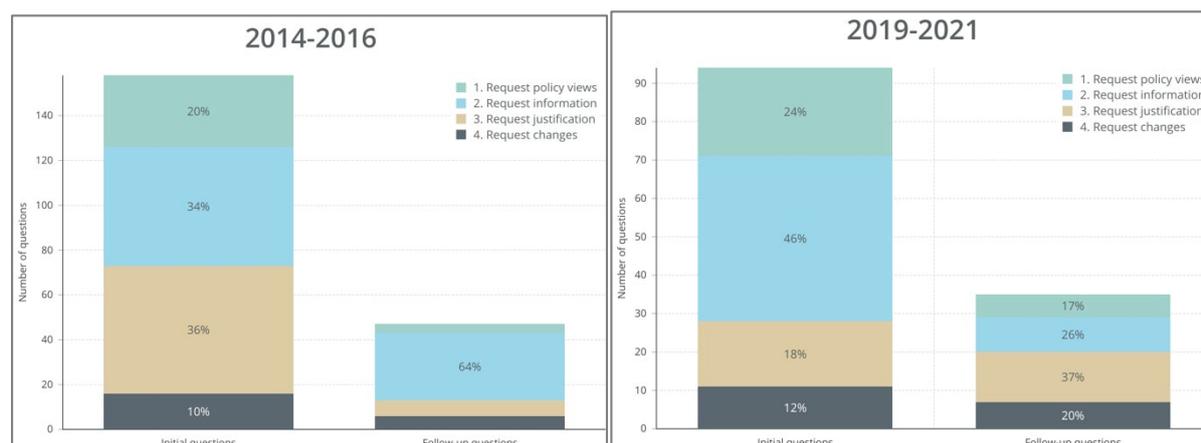


Figure 4 shows the **discrepancy between initial and follow-up questions in both parliamentary terms**. Given the format of public hearings in the ECON Committee, where each MEPs has 5 minutes to ask a question and receive an answer, there is little scope for follow-up questions by default. For this reason, follow-up questions are counted regardless of the speaker, allowing us to observe whether

³⁶ Mathew D McCubbins and Thomas Schwartz, ‘Congressional Oversight Overlooked: Police Patrols versus Fire Alarms’ (1984) 28 *American Journal of Political Science* 165.

³⁷ Adina Maricut-Akbik, ‘Q&A in Legislative Oversight: A Framework for Analysis’ (2021) 60 *European Journal of Political Research* 539; Akbik (n 23) ch 3.

certain topics are salient across political groups. In relative terms, there are slightly more follow-up questions in the second period: 27% during 2019-2021 vs 23% during 2014-2016. That is also because many MEPs asked about the ECB response to Covid-19, which was considered the same topic. Moreover, in the 8th parliamentary term, most follow-up questions concerned requests for information (64%), while the 9th parliamentary term saw a variety of follow-up questions, including requests for justification (37%), information (26%), policy change (20%) and policy views (17%).

While MEPs are aware they cannot provide ‘instructions’ to the ECB directly and thus request policy change, they seek to do so indirectly – as explained by one member:

« What we look for – if I take my perspective as an MEP – are public commitments because those are public sessions. So you're not really looking for information. Well, sometimes you ask about information that can be given to you, of course. But what you can, what you try to do is [obtain] public commitments or maybe explain why they take a decision in public. [...] And when this is done in public, then there is a commitment done in public. Then you know that the likelihood that this is going to happen is bigger. » (Interview #7, 16 May 2022)

In respect to initial questions – which make the bulk of data in both periods – we can observe a reduction in the number of requests of justification and change from 2014-2016 (when such requests for justification of conduct were at 36%) to 2019-2021 (when the percentage is just 18%). Indeed, **most initial questions asked by MEPs during the 9th parliamentary term concerned requests for information** (46%). The development is consistent with the notion of ‘police-patrol oversight’: when there is a relatively ‘peaceful’ period in banking supervision, with fewer controversies concerning supervisory decisions on specific banks, MEPs ask weaker oversight questions – namely requests for policy views and information. By contrast, and in absolute terms, MEP asked stronger oversight questions in the 8th parliamentary term, which saw a high interest in specific banks from different Member States (see also Figure 3).

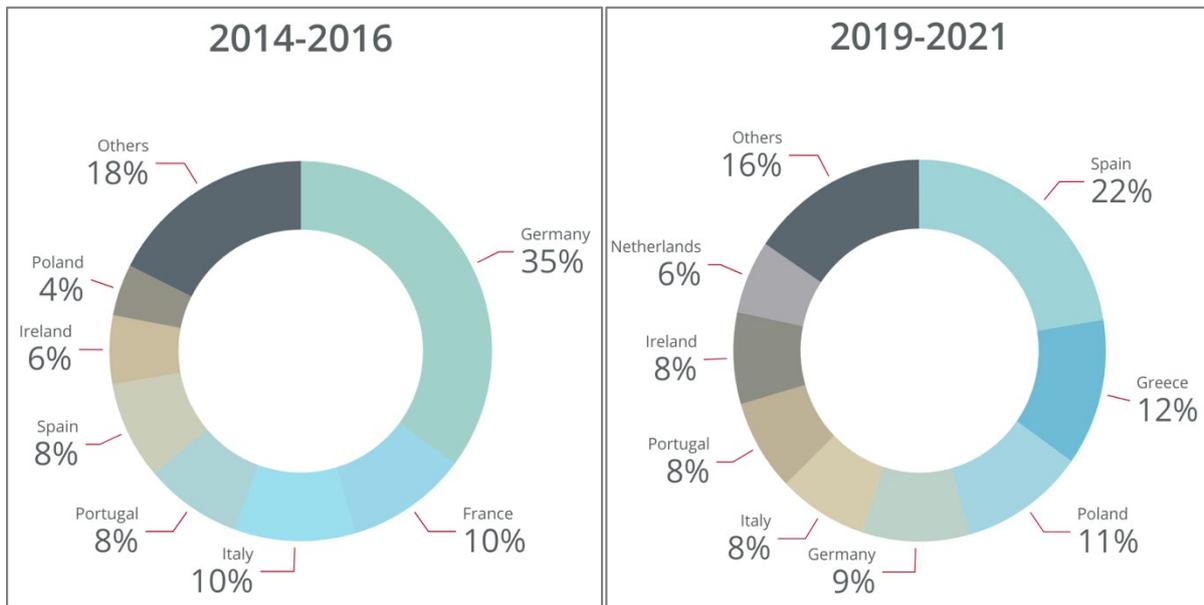
Having established the topic and types of questions raised in banking supervision, it is interesting to examine whether there are differences between MEPs depending on their profile, as illustrated in the next section.

3.3. The profile of MEPs who ask questions

Who are the MEPs who address questions to the Chair of the Supervisory Board in public hearings? This section considers two elements central to the profile of any MEP: 1) their nationality, which captures the constituency where they were elected, and 2) their political group affiliation, which illustrates their ideological orientations. Figure 5 shows the most frequent countries of origin of MEPs who ask questions on the SSM. In the 8th parliamentary term, we can see that the larger Member States dominated public hearings, as most questions were posed by MEPs from Germany (35%), France (10%), and Italy (10%). By contrast, the 9th parliamentary term is more diverse and shows questions being posed by MEPs from Spain (22%), Greece (12%), Poland (11%), and Germany (9%). One explanation for the change has to do with the nationality of ECON coordinators, who take the floor regularly during hearings with the ECB. In the 9th parliamentary term, 3 of the 7 ECON coordinators are Spanish (Jonás Fernández, Luis Garicano, and Ernest Urtasun) and often ask questions in public hearings. By contrast, several German MEPs who used to be active in banking supervision in the aftermath of the euro crisis have moved in the meantime to other jobs at the national level (Burkhard Balz, Sven Giegold, Fabio de Masi). In a similar vein, French MEP Pervenche Berès – who used to be a constant presence in hearings

with the Chair of the Supervisory Board – did not run for the 2019 EP elections. As for the 9th parliamentary term, Greek MEPs Georgios Kyrtzos and Dimitrios Papadimoulis are often active in SSM hearings.

Figure 5: The nationality of MEPs in hearings with the Chair of the Supervisory Board during 2014-2016 (left panel, total questions=205) and 2019-2021 (right panel, total questions=129). The percentages illustrate the number of questions asked by MEPs, not the number of speakers during a hearing.



As for political groups, Figure 6 shows a general – albeit imperfect – correspondence between the size of political groups in the EP and the number of questions they pose to the ECB. Accordingly, MEPs from the largest political groups ask the most questions in both parliamentary terms: the S&D (29%) and the EPP (24%) during 2014-2016, compared to the EPP (26%) and the S&D (24%) during 2019-2021.

Figure 6: The political group affiliation of MEPs taking the floor in hearings with the Chair of the Supervisory Board during 2014-2016 (left panel, total questions=205) and 2019-2021 (right panel, total questions=129). The percentages illustrate the number of questions asked by MEPs, not the number of speakers during a hearing.

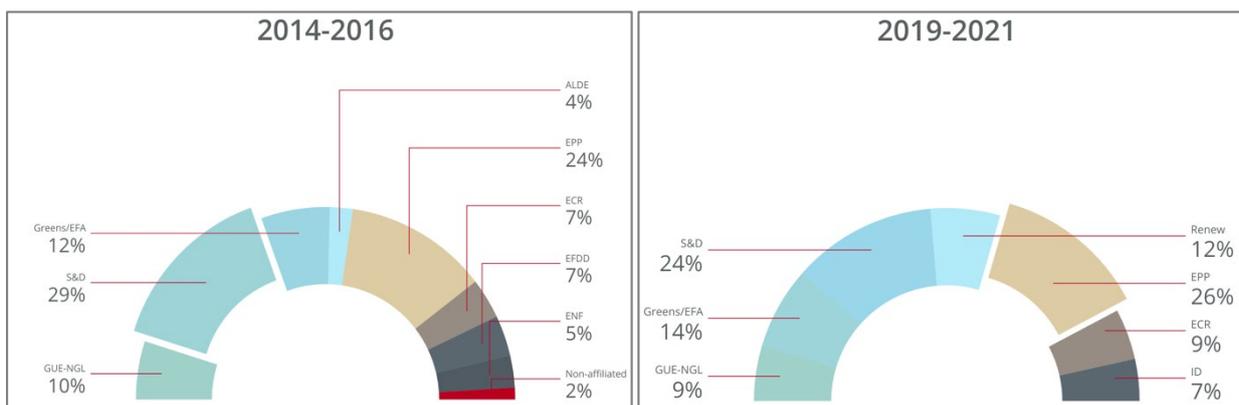


Figure 6 also shows a noticeable difference for the Liberals, if we consider the percentage of questions asked by ALDE (4% in the 8th parliamentary term) as opposed to Renew Europe (12% in the 9th parliamentary term). By comparison, the Greens/EFA and the ECR increased slightly from 12% to 14% and from 7% to 9% respectively in the two periods analysed. Furthermore, if we consider Identity and Democracy (ID) as the successor to the ENF and the EFDD, we can notice a decrease of questions among members from 12% to 7%. This is related to the absence of two Italian MEPs, Marco Valli and Marco Zanni, who used to be part of the two groups and always took the floor in hearings with the Chair of the Supervisory Board. Marco Valli is no longer an MEP in the 9th parliamentary term, whereas Marco Zanni is now leader of the ID Group and is part of the Conference of Presidents, so presumably has less time for the ECON Committee. For its part, the Left (GUE/NGL) remained constant in the two parliamentary terms at 10% and 9% respectively, despite getting less seats in the 2019 EP elections.

Overall, understanding the dynamic of public hearings with the Chair of the Supervisory Board is important because we are likely to observe similar patterns in the Monetary Dialogue with the ECB President. After all, **the coordinators of political groups are the same and are likely to take the floor in both types of committee meetings.** However, how comparable are the hearings in banking supervision with the Monetary Dialogues? This is the subject of the final section.

4. COMPARISON TO MONETARY POLICY

The accountability interactions between the EP and the ECB can be placed in the broader context of legislative-executive relations, specifically the extent to which a parliamentary assembly can hold a specialized independent agency accountable. In this respect, the EP's effectiveness as an accountability forum is restricted by the general independence of the ECB and the SSM legal framework. On the one hand, ECB independence severely limits the EP's influence on ECB decision-making: both the Treaty (Article 130 TFEU) and the SSM Regulation (Article 19) prohibit the ECB from taking instructions from other Union institutions. This means that any recommendations made by the EP in its Annual Resolutions on ECB annual reports or on the Banking Union are not legally binding; they allow the EP 'to pass judgment' on the conduct of the ECB without formal consequences. On the other hand, the EP alone cannot change the legal framework in which the ECB operates in either monetary policy or banking supervision. In monetary policy, the mandate of the ECB is determined by the Treaties (Article 282(2) TFEU) and thus require treaty change. In banking supervision, the SSM Regulation is a Council Regulation adopted through a special legislative procedure on which the EP was only consulted.³⁸ Even if it wanted to, the EP does not have the power to unilaterally sanction the past conduct of the ECB through a change in the legal framework.

Furthermore, the accountability challenges faced by the EP are characteristic of relationships between parliaments and specialized independent agencies.³⁹ Most significantly, there are problems of 1) asymmetric information, as the ECB is an expert body possessing much more knowledge in the fields of monetary policy and banking supervision than the EP, and 2) hidden action, given that ECB monetary

³⁸ Fabian Amtenbrink and Menelaos Markakis, 'Towards a Meaningful Prudential Supervision Dialogue in the Euro Area? A Study of the Interaction between the European Parliament and the European Central Bank in the Single Supervisory Mechanism' (2019) 44 *European Law Review* 3.

³⁹ Kaare Strøm, 'Delegation and Accountability in Parliamentary Democracies' (2000) 37 *European Journal of Political Research* 261.

policy and supervisory decisions remain unseen by MEPs. The confidentiality requirements in banking supervision are also present on the monetary policy side of the ECB; in fact, academic commentators have repeatedly called for more transparency in the way in which the ECB Governing Council takes decisions.⁴⁰

However, there are also important differences between the two sets of tasks performed by the ECB. The difference lies not only in selection procedures, as the EP can veto the appointment of the Chair of the Supervisory Board while unable to do the same for Members of the ECB Executive Board, but also in the nature of the mandate itself. As explained by the MEPs interviewed:

« I make a distinction between monetary policy, which is independent, free from political influence, and banking supervision, where the ECB is supposed to be more accountable and it's only up to a point independent. Supervisory practices can lead to bank failures, where taxpayer money have to be used to save banks, so banking supervision cannot be as independent as monetary policy. However, the instruments we use in the two policy areas are pretty much the same: public exchanges of views, letters with questions, annual reports. » (Interview #4, 6 May 2022).

« The accountability of the ECB is a delicate matter. In monetary policy, the ECB is completely independent, it cannot be controlled by anyone, not even the EP. Banking supervision is more specific, the powers exercised by the ECB are not the same. We can take some lessons from banking supervision and apply them to monetary policy, but the correspondence is limited. » (Interview #1, 19 April 2022).

Politically, there are important differences between MEPs in how they regard the independence of monetary policy – depending if they are on the left or the right of the ideological spectrum:

« I have a very particular view regarding the ECB's monetary role. I believe monetary policy should be subject to democratic control, meaning monetary decisions should be taken by elected governments. In this sense, [any] IIA should always be considered as an imperfect solution. » (Questionnaire #3, 27 April 2022).

« I personally am very critical of quantitative easing, and the interest rates in recent years, and I ventilate my opinion in every interview, but there's no hair on my head thinking that we should change the Treaties so that politicians can interfere in monetary policy. The moment in which politicians start to dictate monetary policy, then we are in trouble. I know that the EP wants more control, but I disagree with this. ECB independence is sacred. In other words, I can be critical of ECB policy, but I fully accept the bank's independence to set monetary policy. » (Interview #1, 19 April 2022).

Simultaneously, MEPs acknowledge that the Monetary Dialogue was established at a time when the ECB was primarily in charge of determining interest rates. By contrast, **the expansion of the ECB mandate since the euro crisis is not reflected in current accountability arrangements:**

« Monetary policy has expanded massively in the last years. Massively. Now it impacts on normal policies. It's super big. And I'll take one example. If you talk about fighting climate change and the policies of the EU to fight climate change and to fulfil the Paris Agreement, you cannot address that issue without addressing the fact that the ECB is massively buying carbon assets through their purchase programmes, which is something that before the euro crisis did not happen. It happens now. So the amount of issues that the ECB is dealing with now and that impact that is super big, which poses a democratic legitimacy problem because, well, if the ECB is taking a decision which is affecting our fight against climate change, like buying massively carbon assets, it means that it needs to respond on why they're doing that. I think that the need for democratic accountability is today bigger than ten years ago because of that reason. That is why I see an interest in an IIA. All my colleagues in the Parliament agree with that. And it would be the best tool » (Interview #7, 16 May 2022)

⁴⁰ For a summary, see Deirdre Curtin, "'Accountable Independence' of the European Central Bank: Seeing the Logics of Transparency' (2017) 23 *European Law Journal* 28.

Next to the expansion of monetary policy instruments in the last decade, the arguments in favour of a new IIA are grounded in the comparison to banking supervision. **On paper, there is nothing in the Treaties – specifically in Articles 127(6) and 284(3) TFEU – that would require a distinction between accountability arrangements in monetary policy and banking supervision.**⁴¹ Yet given the EP's diverse political nature, there are MEPs who consider that a new IIA would be insufficient because what is missing is a real political debate on the ECB's secondary mandate:

« An IIA on monetary policy would not be enough to define the ECB's secondary mandate. What we need is a plenary debate, a political discussion. » (Interview #6, 12 May 2022).

Such a reform finds support in academic circles. For example, de Boer and van 't Klooster presented a vision of how such a debate could be conducted within the constraints of the Treaties – through the coordination of the EP and the Council.⁴² Other scholars point to the necessity of a new specialized institution – like a European Credit Council – which would “provide impartial expertise to the Parliament on macro-financial issues (like the Congressional Budget Office in the US) and develop proposals for coordinating policies between several European institutions.”⁴³ The latter is consistent with calls for a dynamic and forward-looking approach to ECB accountability, building on peer review processes that feed into political decision-making.⁴⁴

While approaches differ among scholars, there is growing consensus that the expansion of monetary policy in recent years necessitates a higher standard of justification than in the past. Borrowing from legal terminology, the ECB has a ‘duty to give reasons’ for decisions which require the balancing of competing public interests.⁴⁵ The interactions with the EP provide a practicable platform for such public justification. As of now, however, neither the Monetary Dialogues nor the public hearings with the Chair of the Supervisory Board can be considered to reach this higher standard.

5. CONCLUSIONS

To sum up, what lessons can we draw from the EP's relationship with the ECB in banking supervision and apply them to monetary policy? First and foremost, **an IIA in monetary policy is unlikely to result in a significant change in accountability arrangements, particularly if its content merely formalizes existing practices.** After all, the accountability instruments in the SSM are almost identical to those available in monetary policy. The use of in-camera meetings, the public hearings with the Chair of the Supervisory Board, and the supervisory minutes are generally seen by MEPs as the most valuable tools of SSM accountability. With respect to the latter, there are differences to monetary policy: while the EP receives confidential minutes of meetings of the Supervisory Board, it does not have special

⁴¹ For a summary of this argument, see Pervenche Berès, ‘The European Central Bank: What accountability to the European Parliament, corollary of its independence in order to assure its credibility and its legitimacy?’ (2021) 144 *Revue d'économie financière* 203, 214–215.

⁴² Nik de Boer and Jens van 't Klooster, ‘The ECB's Neglected Secondary Mandate: An Inter-Institutional Solution’ (Positive Money Europe 2021) <https://www.positivemoney.eu/wp-content/uploads/2021/10/The-ECBs-neglected-secondary-mandate_v6.0.pdf> accessed 4 July 2022.

⁴³ Eric Monnet, ‘New Central Banking Calls for a European Credit Council’ (*VoxEU.org*, 26 March 2021) <<https://voxeu.org/article/new-central-banking-calls-european-credit-council>> accessed 11 July 2022.

⁴⁴ For an application of this argument in banking supervision, see Jonathan Zeitlin and Filipe Brito Bastos, *SSM and the SRB Accountability at European Level: Room for Improvements?* In-depth analysis requested by the ECON Committee, PE 645747 (European Parliament 2020).

⁴⁵ Joana Mendes, ‘Constitutive Powers and Justification: The Duty to Give Reasons in EU Monetary Policy’ in Mark Dawson (ed), *Towards Substantive Accountability in EU Economic Governance* (Cambridge University Press 2023).

access to the minutes of the ECB's Governing Council, which are public in the form of general 'monetary policy accounts'.⁴⁶ In any case, MEPs find the supervisory minutes inaccessible both due to their location – in the EP's Secure Reading Room – and owing to their highly technical nature.

In fact, **achieving a balance between transparency and confidentiality is a problem specific to SSM accountability.** While MEPs understand the importance of secrecy in banking supervision, some feel they do not have sufficient access to information, especially ex post – for instance, after banks have been declared failing or likely to fail. This is also related to the nature of banking supervision, which is focused on the [correct] implementation of a comprehensive EU legal framework that does not exist in monetary policy. Moreover, when it comes to confidentiality, some MEPs see no issue with the discharge of accountability behind closed doors – through supervisory minutes and in-camera meetings – while others prioritize hearings and the ability to question the Chair of the Supervisory Board in public.

In general, **the level of controversy surrounding the banking sector at any given time determines how much attention MEPs pay to public hearings.** Compared to the 9th parliamentary term (2019-2021), MEPs were significantly more interested in the SSM in the first half of the 8th parliamentary term (2014-2016). This suggests that MEPs are not well-equipped to oversee the SSM in a 'police-patrol'⁴⁷ capacity because they lack the time and knowledge necessary to scrutinize supervisory behaviour on a regular basis. However, when there is a crisis at a specific bank, MEPs are ready to ring the 'fire alarm' and question the decisions of the Supervisory Board.

Lastly, one element that affects the effectiveness of public hearings – which also applies to the Monetary Dialogues with the ECB President – is the format of committee meetings and the procedural obstacles to asking follow-up questions. Despite acknowledging this limitation, **ECON faces the persistent challenge of accommodating the diversity of its members both in terms of political affiliation and national interests.** This makes the reform of public hearings an intractable, albeit not unsolvable, problem.

Overall, the accountability framework in the SSM can act as a guide for monetary policy to the extent that the ECB's obligations and the EP's powers are expressly spelled out in a document that is signed by both institutions (an IIA). The reluctance of the ECB to open such negotiations is clearly related to concerns about political interference in its monetary policy mandate. Yet if the SSM is any indication, an IIA is unlikely to create a radically different accountability relationship between the two institutions. Ultimately, the impact of such a document will depend on what MEPs make of it; if anything, the SSM has shown that MEPs' commitment to holding the ECB accountable is determined by public attention to the topic, personal expertise, and political priorities in the field. In the long run, changing economic and financial conditions in the Member States will always drive MEPs' interest in monetary policy. Despite these limitations, **the EP continues to offer the ECB the best available forum to explain its decisions publicly and thus demonstrate – in a comparatively friendly venue – that it takes democratic accountability seriously.**

⁴⁶ European Central Bank, 'Monetary Policy Accounts' (2022) <<https://www.ecb.europa.eu/press/accounts/html/index.en.html>> accessed 12 July 2022.

⁴⁷ For the distinction between police-patrol and fire-alarm oversight, see McCubbins and Schwartz (n 36).

ANNEX: LIST OF PUBLIC HEARINGS WITH THE CHAIR OF THE SUPERVISORY BOARD

List of public hearings conducted during 2014-2016⁴⁸ and 2019-2021⁴⁹:

2014-2016	Subject	2019-2021	Subject
9 November 2016	Ordinary public hearing with Danièle Nouy, Chair of the Supervisory Board of the ECB	14 October 2021	Ordinary public hearing with Andrea Enria, Chair of the Supervisory Board of the ECB
13 June 2016	Ordinary public hearing with Danièle Nouy, Chair of the Supervisory Board of the ECB	1 July 2021	Ordinary public hearing with Andrea Enria, Chair of the Supervisory Board of the ECB
23 March 2016	Hearing on the SSM Annual Report with Danièle Nouy, Chair of the Supervisory Board of the ECB	23 March 2021	Hearing on the SSM Annual Report with Andrea Enria, Chair of the Supervisory Board of the ECB
19 October 2015	Ordinary public hearing with Danièle Nouy, Chair of the Supervisory Board of the ECB	27 October 2020	Ordinary public hearing with Andrea Enria, Chair of the Supervisory Board of the ECB
25 June 2015	Ordinary public hearing with Danièle Nouy, Chair of the Supervisory Board of the ECB	5 May 2020	Ad-hoc exchange of views on the COVID-19 crisis with Andrea Enria, Chair of the Supervisory Board of the ECB
31 March 2015	Hearing on the SSM Annual Report with Danièle Nouy, Chair of the Supervisory Board of the ECB	12 December 2019	Ordinary public hearing with Andrea Enria, Chair of the Supervisory Board of the ECB
3 November 2014	Ordinary public hearing with Danièle Nouy, Chair of the Supervisory Board of the ECB	04 September 2019	Ordinary public hearing with Andrea Enria, Chair of the Supervisory Board of the ECB

Note: A March 2020 hearing to present the ECB Banking Supervision annual report was cancelled due to the COVID-19 pandemic.

48 For more information, see Marcel Magnus, 'Single Supervisory Mechanism (SSM) - Accountability Arrangements and Legal Base for Hearings in the European Parliament' (European Parliament - Economic Governance Support Unit, August 2019) <[https://www.europarl.europa.eu/RegData/etudes/ATAG/2017/497742/IPOL_ATA\(2017\)497742_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2017/497742/IPOL_ATA(2017)497742_EN.pdf)> accessed 22 June 2022.

49 For more information, see Marcel Magnus, 'Single Supervisory Mechanism: Accountability Arrangements (9th Legislative Term)' (European Parliament - Economic Governance Support Unit, November 2021) <[https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/659623/IPOL_BRI\(2020\)659623_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/659623/IPOL_BRI(2020)659623_EN.pdf)> accessed 22 June 2022.

Abstract

This study evaluates the European Parliament's accountability instruments in the Single Supervisory Mechanism (SSM) in light of their comparability to existing arrangements in monetary policy. The analysis shows that the Inter-Institutional Agreement with the European Central Bank in banking supervision did not result in a significantly different accountability relationship than the one between the two institutions in monetary policy. The results are based on interviews with Members of the European Parliament and an examination of questions asked in public hearings with the Chair of the Supervisory Board.

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