

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT **C**
CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS



Constitutional Affairs

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Petitions

**Democratic control in the Member
States of the European Council and
the Euro zone Summits**

**Questionnaires on the 27
Member States**

Annex1



DIRECTORATE GENERAL FOR INTERNAL POLICIES

**POLICY DEPARTMENT C: CITIZENS' RIGHTS AND
CONSTITUTIONAL AFFAIRS**

CONSTITUTIONAL AFFAIRS

Democratic control in the Member States of the European Council and the Euro zone Summits

ANNEX 1

QUESTIONNAIRES ON THE 27 MEMBER STATES

AUTHOR(S)

Mr Wolfgang WESSELS, Trans European Policy Studies Association (Principal Investigator)
Mr Olivier ROZENBERG, Notre Europe – Jacques Delors Institute (Principal Investigator)

Ms Mirte VAN DEN BERGE, Trans European Policy Studies Association
Ms Claudia HEFTLER, Trans European Policy Studies Association
Mr Valentin KREILINGER, Notre Europe – Jacques Delors Institute
Ms Laura VENTURA, Trans European Policy Studies Association

RESPONSIBLE ADMINISTRATOR

Mr Petr Novak
Policy Department C - Citizens' Rights and Constitutional Affairs
European Parliament
B-1047 Brussels
E-mail: poldep-citizens@europarl.europa.eu

LINGUISTIC VERSIONS

Original: EN
Executive summary: DE, FR

ABOUT THE EDITOR

To contact the Policy Department or to subscribe to its newsletter please write to:
poldep-citizens@europarl.europa.eu

Manuscript completed in March.
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Contents

Austria: Eric Miklin, University of Salzburg.....	4
Belgium: Regis Dandoy / Clément Jadot, Université Libre de Bruxelles.....	11
Bulgaria: Dobrin Kanev, BECSA.....	17
Czech Republic: Viera Knutelska, Charles University Prague	22
Cyprus: Kalliope Agapiou-J., University of Cyprus	28
Denmark: Mette B. Christensen, Danish Institute for International Studies.....	31
Estonia: Piret Ehin, University of Tartu.....	36
Finland: Tapio Raunio, University of Tampere.....	42
France: Valentin Kreilinger / Kateryna Perepechay / Olivier Rozenberg, Sciences Po Paris / Notre Europe.....	46
Germany: Claudia Hefftler / Oliver Höing, University of Cologne... ..	52
Greece: Konstantin Iliopoulos / Anna Vallianatou, Greek Centre of European Studies & Research.....	59
Hungary: Gabriella Ilonszki, Corvinus University of Budapest	65
Ireland: Gavin Barrett, University College Dublin	70
Italy: Michele Comelli, Istituto Affari Internazionali	76
Latvia: Zaneta Ozolin, University of Latvia	80
Lithuania: Ramunas Vilpisauskas, Vilnius University	85
Luxembourg: Astrid Speitzer, University of Luxembourg.....	89
Malta: Roderick Pace, University of Malta	93
Netherlands: Iona Ebben / Adriaan Schout / Jan Marinus Wiersma, Institute for International Relations Clingendael.....	97
Poland: Maria Karasinska-Fendler / Anna Jedrzejewska, European Institute in Lodz	102
Portugal: Davor Jancic, Utrecht University	110
Romania: Angela Tacea, Sciences Po Paris	118
Slovakia: Andrea Figulova, Institute of European Studies and International Relations at Comenius University.....	124
Slovenia: Ana Marija Kristovic / Vid Tomic / Zlatko Sabic, Faculty of Social Sciences in Ljubljana.....	130
Spain: Manuel Sánchez de Dios , Universidad Complutense de Madrid	134
Sweden: Hans Hegeland, Parliament of Sweden.....	139
United Kingdom: Ariella Huff / Julie Smith, Cambridge University.....	143

Austria: Eric Miklin, University of Salzburg

Name of your Member State: Austria (lower house: *Nationalrat*; upper house: *Bundesrat*)

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

Yes. Scrutiny is taking place within the general framework of parliamentary scrutiny of EU affairs. According to Article 23e (1) Federal Constitutional Act (*Bundes-Verfassungsgesetz, B-VG*), this framework addresses 'all projects' ('*alle Vorhaben*') within the framework of the European Union. Because of this broad notion, it never was a discussion whether or not Euro zone summits should be handled within or outside this general framework.¹

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

1. Article 23 a-k of the B-VG² defines the general rights of the Austrian parliament in EU affairs vis-à-vis the government.

2. The Rules of Procedure for the Nationalrat (*Geschäftsordnungsgesetz Nationalrat, GOG-NR*³) specify these rights and define the ways, through which they are to be executed.

3. With January 2012, an EU-Information Law (*EU-Informationsgesetz, EU-InfoG*⁴) came into effect. It aims at optimising information-flows between parliament and government.

4. An act of delegation (*Delegationsbeschluss*) of the *Nationalrat's* Main Committee specifies where different kind of EU issues are dealt with. Art. 23k (2) B-VG states that the parliament's Main Committee (meeting as *Main Committee of European Affairs*) is in charge of the first chamber's EU-related tasks. However, the committee may delegate tasks to a *Standing Sub-Committee on EU Affairs*. According to the actual *Delegationsbeschluss*, the Main Committee has kept all issues dealt with at European Councils and Euro zone summits, while day-to-day decision-making in the Council is delegated to the sub-committee.

- If yes, what are these rules about? What obligations does the government have?

According to Article 23e B-VG, the government has to inform the parliament about all projects discussed on the EU level without any delay and Art. 23f (3) B-VG states that further informational duties of the government are to be specified via federal law – which is done with the *EU-InfoG*. The informational rights laid down in this law are comprehensive. The government has to make available all documents received from EU bodies (and hence also from the European Council). It also has to provide Parliament with all documents from Austrian bodies that help the parliament to exercise its EU-related rights and duties. All these documents are to be made available via an electronic database, administrated by the parliamentary administration (*Parlamentsdirektion*) (§1-3 EU-InfoG).

Article 23e (3) B-VG provides both EU committees with the right to adopt opinions (*Stellungnahmen*) that bind the government in all negotiations or votings on the EU-level

¹ Interview with two clerks of the Austrian Parliament, 13 July 2012.

² http://www.jusline.at/Bundes-Verfassungsgesetz_%28B-VG%29.html (last retrieved 21.7.2012).

³ http://www.jusline.at/Geschaeftsordnungsgesetz_%28GOGNR%29.html (last retrieved 21.7.2012).

⁴ http://www.jusline.at/EU-Informationsgesetz_%28EU-InfoG%29.html (last retrieved 21.7.2012).

on legally binding measures that would affect national law. The government is allowed to deviate from such an opinion only for imperative foreign or integrative policy reasons and only after consulting the parliament again. Article 23e (4) provides the Bundesrat with a similar right for all issues that would negatively affect the competences of Austria's nine federal states (*Länder*).

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

No. For some time, it was unclear whether or not Euro zone summits were affected by the main committees *Delegationsbeschluss* mentioned above. Hence, there was some discussion, whether, according to the act, these summits should be taken care of by the main committee or by the standing sub-committee. However, this ambiguity was eliminated via a new *Delegationsbeschluss* in January 2012 and Euro zone summits are now explicitly kept under the Main Committee's competences.⁵

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

Yes, they do. A debate (open to the public and the media) is taking place in the Main Committee on EU Affairs before every regular European Council, and most of the time also before an extraordinary European Council or a Euro zone summit. Just recently, the Committee decided unanimously that discussions at these meetings may not only cover the official agenda of a European Council, but also things like e.g. discussions during informal dinner-meetings of the heads of states.⁶

- Do Parliaments' Rules of Procedure provide for priority debates?

Not explicitly with regard to the European Council. However, they provide two ways to push an issue on the plenary agenda, which may also be used for European issues:

First, §46 (6) GOG-NR provides the right to call for an extraordinary parliamentary session (*Sondersitzung*) if this is supported by at least 20 Members of Parliament (MPs) or by all members of a party group. Each MP can sign such a request once a year. Regarding the summits under investigation in this study no such meeting has taken place ex-ante. However, a *Sondersitzung* took place *ex post*, after meeting C7 on 14 December 2011.⁷

Second, during a plenary session, five MPs may bring in a privileged interpellation (*Dringliche Anfrage*; §93 GOG-NR) or a privileged motion (*Dringlicher Antrag*, §74a GOG-NR). If brought in before 3pm, both need to be dealt with on the same day. Again, each MP can sign such an interpellation/motion once a year. In addition, each party group has another four privileged motions or interpellations available. In the timeframe under study in point 6 of this report, a *Dringliche Anfrage* (brought by an opposition group) enforced an ex-ante debate before meeting C5 on 20 October 2011.⁸

- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?

⁵ Interview with two clerks of the Austrian Parliament, 13 July 2012.

⁶ Parliamentary correspondence No. 61 from 27 January 2012.

http://www.parlament.gv.at/PAKT/PR/JAHR_2012/PK0061/ (last retrieved 21.7.2012).

⁷ Plenary protocol XXIV/139.

⁸ Plenary protocol XXIV/126.

As stated above, the main body to deal with European Council meetings or Euro zone summits is the parliament's Main Committee meeting as *Main Committee on European Affairs*. Formally, meetings can be scheduled by either the committee chair or by 20 MPs (GOG §34 (4)) and it is the chair who decides on the agenda. De facto, timing and agenda are coordinated informally and on a consensual basis amongst all party groups and it is common sense that the committee meets before a European Council.⁹

Plenary in Austria plays a sub-ordinated role with regard to EU scrutiny in general and this is also the case when it comes to European Council meetings. However, §74 GOG-NR provides for four 'Topical EU-Hours' (*Aktuelle Europastunden*) per year (lasting about one hour) and for two formal declarations of the government 'in temporal proximity' to European Council meetings. The latter shall inform the parliament about the general processes within the European Council and are followed by a debate. In addition, common 'Topical Hours' (*Aktuelle Stunden*) might be (and are sometimes) used to discuss European (Council) issues too.

With the financial crisis, also the *finance committee* increasingly started to engage with meetings of the European Council and especially Euro zone summits.¹⁰

- Which governmental authorities take part in the parliamentary debates?

Usually, the chancellor and also the vice-chancellor are present when the Main Committee on European Affairs meets. Lately, also the minister of finance attended some meetings (e.g. before meeting C4). Debates in the committee start with a government statement about what is to be expected from a European Council and about Austria's position. This is followed by one or more rounds of questions and answers between government and parliament.

Chancellor and Vice-Chancellor are normally present also at plenary debates.

- Is there a vote for a parliamentary resolution before the European Council meeting?

As stated above, the constitution provides both EU committees with the power to formulate a binding opinion. Throughout the years, however, such binding opinions have been rare for two reasons: First, this was due to bad experiences in the early days of Austria's EU membership when a minister, because of a tight mandate, returned from Brussels with a result that was inferior to what could have been achieved otherwise. Second, governing parties preferred to control their party fellows in government internally. Recently, the numbers of binding opinions have gone up again. Still, their main function usually is to back up the government's standing on the European level.

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

De-jure, main responsibility still lies with the Main Committee on European Affairs. However, the committee never meets ex-post. To the extent that ex-post control is taking place, this is carried out by the plenary (or informally within the party groups). Overall, however, ex-post control is clearly less institutionalised than control ex-ante.

⁹ Interview with two clerks of the Austrian Parliament, 13 July 2012.

¹⁰ Interview with two clerks of the Austrian Parliament, 13 July 2012.

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

Like with debates ex-ante, there are no regular/institutionalised plenary debates ex-post. However, the same instruments available ex-ante can also be used ex post to have a debate:

- EU-declarations of the government (cf. meeting C7)
- Topical (EU) Hours (*Aktuelle Europastunden* bzw. *Aktuelle Stunden*) (cf. C2¹¹)
- Privileged Interpellation/Motions (cf. meeting C2 and C6¹²)

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

The body to decide on the plenary agenda is the *Präsidiale*, which is composed of the three presidents of the chamber and the directors of the party groups (*Klubdirektoren*). Regarding EU-declarations of the government it is up to the government, whether it wants to give such a declaration. Hence, the government cannot be forced to give a formal declaration. However, it can be forced into a public debate via an privileged interpellation/motion. This happened e.g. after the meetings C2 and C6 when opposition groups criticized the government for not making a declaration voluntarily. Government also cannot prevent discussions in the context of 'Topical (EU-) Hours'. The topics for these debates are chosen by one of the party groups. If there is more than one request for such a debate, requests are chosen from party groups (primarily) on a rotational basis via the *Präsidiale*.

In sum, neither the government, nor its majority in the parliament, can avoid a public debate.

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

Usually, at least the member responsible for the issue discussed is taking part. In many cases, this is the chancellor often joined by the vice-chancellor/the minister of foreign affairs) or, lately, also the minister of finance.

- How is the debate structured? Is there a vote after the debate?

If there is a formal declaration of the government, this declaration may take about 25 minutes (sometimes split between e.g. the chancellor and the vice chancellor). This is followed by a debate in which each party group has a total of 25 minutes speaking time.

Topical (EU-) Hours and debates on privileged interpellations start with a statement of the MP of the respective party group (10 minutes) which is followed by a statement of the respective government member (10 minutes). This is followed by a debate.

In the course of these debates, party groups can bring non-binding motions (*Entschließungsanträge*) that prompt the government to take future actions. Such motions are often brought by opposition groups, but also by, or jointly with, governing parties. For example, at the debate after C6, two motions brought by the opposition were voted down by the government while a motion brought jointly by an opposition party and the two governing parties was passed successfully.

¹¹ Debate on 30 March 2011; Plenary protocol XXIV/99.

¹² Debates on 30 March and on 28 October 2011; Plenary protocols XXIV/99 and 128.

5. Since Lisbon

- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?

As a response to the Treaty of Lisbon Art. 23 B-VG was modified in 2010¹³ and a revised version of the GOG-NR¹⁴ as well as the new EU-InfoG came into force with January 2012. However, most of the changes made did not concern parliament's dealing with the European Council but rather its new powers like the EWS, the political dialogue, etc. Also the EU-Information law basically just codified what by then had already been established practice.

- Did any significant events or changes in formal rules occur after Lisbon in the upper house?

No

- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?

No

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

C2 = ordinary meeting of the European Council – 24 and 25 March 2011

C3 = ordinary meeting of the European Council – 23 and 24 June 2011

C4 = meeting of the Heads of State or Government of the Euro Area – 21 July 2011

C5 = ordinary meeting of the European Council – 23 October 2011

C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011

C7 = ordinary meeting of the European Council – 8 and 9 December 2011

C8 = informal meeting of the European Council – 30 January 2012

C9 = ordinary meeting of the European Council – 1 and 2 March 2012

¹³ BGBl. I Nr. 57/2010

http://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BqblAuth&Dokumentnummer=BGBLA_2010_I_57. (last retrieved 21.7.2012).

¹⁴ BGBl. I Nr. 114/2011

http://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BqblAuth&Dokumentnummer=BGBLA_2011_I_114. (last retrieved 21.7.2012).

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	No	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes
Debates on the floor	No	No	No	No	Yes	No	No	No	No
Formal declaration by the PM	No	No	No	No	No	No	No	No	No
Vote of a motion	No	No	No	No	No	No	No	No	No
After the European Council meeting									
Debates in committees	No	No	No	No	No	No	No	No	No
Debates on the floor	No	Yes	No	No	No	Yes	Yes	No	No
Formal declaration by the PM	No	No	No	No	No	No	Yes	No	No
Vote of a motion	No	No	No	No	No	Yes	No	No	No

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

Art. 140a B-VG gives the constitutional court the power to review the lawfulness of international treaties. The Court becomes active only upon request (Art. 140 B-VG).

Lately, two suits have been announced:

- First, the oppositional Austrian Freedom Party (FPÖ) has announced to file a lawsuit against the *Treaty Establishing the European Stability Mechanism* (ESM). The ESM was ratified with a two-thirds majority (needed for constitutional changes) via the votes of the two governing parties and the oppositional Green Party. However, the FPÖ argues that the ESM still is in breach with the constitution calling the ESM a 'constitutional coup' (*Verfassungsputsch*).¹⁵

- Second, all three opposition parties are currently discussing to file a joint lawsuit against the *Treaty on Stability, Coordination and Governance in the Economic and Monetary Union*. For this treaty, the government failed to reach a 2/3 majority. However, according to the government, such a majority would have been nice but not necessary as the treaty does not affect constitutional law. This view is challenged by all three opposition parties (FPÖ, Green Party and the Alliance for the Future of Austria).¹⁶

- Some of your own remarks (voluntary):

On the Template: Additionally to the chancellor's formal declaration at C7, the chancellor held introductory/explanatory statements at all meetings of the EU Committee and also raised his voice/replied to interpellations in all other plenary debates mentioned in the table. However, those statements did not have the form of a formal government declaration.

Selected Literature

Note: Unfortunately, there is no literature that captures the latest changes related to the Treaty of Lisbon. Generally most of the literature on the Austrian parliament in the EU available is somewhat dated.

¹⁵ <http://www.kleinezeitung.at/nachrichten/politik/3058398/nationalrat-beschliesst-esm-fiskalpakt.story>. (last retrieved 21.7.2012).

¹⁶ http://diepresse.com/home/politik/innenpolitik/1268695/Klagen-gegen-ESM-und-Fiskalpakt-aussichtslos?_vl_backlink=/home/politik/innenpolitik/index.do. (last retrieved 21.7.2012).

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Belgium: Regis Dandoy / Clément Jadot, Université Libre de Bruxelles

Name of your Member State: Belgium (lower house the Chamber of Representatives (CR), upper house the Senate (SE))

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

Yes.

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

These rules are defined by the Constitution (art. 168) that stipulates: "From the beginning, the Houses are informed of negotiations concerning any revision of the treaties establishing the European Community and the treaties and acts which have modified or complemented them. They receive the draft treaty before its signature.". In the Standing Orders of the CR, a committee is set up with a mission to examine the whole set of activities linked to the European integration (art. 68, I, 3) and that organises its works and deliberates according to article 68, I (art. 68, II, 3). In the Standing Orders of the SE, article 85 stipulates that after each renewal of the Senate composition, the assembly designated for the length of the legislature 10 members that will represent the Senate in the Federal Advice Committee in charge of European Issues (*Comité d'avis fédéral chargé des questions européennes – FACEI*).¹⁷

- If yes, what are these rules about? What obligations does the government have?

An Advice Committee for the European Issues (*Comité d'avis pour questions européennes – ACEI*) has been created in 1985 in the CR (CR, art. 68). It is designated after each renewal of the CR and is composed of 10 members of the CR (including the president of the CR)¹⁸, designated by the assembly proportionally to the political groups, and of 10 members of the European Parliament (EP) elected in Belgium¹⁹, designated by the members of the EP elected in Belgium. The presidency of this committee is held by the president of the CR or by a vice-president designated by him/her.

Since 1995 and at the beginning of each legislature, this Committee may be enlarged in a Federal Advice Committee in charge of European Issues (*Comité d'avis fédéral chargé des questions européennes – FACEI*)²⁰ since 10 members of the SE can be added (SE, art. 85), designated by the assembly proportionally to the political groups.²¹ Even if these two 'pieces' of the advice committee may meet separately, they usually meet together (Delpérée, Dopagne, 2010: 80; Van Der Hulst, 2011: 134) since it has been argued that Belgium would have more weight on the European agenda if it speaks with one unique (federal) voice. This committee is presided alternatively by the president of the ACEI and by a member of the Senate. The first-vice president of the FACEI is always a member of the other federal assembly and the second-vice president is a member of the EP. The labour organisation and deliberations of both committees (ACEI and FACEI) are similar. The ACEI and/or the FACEI hold their meetings according to the European agenda, usually twice a month.

¹⁷ For more information about its composition:

http://www.lachambre.be/kvvcr/pdf_sections/pri/europe/SAMENST.COMP.23april2012.pdf

¹⁸ As well as 10 substitute members.

¹⁹ As well as 10 substitute members.

²⁰ Following the federalisation of the Belgian state in 1993 and the fact that the government is no longer responsible to SE but only to the CR, it has been decided to reinforce the cooperation between the CR and the SE.

²¹ As well as 10 substitute members.

The ACEI and FACEI may adopt advices but, contrary to other advice committee, they may also conclude their works with resolution and recommendation proposals (or any other text to be submitted to the plenary session or demanding standing committee). When the FAC adopts a resolution proposal, its two pieces (the 10 members of the CR and the 10 members of the EP on the one hand, and the 10 members of the SE on the other hand) approve it separately. The resolution proposal adopted by the ACEI is sent directly to the plenary session of the CR. In the SE, the resolution proposal is sent to the committee for Foreign Relations (CFR) where it is approved by the SE delegation of the FACEI and by the members of the CFR, before being sent to the plenary session of the SE.

When the committee auditions government members, the meetings may be organised jointly with the committee for foreign affairs of the CR and the SE. In some cases, other committees (such as the finance committee of the CR and SE on the 11/03/2011 and 24-25/03/2011 or the committee for social affairs of the SE on the 24-25/03/2011) may be associated to the meetings.

- What obligations does the government have?

The federal parliament is informed on the positions of the federal governments in the European Councils via several channels: through the answers provided by the prime minister (PM) to questions and answers occurring during the so-called 'pre-briefings' and 'debriefings' of the European summits, and through the monthly exchanges that each standing committee of the CR is supposed to hold on European issues deal with its area of competences and on resolutions of the EP that concerns it (CR, art. 36).

The obligations of the government towards the ACEI and the FACEI are mainly informative ones:

- to deliver an annual report to the CR regarding the execution of the treaties related to the European Union, even though the government does not always comply to this obligation (Delpérée, Dopagne, 2010: 156).
- to provide the ACEI and the FACEI and the standing committees with the agenda of the European Councils as well as the report of these meetings, focusing the position of Belgium. The Belgian permanent representation systematically sends to the ACEI and the FACEI all the documents related to the activities of the European Council.
- to regularly express its views to the ACEI and the FACEI on issues that on the agenda of the European Council and on the conclusions of those meetings. Ensuring this feedback process is the most important activity of the FACEI (Delpérée, Dopagne, 2010). Basically, it means that auditions of the PM are organised before and after each European Council.
- since the committee may also decide to hear individual members of the government (usually the minister of foreign affairs), these ministers have to report to this committee.

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

No.

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

Yes, but at the committee level. In the case of a 'pre-briefing', it starts with a presentation of the agenda of the European Council by the PM in the FACEI. Afterwards, the members of the FACEI – and, eventually, of the associated committees – may express their opinion and concerns and ultimately the PM replies.

Moreover, the works of the FACEI may end up with the draft of advices, proposals or recommendations (art. 68, I, 4) that allow this committee to issue more formal documents on the Belgian position within the European Council since its mission to examine the whole set of activities linked to the European integration (art. 68, I, 3) (see above).

Overall, Delpérée and Dopagne (2010) believe that this committee participation the preparation of meetings of the European Council is rather limited and mainly passive (i.e. reacting the PM's agenda presentation).

- Do Parliaments' Rules of Procedure provide for priority debates?

Yes, indirectly and at the committee level, since each meeting of the European Council is preceded by an exchange of views between the members of the FACEI and the PM (and/or another member of the federal government). Since these meetings occur only a few days before the European Council (even sometimes the day before) and since it highly depends on the availability of the PM, it may have an impact on the overall parliament agenda that would have to adapt the gathering of this meeting.

- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?

1. The cabinet of the PM that prepares the speech of the PM in front of the FACEI.
2. The FACEI or the ACEI (see above). This committee later on relays (via its secretariat) the information to each standing committee via the 'Europromotor', i.e. the member of each standing committee that is in charge of the follow-up of the advices, resolution and recommendation proposals as well as proposals of normative acts coming from the FACEI (art. 37 of the Standing Orders of the CR).
3. In some cases and depending on the policy issues at stake, other standing committees may be associated to the debate between the PM and the FACEI (see above).

- Which governmental authorities take part in the parliamentary debates?

It concerns the PM and/or eventually another member of the federal government (CR, doc 1365/001).

- Is there a vote for a parliamentary resolution before the European Council meeting?

Yes, theoretically the works of the FACEI may conclude their works with resolution and recommendation proposals (art. 68, I, 4) that allow this committee to express its opinion on the Belgian position in the European Council and that ultimately may be submitted to the plenary session or to the demanding standing committee. However, since these meetings occur only a few days before the European Council (even sometimes the day before), these votes basically never occur.

3. Ex-post control: institutional body

- Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

Similarly to the 'pre-briefings', the FACEI (see above – same composition) is responsible for the audition of the PM in a 'debriefing' on the conclusions of the European Council. In some cases, the FACEI issues advices, resolution and recommendation proposals are transmitted to the 'Europromotor' of each standing committee (see above) or to the plenary session (see above).

4. Ex-post control: debates in parliament

The ex-post control is based on the works of the FACEI, structured the same way as for the Ex-ante control (see above).

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

There are no debates in plenary after the European Council meetings even though, theoretically, both the CR and the SE could have a plenary discussion if the FACEI issues advices, resolution and recommendation proposals that are transmitted to the plenary. To our knowledge, that never happened.

Still, since the Belgian government is responsible to the CR (Constitution, art. 101) and as part of their control activity of the government, members of the CR have the possibility to submit written questions, oral questions and interpellations to the members of the government. However, these questions, and interpellations rarely concern the European Council meetings. For example, during the period under scrutiny, no interpellations, 10 oral questions and 31 written questions concerned – sometimes indirectly – this issue.

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

The president of the CR decides on the relevance (art. 124, CR Standing Orders) and the agenda of the plenary is set by the conference of the presidents (of the political groups) (art. 124, CR Standing Orders). The member of the CR sends its question to the president of the CR, via the his/her political group president.

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

Every member of the government (even at the same time when the issue covers different ministerial portfolios) can be targeted by the questions and interpellations.

- How is the debate structured? Is there a vote after the debate?

Questions are gathered by topic and there is no vote after written questions, oral questions and interpellations.

5. Since Lisbon

- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?

No.

- Did any significant events or changes in formal rules occur after Lisbon in the upper house?

Following the Treaty of Lisbon, national parliaments are directly associated to the European decision-making process via the controls of subsidiarity and proportionality (JO.C.306, 17 Dec. 2007, pp. 148-152). Since in some policy domains, the parliaments of the regions or of the communities have the competency to transpose European legislation, a cooperation agreement had to be signed between the federal, regional and community assemblies regarding the application of the subsidiarity principle.

In addition, the CR changed its Standing Orders by including a detailed procedure (art. 37 bis) that broadly stipulates that the CR services examine the projects of European legislative acts and draft a note on the respect of the principle of and proportionality that is sent to the members of each standing committee concerned by the act and to the members of the ACEI. The committee may draft and adopt an advice that is sent to the European institutions as well as to the federal government. The advice may be submitted for approval in the plenary session if demanded by one third of the members of the committee.

- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?

No. The only serious threat to the survival of the Belgian government occurred on the 19 November 2009 when PM Herman Van Rompuy (CD&V) was elected by the European Council as President of the European Council under the Treaty of Lisbon and therefore had to resign (which he did on 25 November 2009). He was replaced as PM by Yves Leterme (CD&V) on 25 November 2009 after five days of political turmoil and party negotiations.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

C2 = ordinary meeting of the European Council – 24 and 25 March 2011

C3 = ordinary meeting of the European Council – 23 and 24 June 2011

C4 = meeting of the Heads of State or Government of the Euro Area – 21 July 2011

C5 = ordinary meeting of the European Council – 23 October 2011

C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011

C7 = ordinary meeting of the European Council – 8 and 9 December 2011

C8 = informal meeting of the European Council – 30 January 2012

C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	Yes	Yes	Yes	No	Yes	Yes	No	Yes	Yes
Debates on the floor	No	No	No	No	No	No	No	No	No
Formal declaration by the PM	Yes	Yes	Yes	No	Yes	Yes	No	Yes	Yes
Vote of a motion	No	No	No	No	No	No	No	No	No
After the European Council meeting									
Debates in committees	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Debates on the floor	No	No	No	No	No	No	No	No	No
Formal declaration by the PM	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Vote of a motion	No	No	No	No	No	No	No	No	No

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

No.

- Some of your own remarks (voluntary):

The period under scrutiny March 2011 and March 2012 is not representative of the 'normal' working of the Belgian institutions. Between April 2010 and December 2011 and due to the political crisis, the government was a care-taker government, meaning that the parliamentary control of the government was strongly reduced.

Selected literature

Delpérée Francis, Dopagne Frédéric, *Le dialogue parlementaire Belgique-Europe*, Bruylant, Bruxelles, 2010.

Van der Hulst Marc, *Le parlement fédéral. Organisation et fonctionnement*, Editions UGA, Kortrijk-Heule, 2011.

Bulgaria: Dobrin Kanev, BECSA

Name of your Member State: Bulgaria (one chamber National Assembly (NA))

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

Most of the formal rules don't concern specifically the European Council meetings. There is only one provision in the Rules of Procedure of the NA - Art. 113(2) - indicating the possibility of "hearings of the Prime Minister on the position of the Republic of Bulgaria at impending meetings of the European Council"²².

However parliamentary control in this regard can be exercised and is exercised through the general rules of parliamentary scrutiny and the rules of parliamentary oversight on EU Affairs.

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

The Constitution (1991) provides general rules of parliamentary control (Art. 62, 79-80, 83, 89-90). In 2005 the Constitution was supplemented with Art. 105 in order to establish new rules of parliamentary oversight in view of the membership in the EU.

The acting Rules of Organisation and Procedure of the NA (adopted in July 2009) besides the general regulation of parliamentary oversight (chapters 8 and 9) contain a special chapter (No 10) titled 'Parliamentary Monitoring and Control on European Union Affairs'.

- If yes, what are these rules about? What obligations does the government have?

According to Art. 105 of the Constitution the government (Council of Ministers) has to inform the NA on issues concerning the obligations of the state resulting from its membership in the EU (para 3), when participating in the drafting and adoption of EU instruments has to inform the NA in advance, and has to give detailed account for its actions (para 4)²³.

The Rules of Procedure of the NA provide for the obligation of the Prime Minister (PM) to present a report at the beginning of every six-month period of the presidency of the EU on the participation of Bulgaria in the EU affairs during the preceding presidency and on the tasks during the current presidency (para 1). Furthermore as stated above "the NA may hold hearings of the Prime Minister on the position of the Republic of Bulgaria at impending meetings of the European Council" (para 2)²⁴.

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

They don't make these distinctions.

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

The Bulgarian parliament is rarely taking part in the preparation of the meetings. It is often the case that the parliament is not even informed about the position of the government

²² Rules of Organisation and Procedure of the National Assembly:
<http://www.parliament.bg/en/rulesoftheorganisations> (last retrieved: 18 July 2012).

²³ Constitution of the Republic of Bulgaria: <http://www.parliament.bg/en/const> (last retrieved: 18 July 2012).

²⁴ Rules of Organisation and Procedure of the National Assembly:
<http://www.parliament.bg/en/rulesoftheorganisations> (last retrieved: 18 July 2012).

before these meetings. In the reference period the PM has informed the parliament just once and this was one hour before his departure for the meeting on 24 March 2011.

The only time the parliament was activated was before the informal meeting of the European Council on 30 January 2012 as far as the NA has to be consulted before endorsing the treaties on the European Stability Mechanism and the fiscal compact and signing after that the Treaty on Stability, Coordination and Governance in the EMU.

- Do Parliaments' Rules of Procedure provide for priority debates?

No.

- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?

With regard to the only case of preparation (January 2012), between 12 and 25 January there have been meetings (joint or separate) of the Committee on European Affairs and Oversight on the European Funds, the Budget and Finance Committee and the Foreign Policy and Defence Committee. In this period of time the PM also gave some information on a plenary sitting answering questions during the parliamentary control time.

- Which governmental authorities take part in the parliamentary debates?

Sometimes it is the PM, otherwise usually the Minister of Foreign Affairs, more rarely – the Finance Minister.

- Is there a vote for a parliamentary resolution before the European Council meeting?

As far as the most debates occurred either through questioning the PM or some ministers, or on the initiative of the PM, there is no vote for a resolution. Only once on 27 January 2012 the parliament passed a resolution on the participation in the Treaty on Stability, Coordination and Governance in the EMU.

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

Normally it is the plenary. The Committee on European Affairs and Oversight on the European Funds is also vested with the function of control on the issues related to EU affairs. Its activities however are mainly oriented towards oversight on the transposition of EU legislation, subsidiarity and proportionality control (after the Lisbon Treaty), and oversight on the absorption of the resources from the European Funds and Programs. The Budget and Finance Committee and the Foreign Policy and Defence Committee are also participating in some forms of parliamentary control. Sometimes joint sessions of these committees are organised.

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

There are no regular debates in the Bulgarian NA after the European Council meetings. As far as the provision in the Rules of Procedure does not oblige the PM to give a report and

only provides such possibility ("the NA may hold hearings of the Prime Minister) the debates are happening if at all mostly in the time of parliamentary control.

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

Generally the agenda is set by the majority. In practice the initiative is in the hands of the PM. PM Borissov himself stated in the parliament that it was "expression of his good will" that he informed the plenary before the meeting on 24 March 2011²⁵

The government can easily avoid a debate having in mind the formulation in the Rules of Procedure. Moreover Art. 105 (3, 4) that requires from the government to inform the NA on issues concerning the obligations resulting from its membership in the EU is interpreted by the majority in the sense that it concerns only the drafting and adoption of EU acts, not the political decisions taken at the European Council meetings as far as they don't need parliamentary ratification²⁶.

After the meeting of the European Council in December 2011 four parliamentary groups (all except the majority of GERB) insisted several times to be held a hearing of the PM about the results of the meeting. The majority through its vote rejected all of the requests. Finally, the PM sent the foreign minister, who didn't attend the meeting, to inform the MPs.²⁷

Most of the MPs prefer to make use of their right to address questions to the PM or ministers that occurs during the last three hours of each Friday sitting.

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

The PM is taking part as well as the Minister of Foreign Affairs. As a rule the PM prefers to transfer this role to the Foreign minister. PM Borissov didn't make a formal declaration and didn't take the floor even at the plenary session on 27 January 2012 when a resolution on the Treaty on Stability, Coordination and Governance in the EMU was voted.

- How is the debate structured? Is there a vote after the debate?

There are specific rules only for the debates on the regular report of the PM at the beginning of every six-month period of the presidency of the EU on the participation of Bulgaria in the EU affairs during the preceding presidency and on the tasks of Bulgaria during the current presidency²⁸. They were passed with a resolution of the NA on 1 September 2010²⁹ and provide for presentation of the PM, participation of one member of each parliamentary group limited to 10 minutes and concluding five minutes for the PM. No resolution is voted on the report of the PM.

In practice most of the debates happened while MPs were addressing questions to the PM or some of the ministers and were structured according the rules of usual parliamentary control.

²⁵ Minutes of plenary proceedings, 1 April 2011: <http://www.parliament.bg/bg/plenaryst/ID/2587> (last retrieved 19 July 2012) (translation by the author).

²⁶ For example PM Borissov answering question of MP and deputy speaker G. Pirinski - Minutes of plenary proceedings, 18 March 2011): <http://www.parliament.bg/bg/plenaryst/ID/2579> (last retrieved 19 July 2012); Monika Panayotova, Head of the Committee on European Affairs and Oversight on the European Funds, <http://www.parliament.bg/bg/plenaryst/ID/2573> (last retrieved 19 July 2012)

²⁷ See Plenary session 14.12.2011, <http://www.parliament.bg/bg/plenaryst/ID/2680> (last retrieved: 19 July 2012)

²⁸ These debates are not really debates on the European Council meetings although sometimes issues of this kind are also discussed.

²⁹ Resolution on Passing of Procedural Rules on the Application of Art. 113(1) of the Rules of Organisation and Procedure of the NA (translation by author): <http://www.parliament.bg/bg/desision/ID/13476> (last retrieved: 23 July 2012).

5. Since Lisbon**- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?**

In June 2010 the Rules of Procedure of the NA were supplemented defining the process and procedure for elaboration of Annual Programme for the Participation of Bulgaria in the EU decision-making process (Art. 103) and for subsidiarity checks (Art. 105). Nothing special about control over the European Council meetings was envisaged.

- Did any significant events or changes in formal rules occur after Lisbon in the upper house?

The Bulgarian NA is a one chamber institution.

- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?

No.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

C2 = ordinary meeting of the European Council – 24 and 25 March 2011

C3 = ordinary meeting of the European Council – 23 and 24 June 2011

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C5 = ordinary meeting of the European Council – 23 October 2011

C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011

C7 = ordinary meeting of the European Council – 8 and 9 December 2011

C8 = informal meeting of the European Council – 30 January 2012

C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	n	n	n	n	n	n	n	y	n
Debates on the floor	n	y	n	n	n	n	n	y	n
Formal declaration by the PM	n	y*	n	n	n	n	n	n	n
Vote of a motion	n	n	n	n	n	n	n	y	n
After the European Council meeting									
Debates in committees	n	n	n	n	n	n	y	n	n
Debates on the floor	n	y	n	n	n	n	y	y	n
Formal declaration by the PM	n	n	n	n	n	n	n	y**	n
Vote of a motion	n	n	n	n	n	n	n	n	n

*Statement using the right of the PM to speak in the plenary whenever he so requests.

** In the regular report of the PM at the beginning of every six-month period of the presidency of the EU.

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

The Constitutional Court could provide a binding interpretation of the Constitution (especially of the controversially discussed Art. 105) but it hasn't been approached on this issue or issues concerning parliamentary control of European Council summits.

- Some of your own remarks (voluntary):

The democratic control of the European Council summits is largely neglected by the Bulgarian parliament unless the NA has to ratify or to be consulted on issues decided at these meetings. Firstly, the parliamentary majority tries to avoid the control over the PM and the government using its vote or specific interpretations of the Constitution, leaving the "political issues" in governmental competence. Secondly, the NA itself is limiting its competencies to the ordinary legislative process especially to subsidiarity and proportionality control.

Czech Republic: Viera Knutelska, Charles University Prague

Name of your Member State: Czech Republic (lower house Chamber of Deputies (C), upper house Senate (S))

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

The scrutiny of European Council meetings follows the same provisions as the general scrutiny of European affairs, with the exception some decisions that may be taken by the European Council (according to the art. 31(3), 48(6), 48(7) of the Treaty on European Union and art. 312(2) of the Treaty on the functioning of the European Union) that are subject to special procedure – prior assent – in both parliamentary chambers.

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

General basis for the parliamentary scrutiny of European affairs is defined by the Article 10a of the Constitution (adopted in 2001, so-called Euro-amendment)³⁰. Specific provisions are then defined in the Rules of procedure of both chambers, in the case of the CD it is the Part 15a (art. 109a-109l) of the Rules of Procedure³¹. Articles 109i-109k concern the scrutiny of specific decisions of the European Council (latest modification was adopted in May 2009).

Moreover, there is the Directive of the Government on the procedure for transmitting EC/EU draft legislative acts and European Commission documents to the Chamber of Deputies and the Senate of the Czech Republic (n. 680 of June 7, 2006)³² that provides for transmission of information on European affairs, and specifically includes information on the proceedings in the European Council.

- If yes, what are these rules about? What obligations does the government have?

The Constitution obliges the government to inform the parliament “regularly and in advance of issues related to obligations arising from (the Czech memberships in the EU)” and gives both chambers the right to express their views on the proposed decisions that are being prepared in the EU.

Rules of procedure of the CD state that the government submits to the CD all legislative proposals of the EU and, if it so decides or if the CD so requires, any other proposed European act. The rules of procedure of the CD provide only for scrutiny of the Council meetings; the European Council meetings are specifically mentioned as a subject of obligatory scrutiny and prior assent of the CD only in cases in some specific decisions

³⁰ Available in English at <http://www.senat.cz/informace/zadosti/ustava-eng.php> (last retrieve 23 July 2012);

³¹ Act no. 90/1995 on the Rules of procedure of the Chamber of Deputies as amended, available in Czech on http://www.psp.cz/docs/laws/1995/90_index.html (last retrieved 21 July 2012).

³² [http://isap.vlada.cz/homepage2.nsf/pages/esd/\\$file/zasilani.pdf](http://isap.vlada.cz/homepage2.nsf/pages/esd/$file/zasilani.pdf) (last retrieved 21 July 2012), (title translation based on the English translation of an older version available at www.psp.cz/home/vybory/VEZ/brozuravez.doc)

(according to the art. 31(3), 48(6), 48(7) of the Treaty on European Union and art. 312(2) of the Treaty on the functioning of the European Union. Note: Assent of S is also required.) However, the article 109b on the scrutiny of the Council meetings is generally interpreted as applying also to the European Council.

Interestingly, rules of procedure of S specifically mention that the government informs the S about the provisional agenda of the European Council and about its results.

This distinction between the chambers is not apparent in Government Directive. The directive states that upon request of the respective (European) committee of either chamber, a member of the government attends meeting of this committee before the meeting of the European Council that has on its agenda any proposed European act, decision or document, and informs about the position of the government for the European Council. After the summit, the responsible member of the government submits a report on the summit to both committees without delay.

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

No. The only specific mention of the European Council summits is in fact in the rules of procedure of the S and in the Government Directive.

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

Yes, but there is no general formal rule that would require them to take part / place the issue on the agenda of the committee or chamber (with the exception of the obligatory assent with some decision mentioned above). Debates on European Council are more common in the CD than in the S, it has become practice for the PM to attend the meeting of the CD's Committee for European Affairs before each EC, if possible. If he cannot attend personally, his Secretary of State for European Affairs usually substitutes for him. This practice is rarely not observed, usually for time constraints reasons on the part of the Committee or rescheduling of the EC.

Moreover, both chambers also receive information on preparation of the Czech position for the European Council through participation at the executive coordination mechanism. The main executive coordination body for the European affairs, the Committee on the European Union (V-EU, essentially the government), includes at working level (level of deputy-ministers) also representatives from both chambers of the parliament as associate members. The V-EU at working level discusses the proposed mandate for European Council (which is to be approved by the V-EU).³³

- Do Parliaments' Rules of Procedure provide for priority debates?

Yes. According to the art. 51(4) of the Rules of Procedure of the CD, upon the request of at least 1/5 of the CD, a session must be convened within 10 days.

Moreover, regarding European issues, the Chairman of the Committee for European Affairs of the CD or the government can ask the Speaker to place an issue on which the Committee has passed a motion on the agenda of the next plenary session (within eight

³³ Statute of the Committee on European Union, in English is available at http://www.vlada.cz/assets/ppov/veu/statuses_committee_eu_en.pdf (last retrieved 21 July 2012).

days of passing that motion the in the Committee). Again, in cases of the European Council decisions were prior assent of the parliament is required, the issue has to be placed on the agenda of the next plenary session, or, if needed, a special plenary session could be convened.

- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?

Typically, the upcoming European Council is discussed in the Committee for European Affairs of the CD, more rarely in the plenary. If the issue is not placed on the agenda of the plenary, any motion passed by the Committee for European Affairs is considered to be a motion of the CD. Typical debate on upcoming European Council begins with presentation of the prepared Czech position ("mandate") by a member of the government, followed by a debate. In the period from March 2011 to March 2012, there was one case when the presentation was not followed by a debate (before the October summit).

In the S, European issues, including the European Council, are more often discussed in the plenary, as the S' Committee on European Affairs cannot pass a motion in the name of the whole chamber.

- Which governmental authorities take part in the parliamentary debates?

In the case of the CD, it is usually the Prime Minister or his Secretary of State for European Affairs, more rarely the First Deputy Minister of Foreign Affairs. In S, other members of government (who also present other issues the same day) present the government's position.

- Is there a vote for a parliamentary resolution before the European Council meeting?

Sometimes, but this is quite rare. Moreover, such resolution usually just states formal support of the government's position ("the CD takes into account")³⁴.

In the period from March 2011 till March 2012, there was only one case when the CD adopted a different that just simple "taking into account" resolution and this regarded the obligatory prior assent of the CD with the amendment of art. 136. In this case, CD consented with the proposed EC's decision, but also instructed the government on negotiating mandate should this proposed decision be amended at the EC meeting itself.³⁵

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

Again, there is no obligatory mechanism for the ex-post control. As in the case of the ex-ante control, the issue can be discussed either in the Committee or in the plenary, and the parliament also receives information on the basis of the Government Directive or through its representatives in the V-EU at working level that also receives information on the discussion at the European Council.

³⁴ All resolutions of the CD are available at <http://psp.cz/ff/2b/0b.htm> (last retrieved 21 July 2012).

³⁵ Resolution of the CD no. 75 of the 11th session of the 6th CD, available at <http://www.psp.cz/ff/fd/fe/69/08.htm> (last retrieved 21 July 2012).

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

The ex-post debates in plenary are not obligatory. In the period between March 2011 and March 2012 there were only two such debates, after the last EC in 2011 and the first EC in 2012. Both related to the Czech reluctance/refusal to accede to the fiscal treaty.

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

The agenda is prepared by the Organisational Committee³⁶ and then proposed by the Speaker. Moreover, any committee, party group or a deputy can propose amendments of the proposed agenda. However, this has to be approved by the plenary, so the government can theoretically avoid a debate thanks to its majority in the CD. This happened once in the period from March 2011 to March 2012; the opposition (namely the Shadow Minister of Foreign Affairs L. Zaorálek) proposed a debate on the Report of the PM on the EC meeting of 11 March 2011, the proposal was not adopted thank to the government's majority.³⁷

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

Yes, if requested, the PM attends these meetings and presents the results of the EC.

- How is the debate structured? Is there a vote after the debate?

The debate usually starts with a presentation by the PM followed by a discussion. The two debates in December 2011 and in February 2012 both followed this pattern. At the end, there were always two conflicting resolutions proposed, one by a coalition deputy and other by an opposition deputy. In both cases, the coalition proposal expressing support for the government (formal "taking into account") was adopted. The opposition proposals, proposed both times by the shadow Minister for Foreign Affairs, were not adopted.³⁸

Ex-post debates in the S were little more common. The S also passed several resolutions expressing disagreement with the government's position towards the Fiscal Treaty.³⁹

This difference between the CD and the S can be attributed mostly to the fact the current majority in the S is held by the opposition (the Czech Social Democratic Party, which in general expresses more pro-European views than the main coalition party, the Civic Democratic Party).

³⁶ Consisting of the Speaker, vice-speakers and representatives of party groups.

³⁷ Same thing happened twice in relation to ex-ante control (regarding the two last meetings of the EC in 2011), see protocols of plenary debates, <http://psp.cz/eknih/2010ps/stenprot/Index.html> (last retrieved 23 July 2012).

³⁸ The proposal concerning the December EC asked the government to "do everything for the consolidation of eurozone and stabilisation of European institutions", the proposal concerning the January EC asked the government to sign the Fiscal Treaty, see protocols of plenary debates, <http://psp.cz/eknih/2010ps/stenprot/Index.html> (last retrieved 23 July 2012).

³⁹ Protocols of plenary debates of the S, <http://senat.cz/xqw/xervlet/psenat/finddoc?typdok=steno> (last retrieved 21 July 2012).

5. Since Lisbon

- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?

Yes. Because of the introduction of the simplified treaty change procedure and passarelle clauses, the rules requiring prior assent of both chambers in cases in some specific decisions (according to the art. 31(3), 48(6), 48(7) of the Treaty on European Union and art. 312(2) of the Treaty on the functioning of the European Union (similar provisions concern some decisions of the Council)).

- Did any significant events or changes in formal rules occur after Lisbon in the upper house?

See above

- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?

Not really. Although there is a clear difference between two main coalition parties, the more euro-sceptic Civic Democratic Party (PM Petr Nečas) and more pro-integration TOP 09 (Minister of Foreign Affairs Karel Schwarzenberg) and there have been many occasions when these two parties presented opposing views on European integration (e.g. the Fiscal Treaty), these did not effectively threaten the survival of the government.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

C2 = ordinary meeting of the European Council – 24 and 25 March 2011

C3 = ordinary meeting of the European Council – 23 and 24 June 2011

C4 = meeting of the Heads of State or Government of the Euro Area – 21 July 2011

C5 = ordinary meeting of the European Council – 23 October 2011

C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011

C7 = ordinary meeting of the European Council – 8 and 9 December 2011

C8 = informal meeting of the European Council – 30 January 2012

C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	N	Y ⁴⁰	Y	NA	N	N	Y	Y	Y
Debates on the floor	N	Y	N	NA	N	N	N	N	N
Formal declaration by the PM	N	Y	Y	NA	N	N	Y	Y	N
Vote of a motion	N	Y	N	NA	N	N	N	N	N
After the European Council meeting									
Debates in committees	N	N	N	NA	N	N	N	N	N
Debates on the floor	N	N	N	NA	N	N	Y	Y	N
Formal declaration by the PM	N	N	N	NA	N	N	Y	Y	N
Vote of a motion	N	N	N	NA	N	N	Y	Y	N

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

None yet. However, because of the binding mandate for the government required before some of the EC's decisions, future involvement of Constitutional court could be theoretically possible.

- Some of your own remarks (voluntary):

Note: The Czech Parliament enjoys rather privileged access to the executive coordination mechanism, so it has very good informal access to information on all European issues.

Selected literature

Knutelská, V. (2011): 'Working Practices Winning Out over Formal Rules: Parliamentary Scrutiny of EU Matters in the Czech Republic, Poland and Slovakia', *Perspectives on European Politics and Society*, 12:3, 320-339

Král, D. and Bartovič, V. (2010) *The Czech and the Slovak Parliaments after the Lisbon Treaty* Prague: Europeum,
http://www.europeum.org/doc/publications/Narodni_parlamenty_ENG_Web.pdf (last retrieved 23 July 2012)

Pítrová, L. and Coxová, M. (2007) 'Parliamentary Control of EU Decision-making in the Czech Republic', In Tans, O., Zoethout, C., Peters, J. (eds) *National parliaments and European Democracy: A Bottom-up Approach to European Constitutionalism* Groningen: Europa Law Publishing

⁴⁰ There were **two separate meetings** both of the Committee and of the plenary concerning this European Council. First meeting in both cases concerned the obligatory prior assent of the CD with the EC's decision amending art. 136 TFEU, second meeting in both cases concerned the overall agenda of the EC. A motion was passed by the CD both times. The PM attended the second meeting of the Committee and both meetings of the CD.

Cyprus: Kalliope Agapiou-J., University of Cyprus

Name of your Member State: Cyprus (House of Representatives)

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

No, there are no formal rules specifically for European Council meetings and Euro zone summits. Scrutiny is carried out through regular procedures of parliamentary scrutiny.

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

- If yes, what are these rules about? What obligations does the government have?

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

No, due to the explicit separation of powers as provided for in the Constitution of the Republic of Cyprus, this is not possible.

- Do Parliaments' Rules of Procedure provide for priority debates?

Article 73(5) of the Constitution provides for an emergency procedure.

- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?

According to the Constitution, a draft Bill or Private Bill characterized as of an urgent nature is debated by the competent Committee and then debated in the Plenary before voted.

- Which governmental authorities take part in the parliamentary debates?

The Rules of Procedures provide that (rule 42) (2) In case of an introduction of a Bill by the Government, a notification for the meeting of the competent Committee of the House shall be sent to the Minister who has introduced the Bill under question, or in whose competence the matter under question falls. (3) Ministers can be present at the debates of the Committees of the House and express their views (4) A Committee of the House shall have the right to summon any interested organ, authority, organization, society, association, trade union, person or corporate body to provide information and evidence or to express and elaborate views and opinions on any Bill or matter under debate.

Furthermore, the only case when a Minister addresses the Plenary is when the draft Bill on the State Budget is submitted, in which case the Minister of Finance presents the draft Bill.

- Is there a vote for a parliamentary resolution before the European Council meeting?

There have not been any resolutions regarding European Council meetings so far.

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

Any Committee may, in the exercise of parliamentary control consider any matters within its competence. After the conclusion of debate therein, a report expressing the views of the Committee is addressed to the Plenary. Further, any MP may submit written questions to the Government regarding the above issues.

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

If, as explained above, a decision of a competent Committee to examine such an issue is taken, then the Plenary debates the report of the Committee.

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

The President of the House of Representatives sets the agenda of all Plenary meetings. The Government cannot avoid a debate.

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

As explained above the competent Committee may summon any person it deems necessary in the context of the debate of an issue. Ministers are very often invited to meetings of parliamentary Committees.

Regarding the President of the Republic (Head of Government) Article 79.1 of the Constitution provides that "The President (...) of the Republic may address the House of Representatives by message, or transmit to the House of Representatives their views through the Ministers. Therefore he/she cannot be summoned by a Committee.

- How is the debate structured? Is there a vote after the debate?

Not necessarily. If the issue for which a Ministry is invited is to inform the Committee on the state of play regarding a given issue then a vote is not necessary.

5. Since Lisbon

- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?

No.

- Did any significant events or changes in formal rules occur after Lisbon in the upper house?

No.

- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?

No.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

C2 = ordinary meeting of the European Council – 24 and 25 March 2011
 C3 = ordinary meeting of the European Council – 23 and 24 June 2011
 C4 = meeting of the Heads of State or Government of the Euro Area – 21 July 2011
 C5 = ordinary meeting of the European Council – 23 October 2011
 C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011
 C7 = ordinary meeting of the European Council – 8 and 9 December 2011
 C8 = informal meeting of the European Council – 30 January 2012
 C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	No	No	No	No	No	No	No	No	No
Debates on the floor	No	No	No	No	No	No	No	No	No
Formal declaration by the PM	No	No	No	No	No	No	No	No	No
Vote of a motion	No	No	No	No	No	No	No	No	No
After the European Council meeting									
Debates in committees	Yes	Yes	No	Yes	No	No	Yes	Yes	No
Debates on the floor	No	No	No	No	No	No	No	No	No
Formal declaration by the PM	No	No	No	No	No	No	No	No	No
Vote of a motion	No	No	No	No	No	No	No	No	No

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

No.

- Some of your own remarks (voluntary):

Denmark: Mette B. Christensen, Danish Institute for International Studies

Name of your Member State: Denmark

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

The general legal bases for the Danish Parliament's control of EU affairs consist of the Accession Act of 1972 and successive *agreements between the European Affairs Committee (EAC) and the government described in 28 special reports*. The formal rules regarding parliamentary scrutiny of European Council meetings are laid down in a special report of the EAC from 28 May 1976⁴¹.

- If yes, what are these rules about? What obligations does the government have?

According to the special report from 1976, the government is obliged to consult the EAC and the Foreign Affairs Committee (FAC) on European Council meetings⁴².

The government's shifting of documents on European Council meetings is not described in any of the special reports and is based on an informal agreement between the Ministry of Foreign Affairs and the EAC. According to this, the Ministry of Foreign Affairs is obliged to forward copies of all European Council documents that they regard as politically important. In practice, the government usually forwards the confidential draft conclusions of an upcoming European Council meeting to the members of the EAC and the FAC plus other relevant documents as soon as they are available to the government⁴³.

Compared to the formal rules of the parliamentary control of Council meetings, there are very few rules governing the control of the European Council meetings. The obligation of the government is mainly to consult the EAC and the FAC. For the Council formations, the government has a much larger number of obligations both for providing different types of information (factual notes, evaluation of the principle of subsidiarity, political positions of other member states etc.) and for seeking an actual mandate for its negotiation positions in the Council⁴⁴.

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

The rules do not distinguish between different types of meetings.

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

⁴¹ *The European Affairs Committee of the Danish Parliament*, Booklet.

(http://www.thedanishparliament.dk/Publications/The_European_Affairs_Committee.aspx)

⁴² *Beretning fra Markedsudvalget, 28. Maj 1976* (Special EAC report from 28 May 1976)

(<http://euo.dk/dokumenter/ft/euu/beretninger/>).

⁴³ *Vejledende sammenskrivning af Europaudvalgets beretninger, 2011* (A comprehensive overview of all special reports issued by the EAC). Interview with EAC Secretariat.

(<http://euo.dk/dokumenter/ft/euu/beretninger/>).

⁴⁴ *The European Affairs Committee of the Danish Parliament*, Booklet.

(http://www.thedanishparliament.dk/Publications/The_European_Affairs_Committee.aspx)

Interview with EAC Secretariat.

A debate takes place prior to each of the European Council summits in both the EAC and the FAC and the parliament is therefore always involved in the preparatory work⁴⁵.

- Do Parliaments' Rules of Procedure provide for priority debates?

No specific rules for priority debates of the European Council exist, but Danish MPs do have a number of general formal rights of referring an issue to the plenary. MPs can put issues of special urgency or interest on the agenda of the floor through interpellations and §20 questions according to the rules of the Standing Order of the *Folketing*. Both rights consist of posing questions to Ministers with the aim of gaining information and putting an issue on the political agenda, leading to public debate. Interpellations are used to prepare a debate on broader political questions where all parties are granted speaking time. Interpellations can lead to a plenary vote on the issue in question. §20 questions are posed by individual MPs to one of the ministers on a specific issue of concern. §20 questions are not followed by a vote. The MP posing the question can ask for either a written or oral answer. Written answers are forwarded continually, whereas oral answers are given briefly during the weekly question time in the plenary. MPs can also ask "impromptu questions", which the Ministers must immediately answer without time for preparation. This happens once a week during what is known as the 'Question Hour'.

In general, interpellations and §20 questions are not used very frequently in EU matters as in most cases the debates are kept within the EAC. Since the EAC meetings are open to the public, the members do not have the same incentives to refer a debate to the plenary as it doesn't necessarily lead to more media attention than the committee meetings. Moreover, both the members of the EAC and the government have the opportunity to call for an extraordinary committee meeting in matters of urgency⁴⁶.

- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?

In most cases the EAC is responsible for priority debates (as described above), but it does happen from time to time that a parliamentarian refers an issue to the plenary.

- Which governmental authorities take part in the parliamentary debates?

The Prime Minister makes an oral presentation of the negotiation position of the Danish government to both the EAC and the FAC. Both committee meetings usually take place on a Friday with only half an hour in between. The following debates in the two committees are somewhat different in character as the EAC meetings are open to the public and are broadcast on the Folketing's TV channel and also available at the parliament's website, whereas FAC meetings are closed. The debate during FAC meetings is often of a more free and confidential character in terms of what can be expressed by the participants. For example, the position of other member states can be discussed. In the EAC, members can make references to relevant Council meetings during the discussion of European Council summits as the same committee is in charge of scrutinizing these. EAC members thus have broader and more in-depth knowledge of EU developments than the FAC members do. Moreover, the two committees have quite different memberships. The EAC members are

⁴⁵ Interview with EAC Secretariat.

⁴⁶ Link from ft.dk: 'Parliamentary control of the government'

(http://www.thedanishparliament.dk/About_the_Danish_Parliament/Tasks/Control.aspx)

Sousa, Maja Møller (2009), *Domesticating Europe: The Europeanisation of the Danish Parliament*, PhD Dissertation, University of Copenhagen.

usually EU spokes persons of the political parties; whereas the FAC consist of quite experienced, high-profile politicians such as former ministers, party leaders etc.⁴⁷

Formally, the government may decide to seek a negotiation mandate to the EAC, which subsequently will be adopted if there is no majority against it, following the usual practice regarding the control of Council meetings. If this is the case, the negotiation position is presented by the Minister of Foreign Affairs⁴⁸ a week before the Prime Minister is presenting the agenda of the European Council meeting at the EAC. In this way, the timing of issuing negotiation mandates takes into account that the actual preparation of the European Council meetings are already handled during the meetings of the Council of General Affairs. In practice, the government almost never seeks negotiation mandates before European Council meetings except from when major treaty changes are on the agenda. This is because the actual law-making and decision-making procedures take place during the normal council formations where the Danish government is already obliged to present its negotiation position ex-ante and seek a negotiation mandate from the EAC before joining the negotiations in Brussels. Parliamentary control of actual EU decision-making is therefore considered to be ensured⁴⁹.

- Is there a vote for a parliamentary resolution before the European Council meeting?

No voting takes place in the two committees⁵⁰.

3. Ex-post control: institutional body

- Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

The EAC and the FAC are the responsible bodies for the control of the European Council, and summit conclusions are always discussed in both committees⁵¹.

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

Usually there are no plenary debates as the ex-post control takes place in committees, except from when new treaties or major treaty changes need to be adopted by the plenary through a motion for a resolution. Individual MPs do, however, have different formal opportunities of setting the agenda of the plenary (as described above).

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

⁴⁷ Interview with EAC Secretariat and interviews with members of the EAC.

⁴⁸ The current government (elected on 15 September 2011) has created a new permanent Minister of Europe position. The Danish Europe Minister is now in charge of presenting negotiation mandates to the EAC instead of the Minister of Foreign Affairs.

⁴⁹ Interview with EAC Secretariat.

⁵⁰ *The European Affairs Committee of the Danish Parliament*, Booklet.

(http://www.thedanishparliament.dk/Publications/The_European_Affairs_Committee.aspx)

⁵¹ *Vejledende sammenskrivning af Europaudvalgets beretninger, 2011* (A comprehensive overview of all special reports issued by the EAC).

The EAC is responsible for setting the agenda of the committee. The Danish Prime Minister is obliged to present the conclusions to both the EAC and the FAC and a debate with the government on the conclusions of a European Council meeting can therefore not be avoided. All European Council meetings are therefore automatically subject to ex-post parliamentary control⁵².

- How is the debate structured? Is there a vote after the debate?

The presentation of the Prime Minister is followed by a question and answer session where all members of the committee are invited to discuss the outcome of the meeting with her. For this reason, the debate (both ex-ante and ex-post) does not reflect discussions among the political parties in parliament, but is rather a discussion between individual MPs and the minister. No voting takes place⁵³.

5. Since Lisbon

- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?

No significant changes have taken place regarding the control of European Council meetings after the Lisbon Treaty⁵⁴.

- Did any significant events or changes in formal rules occur after Lisbon in the upper house?

An agreement has been made between the EAC and the Government on how to monitor the principle of subsidiarity. The procedure was formally endorsed by the EAC on 26 March 2010. According to the new procedures the task of monitoring subsidiarity issues is a joint responsibility of the EAC and the sectoral committees. On the basis of an annual selection of a number of proposals from the European Commission's Work Programme, checks are conducted on the principle that sectoral committees are responsible for the initial consideration of the proposals, whereas the EAC adopts the reasoned opinion and then sends it to the European institutions⁵⁵.

- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?

Since 2009, Denmark has held one general election in 2011, which was not influenced by decisions made in the European Council.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

C2 = ordinary meeting of the European Council – 24 and 25 March 2011

C3 = ordinary meeting of the European Council – 23 and 24 June 2011

⁵² Ibid

⁵³ Interview with EAC Secretariat and interviews with members of the EAC.

⁵⁴ Interview with EAC Secretariat

⁵⁵ *Replies from the EU Parliaments to the questionnaire for the 13th Bi-annual Report, 2010, COSAC.* (<http://www.cosac.eu/documents/bi-annual-reports-of-cosac/>)

Fact sheet: The Danish Parliament and the European Union, 2011. (http://euo.dk/euo_en/)

C4 = meeting of the Heads of State or Government of the Euro Area – 21 July 2011
 C5 = ordinary meeting of the European Council – 23 October 2011
 C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011
 C7 = ordinary meeting of the European Council – 8 and 9 December 2011
 C8 = informal meeting of the European Council – 30 January 2012
 C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
Debates on the floor ⁵⁶	No	Yes	No	No	No	No	Yes	No	Yes
Formal declaration by the PM ⁵⁷	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
Vote of a motion	No	No	No	No	No	No	No	No	No
After the European Council meeting									
Debates in committees	No	Yes	Yes	No	Yes	No	Yes	Yes	Yes
Debates on the floor	Yes	Yes	No	No	Yes	No	Yes	Yes	Yes
Formal declaration by the PM	No	Yes	Yes	No	Yes	No	Yes	Yes	Yes
Vote of a motion	No	Yes	No	No	No	No	No	No	No

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

- Some of your own remarks (voluntary):

For section 2 and 3:

More time and energy is usually invested in the ex-ante control of the European Council meeting as this is where members of the Danish EAC have the opportunity to actually influence the government's negotiation position. The ex-post control is not seen as an opportunity to influence, but more an opportunity to get clarifications from the Prime Minister on the European Council conclusions and to discuss future EU developments.

Suggested readings

Sousa, Maja Møller (2009), *Domesticating Europe: The Europeanisation of the Danish Parliament*, PhD Dissertation, University of Copenhagen.

Damgaard E., and Jensen, H. (2005) 'Europeanisation of Executive-Legislative relations: Nordic Perspectives,' *Journal of Legislative Studies*, 11 (3-4), 394-411.

⁵⁶ Websearch of parliamentary documents covering §20 questions where oral answers and interpellations. Coded when the European Council meetings were mentioned in the debate.

⁵⁷ I regard the declarations of the PM to the EAC and the FAC as formal although they are presented orally considering that it is a formalised procedure, and that the declarations are being recorded in the minutes of the EAC meetings which are available on the website of the Folketing.

Estonia: Piret Ehin, University of Tartu

Name of your Member State: Estonia (unicameral parliament "Riigikogu")

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

There are formal rules regarding the rights of parliamentary committees and a general framework for the parliamentary scrutiny of EU issues. These rules pertain also to European Council meetings and Euro zone summits.

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

The Constitution of Estonia does not contain any relevant provisions.

The legal basis for these rules is the Riigikogu Rules of Procedure and Internal Rules Act which was amended in 2004 in order to give the Riigikogu the means to exercise parliamentary scrutiny over the EU-related activities of the government.

- If yes, what are these rules about? What obligations does the government have?

Chapter 4 ("Riigikogu Committees") of the Riigikogu Rules of Procedure and Internal Rules Act lists the EU Affairs Committee as one of the standing committees of the Riigikogu. All standing committees have the right to "exercise supervision over the exercise of executive power within their particular field."⁵⁸ Specifically, a standing committee has the right to "require information necessary for its work from the Government of the Republic and agencies of the executive power" and to require the participation of a member of the Government or officials of government agencies in a committee sitting in order to obtain information or advice.⁵⁹ Chapter 18 of the Act stipulates the procedures for legislative proceeding of European Union affairs. It obliges the government to submit to the Riigikogu draft EU legislation and "other European Union affairs of significance" in order to enable the Riigikogu "to express its opinion."⁶⁰ These provisions are interpreted to mean that before European Council meetings and eurozone summits, the government must submit to the Riigikogu its positions regarding the agenda items of the summits and the Prime Minister must appear before the Committee of EU Affairs of the Riigikogu to explain and discuss these positions. The Act explicitly states that the government is required to adhere to the opinion of the Riigikogu. In case the government fails to do so, it must provide a justification to the European Union Affairs Committee or the Foreign Affairs Committee "at the earliest opportunity."⁶¹

The Act also obliges the Prime Minister to appear before the plenary session of the Riigikogu once a year in order to present to the Riigikogu an overview of the activities of the government in implementing European Union policies. It also stipulates the procedures for allowing the Riigikogu "to make known its opposition to an initiative taken by the European Council or a proposal of the European Commission," referring specifically to the passerelle clause (Article 48 (7) of the TEU).⁶²

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

No.

⁵⁸ Riigikogu Rules of Procedure and Internal Rules Act, Chapter 4. http://www.riigikogu.ee/?rep_id=799356 (accessed on July 13, 2012).

⁵⁹ Ibid, Chapter 4, § 22.

⁶⁰ Ibid, Chapter 18, § 1521.

⁶¹ Ibid, Chapter 18, § 1524.

⁶² Ibid, Chapter 18, § 1528.

2. Ex-ante control**- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?**

The EU Affairs Committee of the Riigikogu plays a central role in exercising parliamentary scrutiny of the EU-related actions of the executive. Before European Council meetings and eurozone summits, the government sends its positions to the Riigikogu's EU Affairs Committee and the Prime Minister appears before the Committee to explain the positions and to discuss these with the members of the Committee.

The staff of the EU Affairs Committee has access to the relevant government databases which contain both EU documents as well as relevant Estonian documents. After the EU Affairs Committee session the Committee's position is sent to the government. The Committee may also decline to form an opinion. It may cooperate with other standing committees of the Riigikogu in forming a position. The Committee's resolutions are reflected in the minutes of the meetings which are publicly available on the Riigikogu's webpage since 2012 (before 2012, only agendas of the meetings were made publicly available).

- Do Parliaments' Rules of Procedure provide for priority debates?

There are provisions regarding the scheduling and agenda-setting of additional sittings and extraordinary sessions of the Riigikogu. These provisions do not refer specifically to European issues.

- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?

The European Union Affairs Committee of the Riigikogu has a decisive and coordinative function in dealing with the EU affairs within the Estonian parliament. It may cooperate with other standing committees in forming opinions about the positions the government has prepared for the summit meetings. The fact that the members of the EU Affairs Committee are simultaneously members in other sectorial standing committees facilitates such cooperation.

The plenary is not involved in the preparatory work for the summits.

- Which governmental authorities take part in the parliamentary debates?

In the Estonian domestic policy coordination system, responsibility for EU affairs rests with the Prime Minister (while individual ministries are endowed with significant EU-related responsibilities within their areas of competence). Before European Council meetings and Eurozone summits, the Prime Minister appears before the Riigikogu's EU Affairs Committee to present and discuss Estonia's positions (before Council of Ministers meetings, the relevant ministers do so). The Committee usually invites other senior government officials involved in the preparatory work for the summits.

- Is there a vote for a parliamentary resolution before the European Council meeting?

There is no plenary vote. The EU Affairs committee forms a position which is reflected in the minutes of the meeting. Usually, the Chairman of the Committee summarises the position of the Committee after each agenda item and if there are no objections the position of the Committee is reflected in its minutes. In case of disagreement, the item is

either put to a vote or a dissenting opinion is entered into the minutes. According to the Riigikogu Rules of Procedure Act, a committee adopts a proposal if the majority of the members have voted in favour. In case of an equal outcome the proposal has not “gained support”.⁶³

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

The most important form of ex-post control by the Riigikogu is ratification of the treaties and adoption of legislative acts that follow from decisions taken at European Council meetings and eurozone summits. Voting in the plenary is preceded by debates in the relevant committees. For instance, in preparation for the ratification of the treaty establishing the European Stability Mechanism, the EU Affairs Committee is holding joint meetings with the Finance Committee and the Constitutional Committee.

In terms of controlling the results of the summits, Riigikogu Rules of Procedure and Internal Rules Act stipulates that the government is required to adhere to the opinion of the Riigikogu (e.g. on Estonia's positions for the summit meetings) and that if the government fails to do so, it must provide a justification to the European Union Affairs Committee or the Foreign Affairs Committee “at the earliest opportunity.”⁶⁴ Information provided on the webpage of the Riigikogu's EU Affairs committee suggests that following Council of Ministers meetings, the relevant ministries (in case of European Council meetings, the Prime Minister's office) provide the EU Affairs Committee with a memorandum containing the proceedings of the meetings. Occasionally, there are ex-post discussions in the EU Affairs Committee – but based on the available minutes, such discussions appear to be limited to the Committee “acknowledging the information provided.”

The Prime Minister's annual overview of the government's activities in implementing European Union policies before the plenary session of the Riigikogu represents another form of ex-post control (for details, see section 4 of this report).

Finally, post-Lisbon amendments of the Riigikogu Rules of Procedure and Internal Rules Act provide the Riigikogu with additional means to control the government and the decisions of the European Council (see section 5 of this report).

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

There are no debates in the plenary following specific European Council meetings or Eurozone summits. The plenary session of the Riigikogu discusses EU affairs after the annual overview of the government's EU policies provided by the Prime Minister or when deliberating legislative acts or ratifying treaties.

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

⁶³ Webpage of the Riigikogu, „Work of the Committee: EU Affairs Committee,” <http://www.riigikogu.ee/index.php?id=35270> (accessed July 15, 2012).

⁶⁴ Riigikogu Rules of Procedure and Internal Rules Act, Chapter 18, § 1524.

The Prime Minister has an obligation to present to the Riigikogu an overview of the activities of the Government of the Republic in implementing European Union policies at least once a year. The presentation is usually quite general, focusing on the foundations and guiding principles of the government's EU policy.

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

See above.

- How is the debate structured? Is there a vote after the debate?

The Prime Minister's annual overview of the government's activities in implementing European Union policies before the Riigikogu is followed by a statement by the Chair of the EU Affairs Committee (or some other relevant committee). Then a debate is opened. Members of the Riigikogu may each pose one oral question to the presenter. There is no vote.⁶⁵

5. Since Lisbon

- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?

Yes. In the second half of 2009, in-depth discussions started about the necessity of amending the existing regulations on domestic EU-related decision-making taking into account the Treaty of Lisbon provisions. In February 2010, all the 6 factions of the Riigikogu submitted a joint amendment to the Riigikogu Rules of Procedure and Internal Rules Act. The amended Act was adopted on May 19, 2010. The amendments mostly concern three areas:⁶⁶

- Subsidiarity: the EU Affairs Committee may submit a draft resolution of the Riigikogu containing a reasoned opinion on why a draft European Union legislative act does not comply with the principle of subsidiarity;

- Ex-post control via the European Court of Justice: A standing committee or faction may submit a draft resolution of the Riigikogu containing a request to the Government of the Republic to file an action at the European Court of Justice concerning the violation of the principle of subsidiarity.

- Passerelle: A standing committee or faction may submit a draft resolution of the Riigikogu to make known its opposition to an initiative taken by the European Council to adopt a decision referred to in the first or second subparagraph of Article 48(7) of the Treaty on European Union or to proposal by Commission according to Article 81 (3) of the TFEU.

- Did any significant events or changes in formal rules occur after Lisbon in the upper house?

There is no upper house, Estonia has a unicameral parliament.

- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?

No.

⁶⁵ Riigikogu Rules of Procedure and Internal Rules Act, Chapter 18, § 1525.
http://www.riigikogu.ee/?rep_id=799356 (accessed on July 13, 2012).

⁶⁶ Website of the Riigikogu, "Riigikogu Post-Lisbon Treaty" <http://www.riigikogu.ee/index.php?id=172440> (accessed July 15, 2012)

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

C2 = ordinary meeting of the European Council – 24 and 25 March 2011

C3 = ordinary meeting of the European Council – 23 and 24 June 2011

C4 = meeting of the Heads of State or Government of the Euro Area – 21 July 2011

C5 = ordinary meeting of the European Council – 23 October 2011

C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011

C7 = ordinary meeting of the European Council – 8 and 9 December 2011

C8 = informal meeting of the European Council – 30 January 2012

C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	y	y	y	y	y	y	y	y	y
Debates on the floor	n	n	n	n	n	n	n	n	n
Formal declaration by the PM	n	n	n	n	n	n	n	n	n
Vote of a motion	n	n	n	n	n	n	n	n	n
After the European Council meeting									
Debates in committees	n	n	n	n	n	n	n	n	y
Debates on the floor	n	n	n	n	n	n	n	n	n
Formal declaration by the PM	n	n	n	n	n	n	n	n	n
Vote of a motion	n	n	n	n	n	n	n	n	n

NOTE: during the period covered by the template, the Riigikogu adopted two resolutions pertaining to topics central to European Council and Eurozone summit meetings:

- 1) a resolution adopted on September 29, 2011 approves fulfilment of obligations stemming from the framework agreement on the European Financial Stability Facility and changes thereof;
- 2) the resolution adopted on February 23, 2012 approves the draft memorandum to be concluded between the European Commission and Greece.

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

Yes: the Chancellor of Justice and the Supreme Court.

In March 2012, the Chancellor of Justice Indrek Teder submitted an application to the Estonian Supreme Court, challenging the constitutionality of the provision of the Treaty Establishing the European Stability Mechanism, according to which the making of decisions on the provision of financial assistance to the ESM's Member States is possible on the basis of 85% qualified majority vote. According to Teder, such a decision-making scheme "jeopardises the principle of parliamentary democracy, the principle of parliamentary prerogatives as well as the budget autonomy of the Parliament."⁶⁷

⁶⁷ Webpage of the Chancellor of Justice, <http://oiguskantsler.ee/en/chancellor-of-justice/public-relations/news> (accessed July 15, 2012).

The Supreme Court issued a judgement in July 2012, dismissing the application of the Chancellor of Justice. The Court argued that although the contested article restricts the financial competence of the Riigikogu, the principle of rule of law and the sovereignty of Estonia, the restriction is justified.⁶⁸

- Some of your own remarks (voluntary):

Critics of the functioning of the Estonian political system argue that too much power is concentrated in party offices: parliamentary debates (plenary or within committees) are largely inconsequential because everything of importance (including in the realm of EU affairs) is decided in party offices.

Further reading

I am not aware of any English-language publications focusing specifically on the role of the Estonian parliament in scrutinizing the EU-related activities of the executive. In terms of a broader overview, the following publications may be helpful:

Jacobsson, Bengt (ed.), *The European Union and the Baltic States: Changing forms of governance*. New York: Routledge 2010. (includes a chapter on "The choice of parliamentary EU scrutiny mechanisms in the new member states" by Ann-Cathrine Jungar)

Ehin, Piret. "Estonia's Integration with the EU: Excelling at Self-Exertion." In Simon Bulmer and Christian Lequesne (eds.). *The Member States of the European Union*, 2nd edition. Oxford: Oxford University Press, forthcoming 2012.

⁶⁸ Permanent Representation of Estonia to the EU, "The Supreme Court: Provision of the Treaty establishing the European Stability Mechanism contested by the Chancellor of Justice deemed constitutional", <http://www.eu.estemb.be/eng/news/aid-1201>(accessed July 15, 2012).

Finland: Tapio Raunio, University of Tampere

Name of your Member State: Finland

1. The formal rules

- **Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?**
- **If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?**
- **If yes, what are these rules about? What obligations does the government have?**
- **If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?**

The involvement of the unicameral Finnish parliament, the Eduskunta, in EU affairs is based on constitutional rules, with Section 96 focusing on the rights of the Eduskunta in EU's legislative process and Section 97 in turn focusing on foreign policy and other EU issues. According to Section 97 'the Foreign Affairs Committee of the Parliament shall receive from the Government, upon request and when otherwise necessary, reports of matters pertaining to foreign and security policy. Correspondingly, the Grand Committee of the Parliament shall receive reports on the preparation of other matters in the European Union. The Speaker's Council may decide on a report being taken up for debate in plenary session, during which, however, no decision is made by the Parliament. The Prime Minister shall provide the Parliament or a Committee with information on matters to be dealt with in a European Council beforehand and without delay after a meeting of the Council. The same applies when amendments are being prepared to the treaties establishing the European Union. The appropriate Committee of the Parliament may issue a statement to the Government on the basis of the reports or information referred to above.' Hence the government has the constitutional obligation to inform the Grand Committee [the EU committee] both beforehand and afterwards of European Council meetings. Since December 2006 the government has also provided written reports on European Council meetings to the Eduskunta, both before and after the meetings. The prime minister also informs the Foreign Affairs Committee about foreign and security matters discussed in the European Council. If needed, the prime minister and the government are also in contact with the Grand Committee during the actual European Council meeting. Such contacts can be required particularly if new issues or initiatives appear on the agenda of the European Council in the course of the meeting. Essentially the Eduskunta enjoys according to the constitution unlimited access to information held by the government, with the government having the obligation to provide the parliament without delay any information it needs in the consideration of matters. The same applies to European Council meetings, and no distinction is made between regular and other European Council meetings.

2. Ex-ante control

- **Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?**
- **Do Parliaments' Rules of Procedure provide for priority debates?**
- **If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?**
- **Which governmental authorities take part in the parliamentary debates?**
- **Is there a vote for a parliamentary resolution before the European Council meeting?**

EU policy belongs almost exclusively to the jurisdiction of the government. This competence extends to those EU organs that do not take formal decisions and to issues that do not formally belong to EU's competence but are in terms of substance and impact closely linked to EU matters. The government decides Finland's positions and who represents the country in the preparatory organs and actual meetings of the Council and the European Council. Domestic preparation for European Council meetings is led by the prime minister's office. Hence the Eduskunta as such is not directly involved in the national preparation of the European Council meetings. However, the government must provide the Eduskunta and particularly the Grand Committee all relevant information about the work of the European Council. The prime minister appears in the Grand Committee before the European Council, and the committee also receives a written report from the government about the forthcoming European Council meeting. The Foreign Affairs Committee is informed regarding foreign and security policy issues on the agenda of the European Council. Recently the Grand Committee has pointed out that the government should also see to it that the Eduskunta is kept better informed about the preparation in the Council of issues that are decided or on the agenda of the European Council. Hence the Grand Committee is the main parliamentary body responsible for ex ante control of European Council meetings.

European Council meetings are not normally debated in the plenary, either ex ante or ex post. The Eduskunta itself has remarked that the items on the agendas of the European Council have not been conducive to meaningful and interesting parliamentary debates. However, issues that are on the agenda of the forthcoming European Council do occasionally appear in plenary debates, for example during question time. Another tool that can be used is prime minister's announcements that deal with topical matters. These debates are well-attended by MPs, with the government also present in the chamber. Prime Minister Mari Kiviniemi made such an ex ante announcement in connection with the extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area held on 11 March 2011. In addition to the oral question time and prime minister's announcements, the government can also submit reports or statements about such matters. Statements are always followed by a vote of confidence on the government, as are interpellations tabled by the opposition. In 2011-2012 two government statements, given in May 2011 and in February 2012, focused on the eurozone crisis. The opposition tabled three interpellations related to the eurozone, with the first tabled by the Left Alliance (March 2011) and the last two by The Finns (November 2011 and April 2012). In all these plenary debates the government is present in the chamber.

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

As with ex ante control, the Grand Committee is the main organ responsible for ex post scrutiny of European Council, with the prime minister appearing in the committee after the European Council meeting. The Grand Committee also receives a written report from the government about the European Council. The Foreign Affairs Committee is informed regarding foreign and security policy issues discussed in the European Council.

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?**
- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?**
- How is the debate structured? Is there a vote after the debate?**

There are no regular ex post debates about European Council meetings, but as indicated above, European Council meetings and the Euro zone issues can be debated in the plenary through a variety of procedures. Prime Minister Jyrki Katainen gave an announcement after the informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area held on 26 October 2011.

Apart from the prime minister's announcements and government statements, the government can not formally avoid a debate. However, regarding prime minister's announcements and government statements it must be emphasized that there has been since the euro crisis began in the spring of 2010 serious political pressure on the government to initiate such debates in the plenary, including pressure from the party groups of the governing parties. Nor can the government avoid hearings in the Grand Committee as the prime minister and/or the finance minister must appear in the committee.

5. Since Lisbon

- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?**
- Did any significant events or changes in formal rules occur after Lisbon in the upper house?**
- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?**

There were no real changes concerning parliamentary scrutiny of the European Council. However, the Eduskunta has emphasized several times the need to make sure that it is fully informed and kept up-to-date about the work of the European Council. Domestically the Lisbon Treaty changed the status quo by ending the possibility of both the prime minister and the president representing Finland in the European Council. After late 2009 the prime minister has represented Finland in the European Council. This is now also recognised in the Finnish constitution, with the amended wording of Section 66 stating that 'The Prime Minister represents Finland on the European Council. Unless the Government exceptionally decides otherwise, the Prime Minister also represents Finland in other activities of the European Union requiring the participation of the highest level of State' (the amendment entered into force in March 2012). This change obviously benefits the Eduskunta as the president is not directly accountable to the parliament.

The eurozone problems have created serious problems for the government, both before and after the Eduskunta elections held in April 2011 (for more detailed information, see the in-depth report). In addition to the votes of confidence that follow government statements and interpellations reported above, the cabinets led by Mari Kiviniemi (Centre Party) and Jyrki Katainen (National Coalition) have also faced severe criticism from within their own party groups. This is mainly explained by the fact that the main political parties are internally divided over the broad question of European integration, with the parliamentary debates hence not confined to the actual concrete issues relating to the euro crisis.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

C2 = ordinary meeting of the European Council – 24 and 25 March 2011

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C5 = ordinary meeting of the European Council – 23 October 2011

C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011

C7 = ordinary meeting of the European Council – 8 and 9 December 2011

C8 = informal meeting of the European Council – 30 January 2012

C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Debates on the floor	Yes	No	No	No	No	No	No	No	No
Formal declaration by the PM	Yes	No	No	No	No	No	No	No	No
Vote of a motion	No	No	No	No	No	No	No	No	No
After the European Council meeting									
Debates in committees	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Debates on the floor	No	No	No	No	No	Yes	No	No	No
Formal declaration by the PM	No	No	No	No	No	Yes	No	No	No
Vote of a motion	No	No	No	No	No	No	No	No	No

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

- Some of your own remarks (voluntary):

France: Valentin Kreilinger / Kateryna Perepechay / Olivier Rozenberg, Sciences Po Paris / Notre Europe

Name of your Member State: France (lower house National Assembly (NA), upper the Senate (S))

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

The formal rules on parliamentary scrutiny at the National Assembly do not specifically address European Council or Euro zone summits, but they contain a general framework for parliamentary scrutiny of European issues. This framework can be used and is used for the control of European Council and Euro zone summits.

The remaining features of parliamentary scrutiny consist of common practices and informal guidelines.⁶⁹

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

1. The provision in Article 88-4 of the Constitution states that the National Assembly and the Sénat can adopt a resolution on any document issued by any EU institution (since 2008).⁷⁰ This includes the European Council, but internal documents related to and issued by the European Council are a "grey zone". The French regulation on the participation of the Parliament in the European decision making process, of 21 June 2010, sets up the details for the request of documents, but only mentions the Council of the European Union.

2. Article 48 of the Rules of Procedure of the National Assembly provides for debates on European issues.⁷¹

3. Article 73 of the Rules of Procedure of the Sénat and General Instruction of the Bureau provides for debates on European issues.⁷²

- If yes, what are these rules about? What obligations does the government have?

These rules mainly oblige the government to keep parliament informed, before the European Council as well as after the European Council. Since there are very little obligations for the government, the National Assembly and the Sénat must demand the government for additional documents related to the European Council which it then receives.

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

No for both houses.

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

Yes, a public debate in plenary takes place before each *ordinary* European Council summit, usually in the week before.

⁶⁹ Interview with a clerk of the European Affairs Committee, French National Assembly, 13 June 2012.

⁷⁰ French Constitution, <http://www.assemblee-nationale.fr/connaissance/constitution.asp> (last retrieved 11 June 2012). Please note that all documents are in French and translated by the authors.

⁷¹ Rules of Procedure, http://www.assemblee-nationale.fr/13/dossiers/reglement_an.asp (last retrieved 11 June 2012).

⁷² Rules of Procedure, http://www.senat.fr/reglement/reglement_mono.html (last retrieved 11 June 2012).

This practice (there are no formal rules that address the issue) of ex-ante control of *ordinary* European Council summits was introduced after the failed referendum on the Constitutional Treaty in 2005.⁷³

For other summits the National Assembly does not take part in the preparation. It is argued in the NA that as extraordinary and informal summit are often organized with short notice, such bad timing does not allow the organization of a debate.⁷⁴

Since 2006, in the Sénat there is also a debate in the plenary one week before European Council. The Minister of European Affairs participates in this debate, makes the statement in the very beginning and answer to the senators questions during the question/answer period.⁷⁵

- Do Parliaments' Rules of Procedure provide for priority debates?

Not specifically for the parliamentary scrutiny of the European Council, but Article 48(8) of the Rules of Procedure of the National Assembly provides for a "week of control" where no legislation is passed in every forth week when the Parliament sits. One session has a priority for European questions. If this week falls near a European Council summit, this "European moment" will necessarily cover topical issues of the summit.⁷⁶

As for the upper house the article 73 sexies of the Rules of Procedure of the Sénat and General Instruction of the Bureau provides for oral questions with the debate on European issues, the date of which is fixed by the Sénat.

- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?

All preparatory work (ex-ante control) is done in plenary.⁷⁷

The typical debates are organized as follows:

1. Official statement by a minister (about 30 minutes);
2. Statements by a representative from each parliamentary party group (about 4 to 6 groups at the NA);
3. Possibly, but not each time: statements by the chairs of the European Affairs Committee and Foreign Affairs Committee;
4. Rapid answer to the different interventions by a minister

In some cases, such debate is followed a less formal session of oral question focused

Given those specific features, it can be said that parliamentary party groups are involved in the preparation and, to a lesser extent, the European Affairs and Foreign Affairs committees. There are no specific reports published before a Council. Given the limited number of assistance within groups (as opposed to the number of clerks in committees)

such organization raises the issue of the availability of expertise in the preparation of European Councils.

- Which governmental authorities take part in the parliamentary debates?

⁷³ Interview with a clerk of the European Affairs Committee, French National Assembly, 13 June 2012.

⁷⁴ Interview with a clerk of the European Affairs Committee, French National Assembly, 13 June 2012.

⁷⁵ Interview with a clerk of the European Affairs Committee, French Sénat, 21 June 2012

⁷⁶ <http://www.assemblee-nationale.fr/connaissance/constitution.asp> (last retrieved 11 June 2012).

⁷⁷ Protocols of Plenary debates, <http://www.assemblee-nationale.fr/14/debats/> (last retrieved 11 June 2012).

Usually, the Minister of State for Foreign and European Affairs is questioned, but sometimes the Junior Minister for European Affairs replaces him. The Prime Minister rarely makes a declaration. Their participation is not pre-determined in the rules.

The Constitution forbids the President to speak before Parliament, so the political actor at the summit is not allowed to make announce political decisions.

If there is no important announcement to make, the National Assembly and the Sénat do not see the need to have a declaration by the Prime Minister, but there is a declaration by the Minister of State for Foreign and European Affairs or the Junior Minister for European Affairs. In several occasions, the Minister for Foreign Affairs made the initial statement at the beginning of the session, then discreetly leaves the floor during the debates, and the junior minister is in charge of making the final answers to the speeches at the end.⁷⁸

- Is there a vote for a parliamentary resolution before the European Council meeting?

It is *possible* to vote on a parliamentary resolution. The only motion for a resolution in the timeframe 2011/2012 related to some issues that were relevant for the European Council of March 2012 was tabled by the centre-left in February 2012. The resolution (and the report by Elisabeth Guigou et al.) addresses the issues of the European Council of March 2012 directly.⁷⁹ This must be seen in the context of the electoral campaign before the presidential and parliamentary elections that took place in May and June 2012. Eventually the resolution was defeated by the right wing majority. Yet, on the paper, it is possible to adopt officially a resolution either at the Committee level or on the floor.

More generally, the NA and the Sénat try to be active *before* the European Council. There are three reasons behind this approach:

- to show to the executive bodies which issues are salient for the legislative body;
- to stimulate a national debate;
- to support the President in the negotiations.

Beyond that, there is no political will at the NA to express an opinion that deviates from the President's position.

In the Sénat there is no practice of vote in the end of the plenary debates.

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

The European Affairs Committees of the NA and of the S are the responsible bodies. Each Committee usually sits on Tuesday or Wednesday in the week after the summit.

On economic and financial topics the Committee for Finances, General Economy and Planning has a certain responsibility, joint sessions of both committees have taken place. The Foreign Affairs Committee could be involved in a similar way.

⁷⁸ Protocols of Plenary debates, <http://www.assemblee-nationale.fr/14/debats/> (last retrieved 11 June 2012).

⁷⁹ Proposal of a resolution for a European restart and a reinforced democratic control, <http://www.assemblee-nationale.fr/13/pdf/propositions/pion4196.pdf> (last retrieved 11 June 2012).

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

There is no debate in plenary. One can clearly distinguish the different sets of characteristics of ex-ante control and ex-post control: Ex-ante control takes place in plenary, ex-post control takes place in committee. This means that ex-post control is more specialised, but less transparent for the public than ex-ante control.

This also reflects the idea that the control exercised by Parliament is more like a "shadow control" where the parliamentary majority tries to avoid to weaken the government.

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

There is no debate in plenary. The debate in committee is common practice. Regarding this debate in European Affairs committee, as the habits to organise it is well established, it is difficult to identify who take the initiative (formally the Parliament invites the government) and to imagine a case where the government would try to avoid such debate.

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

Usually, the Junior Minister for European Affairs is questioned.⁸⁰ Other Ministers can be questioned, if necessary, according to current events. This has happened e.g. to the Minister for Economics and Finance after an economy-centred European Council followed by a Euro Area summit in October 2011 (joint meeting of the two responsible Committees).⁸¹

- How is the debate structured? Is there a vote after the debate?

Normally the statement by the Junior Minister for European Affairs before the European Affairs Committee of the National Assembly is followed by a debate where the Junior Minister is questioned. The organisation is rather informal: attending MPs ask the chair to question the minister, they make rather long questions where they also give their opinion and usually they do not comment the minister's answer.⁸²

There has never been a vote. After the French position has been articulated at the European Council, the Parliament does not articulate a position which could contradict the position taken by the President. The idea of accountability is only very weakly represented in the procedure for ex-post control.

5. Since Lisbon

- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?

No, two revisions of the Constitution had taken place in 2008. The practice of ex-ante control was slightly modified after the failed referendum in 2005 which is therefore more important than the entry-into-force of the Lisbon Treaty.

⁸⁰ Protocols of European Affairs Committee at the National Assembly, <http://www.assemblee-nationale.fr/13/europe/c-rendus/> (last retrieved 11 June 2012).

⁸¹ Interview with a clerk of the European Affairs Committee, French National Assembly, 13 June 2012.

⁸² Protocols of European Affairs Committee at the National Assembly, <http://www.assemblee-nationale.fr/13/europe/c-rendus/> (last retrieved 11 June 2012).

- Did any significant events or changes in formal rules occur after Lisbon in the upper house?

Since the Treaty of Lisbon came into force the rules of procedure were modified - partly to ensure the subsidiarity principle. The European Affairs Committee replaced the Delegation for European affairs in both assemblies. The Committee got more power than its predecessor, but only in EU legislation revision. As for the ex-ante control of the Council by the Sénat, the practice was also modified after the failed referendum in 2005

- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?

No.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011
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 C5 = ordinary meeting of the European Council – 23 October 2011
 C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011
 C7 = ordinary meeting of the European Council – 8 and 9 December 2011
 C8 = informal meeting of the European Council – 30 January 2012
 C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	n	n	n	n	y	n	n	n	n
Debates on the floor	n	y	y	n	y	n	y	n	y
Formal declaration by the PM	n	n	n	n	n	n	y	n	n
Vote of a motion	n	n	n	n	n	n	n	n	n
After the European Council meeting									
Debates in committees	n	y	y	n	n	y	y	y	n
Debates on the floor	n	n	n	n	n	n	n	n	n
Formal declaration by the PM	n	n	n	n	n	n	n	n	n
Vote of a motion	n	n	n	n	n	n	n	n	n

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

No. The Constitutional Council can control adopted texts before parliamentary ratification if they are asked so by some specific political leaders but it has not been an issue so far.

- Some of your own remarks (voluntary):

On filling out the templates for the European Councils:

The high number of summits in the period between March 2011 and March 2012 has sometimes made it difficult to distinguish between ex-post control of the latest summit and ex-ante control of the forthcoming summit. This is particularly true for C1/C2 and C8/C9. Both summits in October 2011 have their specific characteristics: C5 was initially scheduled for 17/18 October, but deferred to 23 October. So ex-ante control took place earlier than usual. C6 was only scheduled due to a parliamentary reserve expressed by the German Chancellor. Ex-post control of C5 and C6 thus fall together. Ex-ante control of C6 could not take place.

The participation of the Prime minister before the Council of December 2011 is exceptional.

As a result of the French elections from March to June 2012, the French Parliament was less active during the 1st semester of 2012.

Since 2008, the President has been given the right to deliver a speech before the Congress in Versailles, the joint meeting of both assemblies. Each group may answer the President but: a. in his/her absence, b. without any final vote. So far, this rather controversial procedure was only used once, by President Sarkozy who did not specially focused his speech on EU issues.

Regarding the consequences of the arrival of a new left-wing majority in 2012, it can be expected that the parliamentary control of the European Councils could be politically more salient in the short future. The European issues took a more significant place than usual during the 2012 campaign, notably with François Hollande's conditions over the ratification of the fiscal pact. More generally, European Councils and Euro-zone summits are increasingly regarded as significant for the future of France's economy. In that context, it is worth noting that, globally, the new left-wing majority is more internally divided than the former right-wing one on EU issues, both regarding the level of European integration and the respect of economic orthodoxy. Therefore, the new opposition could try to play on those divisions by addressing the issue in Parliament before or after European Councils.

Selected literature

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Sprungk, C., 'The French Assemblée Nationale and the German Bundestag in the European Union. Towards Convergence in the 'Old' Europe?', in J. O'Brennan and T. Raunio (eds), *National Parliaments in the Enlarged European Union* (London: Routledge), 2007, pp. 132–62.

Germany: Claudia Heffler / Oliver Höing, University of Cologne

Name of your Member State: Germany (lower house "Bundestag" (BT), upper house "Bundesrat" (BR))

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

The scrutiny of European Council meetings follows the same provisions as the general scrutiny of EU affairs. The scrutiny of Euro zone summits is subject to an ongoing discussion between the parliament and the government. A recent judgement by the German Federal Constitutional Court underlined that also intergovernmental treaties are regarded as 'European matters' (as stipulated in art. 23 of the German Basic Law). This is expected to have consequences for future decisions taken at Euro zone summits (see below).⁸³

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

The European Council is subject to the obligations defined in Article 23 of the German Basic Law (Grundgesetz, GG⁸⁴) which are further specified in the *Act on Cooperation between the Federal Government and the German Bundestag in Matters concerning the European Union* (EUZBBG⁸⁵) (with latest modifications in September 2009). Concerning the change of EU primary law, it is also subject to the Responsibility for Integration Act (IntVG) (passed in 2009 as a consequence of the Lisbon judgment).⁸⁶

- If yes, what are these rules about? What obligations does the government have?

The Basic Law requires that "the Federal Government shall keep the Bundestag and the Bundesrat informed, comprehensively and at the earliest possible time" (art. 23 (2) GG). The EUZBBG further defines the requirements of information sharing and participation rights by the government. §5 of the EUZBBG mentions explicitly the parliamentary scrutiny of European Council meetings. It defines the government's obligations to inform the BT on the preparation and follow-up of these summits. The government is obliged to provide all documents of the European Council, reports and notes of EU bodies concerning European Council meetings, the agenda of these summits and the government's negotiation position in oral and written form.

Concerning matters of EU affairs in general, the BT must be given the opportunity to deliver an opinion before the government takes action at the European level (§9 (1), EUZBBG, also article 23 (3) GG). This opinion forms the basis for negotiations at the European level. The government may only deviate from it for good reasons of foreign or integration policy (§9 (4) EUZBBG). In case of deviation, the government has to give justifications to the parliament. Up to now, this ex-post justification had not been necessary given that the majority of the BT avoided positions contradicting the government.

⁸³ See the latest judgments on the ESM and Euro-Plus Pact:
http://www.bundesverfassungsgericht.de/entscheidungen/es20120619_2bve000411.html (last retrieved 3 July 2012).

⁸⁴ http://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html.

⁸⁵ http://www.bundestag.de/htdocs_e/bundestag/committees/a21/legalbasis/euzbbg.html (last retrieved: 26 June 2012).

⁸⁶ See: <http://www.gesetze-im-internet.de/bundesrecht/intvg/gesamt.pdf> (last retrieved: 3 July 2012).

In some cases the BT is required to pass resolutions. §10 EUZBBG stipulates that there needs to be agreement between the BT and the Federal Government before accession negotiations are opened.

Up to now the scrutiny of the Euro zone summits did not fall under the EUZBBG and its clearly defined information rights of §5. The government argued that the ESM and Euro-Plus-Pact, discussed at the Euro zone summits, are not EU law but of a purely intergovernmental nature. A recent judgement of the Federal Constitutional Court from 19 June 2012⁸⁷ specified that these measures are 'EU matters' (in the sense of article 23 GG) and therefore fall under the scrutiny procedures of the EUZBBG. Interview evidence suggests that the control of Euro zone summits will from now on follow the same procedures as European Council meetings.⁸⁸

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

There is no distinction of the different kinds of meetings of the European Council in the formal rules.

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

They increasingly do, especially since the Lisbon Treaty and the Lisbon judgment⁸⁹ of the German Federal Constitutional Court from 30 June 2009⁹⁰ raised the awareness of EU affairs significantly among parliamentarians. The Euro crisis added up to the salience of the European Council meetings and Eurozone summits and the necessity to better control their far-reaching decisions.

The BT prepares the meetings of the European Council through debates and, less frequently, resolutions.

- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?

The plenary and various committees are involved in the preparation of the European Council summits. The European Affairs Committee and (increasingly) the Budgets Committee discuss almost all European Council meetings. They actively demand information which the federal government has to provide according to the EUZBBG (see question 1 above: Formal rules).

- Do Parliaments' Rules of Procedure provide for priority debates?

Concerning the plenary, there are no provisions on priority debates on the European Council meetings or Euro zone summits in the Parliament's Rules of Procedure.

- Which governmental authorities take part in the parliamentary debates?

Despite a lack of formal rules, a certain pattern has evolved over the last couple of years: more often, the chancellor delivers government declarations in the plenary debates prior to

⁸⁷ See 2 BvE 4/11 vom 19.6.2012, Absatz-Nr. (1-172), accessible here:

http://www.bundesverfassungsgericht.de/entscheidungen/es20120619_2bve000411.html (last retrieved: 26 June 2012).

⁸⁸ Interview with Ms. Ruppert, Assitant to the Günther Krichbaum, Chairman of the European Affairs Committee in the BT, Interviewee: Katjana Gattermann, Berlin 20 June 2012.

⁸⁹ The Lisbon judgment specified the participation rights and participation obligations of the German Bundestag.

⁹⁰ BVerfG, 2 BvE 2/08 vom 30.6.2009, Absatz-Nr. (1 - 421),

http://www.bverfg.de/entscheidungen/es20090630_2bve000208en.html (last retrieved: 26 June 2012).

regular European Council meetings. But also the finance minister gave a government declaration on the results of a European Council meeting.

Occasionally, the chancellor participated in sessions of the European Affairs Committee preparing European Council meetings.

- Is there a vote for a parliamentary resolution before the European Council meeting?

In general, resolutions of the BT prior to Council meetings are rare. If parliament passes a resolution in preparation of a European Council meeting, it is often supporting the position of the government. Of the four plenary debates in time period indicated in the table (see 6.), the BT issued three resolutions prior to European Council meetings. This relatively high frequency is explained in section 7. Other comments.

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

Generally, the parliamentary party groups decide a) whether they want to debate results of European Council meetings and Euro zone summits (at all) and b) in which parliamentary bodies this debate takes place. No formal rules exist that such a control has to take place. The plenary is not too often involved in ex-post control, but committees play an important role (depending on the policy issue at hand). In the past year, it was the European Affairs and Budgets Committee which regularly debated the results of the summits. Parliamentary party groups and working-groups frequently discuss the results of the European Council as well.

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

Results of the European Council can be debated in the plenary upon request which so far happened rarely. However, this should not obscure the fact that ex-post debates in the plenary create huge media attention (as was seen by the plenary debate on the European Council summit on 29 June 2012). However, whereas the plenary is barely involved in the ex-post scrutiny of European Council meetings or Euro zone summits, the committees regularly debate the results of the summits and receive respective reports by the government.

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

The competent body to decide upon the agenda of the plenary is the Council of Elders (Ältestenrat).⁹¹ Prior to the decision by the Council of Elders, the parliamentary secretaries of the parliamentary groups discuss the selection of items for the plenary agenda.

Next to this procedure all MPs have the possibility to submit proposals for agenda items to the president of the BT until 6 p.m. the day before a plenary session takes place. Their acceptance is decided upon at the beginning of the plenary session.

⁹¹ This body is constituted of the president of the BT, his five vice-presidents and 23 parliamentarians from all parliamentary party groups (weighed proportionally to the number of seats in parliament).

Therefore, the government cannot avoid a debate on the European Council in the plenary, but it can also not be forced to give a government declaration after or prior to a European Council meeting or Euro zone summit.

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

- How is the debate structured? Is there a vote after the debate?

In the past year, there was one plenary debate on the results of a European Council meeting which took place in December 2011 (see table 6.). Similar to the debates in the preparatory phase, it was opened with a government declaration by the chancellor and lasted for 90 minutes. The list of speakers consisted mainly of the chairpersons of the parliamentary groups and committee chairmen.

Debates in committees on the results of the European Council and Euro zone summits regularly take place. In the European Affairs Council the Minister of State to the Federal Chancellor often explains the government position and the results of the negotiations. His oral report is followed by a round of questions from parliamentarians of all parties which he answers.

5. Since Lisbon

- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?

The Lisbon Judgement of the Federal Constitutional Court on 30 June 2009 mainly strengthened the BT's participation rights in EU primary law as well as its information rights. The EUZBBG has to be revised in September 2009 before the Lisbon Treaty could enter into force. It specifies, among other things, which documents have to be submitted to the BT (also concerning European Council meetings) (see above question 1: Formal rules).

- Did any significant events or changes in formal rules occur after Lisbon in the upper house?

Before the Lisbon Treaty came into force, the *Act on Cooperation between the Federal Level and the German Länder in Matters concerning the European Union* (EUZBLG) was revised (September 2009). However, there were only minor changes in substance. The former *Agreement of the Federal Government and the Länder Governments on Cooperation in Matters Concerning the EU* (Bund-Länder-Vereinbarung) is now incorporated to the EUZBLG as an annex to §9. Obligations of the federal government to inform on European Council meetings are regulated here.

The Bundesrat did not change its Rules of Procedure to control European Council summits after the Lisbon Treaty.

- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?

The government had difficulties to find support for diverse financial rescue packages, such as the reform of the EFSF. Due to the support of two opposition parties (SPD and the Greens) the government could achieve a comfortable majority, but failed several times by now to establish an own majority.

The passing of the ESM and the fiscal compact had the potential to threaten the survival of the federal government. However, up to now, the government could always rely on the support of the two opposition parties.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011
 C2 = ordinary meeting of the European Council – 24 and 25 March 2011
 C3 = ordinary meeting of the European Council – 23 and 24 June 2011
 C4 = meeting of the Heads of State or Government of the Euro Area – 21 July 2011
 C5 = ordinary meeting of the European Council – 23 October 2011
 C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011
 C7 = ordinary meeting of the European Council – 8 and 9 December 2011
 C8 = informal meeting of the European Council – 30 January 2012
 C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees ⁹²	Yes	Yes	Yes	No ⁹³	Yes	Yes	Yes	Yes	Yes
Debates on the floor ⁹⁴	No	Yes	No	No	No	Yes	Yes	No	Yes
Formal declaration by the PM	No*	Yes	No*	No	No	Yes	Yes	No	Yes
Vote of a motion	No	Yes	No	No	No	Yes	No	No	Yes
After the European Council meeting									
Debates in committees	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
Debates on the floor	No	No	No	No	No	No	Yes	No	No
Formal declaration by the PM	No	No	No	No	No	No	Yes	No	No
Vote of a motion	No	No	No	No	No	No	No	No	No

* In preparation of the European Council meeting the chancellor joined the session of the European Affairs Council explaining the government position. However, not in form of a formal government declaration.

⁹² Websearch in agenda of the following committees : European Affairs, Budget, Finance, Law

⁹³ Parliament was in summer recess during this Euro zone summit.

⁹⁴ Websearch in minutes of plenary proceedings Feb 2011 to April 2012. Coded only when European Council explicitly mentioned in the agenda.

7. Other comments**- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)**

The Federal Constitutional Court indirectly controls results of the European Council and Euro zone summits. Any commitments resulting in concrete legislation (to be adopted by the BT) can be reviewed by the German Federal Constitutional Court. More importantly, it also assesses whether parliamentary prerogatives were respected. In the recent past, the participation rights of the BT had been subject to a ruling concerning the first Greece rescue package and the EFSF in September 2011⁹⁵. Also, further measures to extend or establish new rescue packages (or Eurobonds) can be part of a Constitutional Court's legal review. However, the court becomes active, only if a legal person files an action against a specific EU measure. In general, the rulings of the court have strengthened the rights of the parliament vis-à-vis the government in matters concerning the European Union.

- Some of your own remarks (voluntary):

On the template (see 6.)

In the period of investigation (March 2011 to March 2012) all ordinary European Council meetings – except for the two in 24/ 25 June 2011 and 23 October 2011 – were debated in the plenary before the session was held in Brussels. The only informal European Council meeting which was debated in the plenary was the one from 26 Oct 2011. Certain decisions of the European Council of 23 October 2011 had to be postponed and the meeting in Brussels be rescheduled due to the fact that the BT did not have enough time to scrutinize Franco-German proposals on the extension of the EFSF which were still debated in the immediate forefront of the Council.⁹⁶

The relatively high number of three parliamentary resolutions before a European Council meeting in this year can be explained by the high relevance of the decisions concerning budgetary powers of the BT or parliament's legal obligations to pass a resolution (change of art. 136 TFEU).

This change of EU primary law required the approval of the BT in the forefront of the European Council meeting on 24/ 25 March 2011.⁹⁷ The *Act on the Stability Mechanism* (author's translation of "Stabilisierungsmechanismusgesetz", StabMechG, 22.05.10⁹⁸) prescribes that the BT must give written consent before decisions concerning the EFSF are taken at the European level (European Council meeting on 1/ 2 March 2012).⁹⁹ As this activity by the BT was legally prescribed, the resolution is not a good indicator for political conflict with (or control of) the government.

In content, all three resolutions were supporting the government position.

In general

The decisions of the European Council and Euro zone summits along the Euro crisis were prepared in informal meetings of all parliamentary party group leaders and their chairpersons with the chancellor. The legally required support of the opposition for the fiscal compact as well as the participation rights of the BT were two major conflict lines.

⁹⁵ BVerfG, 2 BvR 987/10 vom 7.9.2011, Absatz-Nr. (1 - 142), http://www.bverfg.de/entscheidungen/rs20110907_2bvr098710.html (last retrieved: 26 June 2012).

⁹⁶ <http://euobserver.com/19/114011> (last retrieved: 26 June 2012).

⁹⁷ http://dipbt.bundestag.de/dip21.web/searchDocuments/simple_search.do (last retrieved: 26 June 2012).

⁹⁸ <http://www.gesetze-im-internet.de/stabmechq/BJNR062700010.html> (last retrieved: 26 June 2012).

⁹⁹ http://dipbt.bundestag.de/dip21.web/searchDocuments/simple_search.do (last retrieved: 26 June 2012).

The fiscal compact needed to be ratified by a 2/3 majority in the BT and the BR. Thus, the government depended on the support of opposition parties. According to media coverage, meetings of the parliamentary group leaders with the chancellor took place almost weekly in the last months to negotiate the ratification of the fiscal compact in Germany. This informal body was highly relevant in the preparation and (informal) involvement of parliamentary bodies.

This report primarily focusses on the formal rules and use of formal procedures of the parliament in relation to the European Council meetings and Euro zone summits. As the informal meetings of parliamentary group leaders with the chancellor indicate, many activities to control government actions take place through informal channels, especially as the coalition parties are cautious not to appear in public conflict with the government. We assume that the parliamentary activities through formal mechanisms are just the "tip of the iceberg" of actual parliamentary involvement in the control of the European Council meetings.

Selected Literature

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Kielmansegg, Sebastian Graf von (2011): German Constitutional Law and European Integration in the Wake of Lisbon, in: *Vienna Journal on International Constitutional Law* Vol 5 (4), pp. 550-571.

Piris, Jean-Claude (2010): "The judgement of 30 June 2009 of the Federal Constitutional Court of Germany on the Lisbon Treaty", in Piris, Jean-Claude: *The Lisbon Treaty. A Legal and Political Analysis*, Cambridge, pp. 341-362.

Greece: Konstantin Iliopoulos / Anna Vallianatou, Greek Centre of European Studies & Research

Name of your Member State: Greece

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

No.

The national parliamentary scrutiny concerns the control of the Governments in respect with the participation in the EC and EZ meetings. Since the Greek Constitution does not oblige the Government to consult Parliament before the discussions of the EC meetings and EZ summits, the Greek Government has the sole responsibility for the participation in these meetings. There are no determining formal procedures, which have to be followed for the scrutiny of the above meetings. The assessment of the results which are emanated from the specific summits, are examined in governmental level and are disseminated¹⁰⁰ to the European Affairs Committee created in June 1990. After the Constitutional revision of 2001 and the respective amendments made to the Parliament's Standing Orders, Standing Committees may also exercise both legislative work and parliamentary control. As it is stipulated: *"The Standing Orders may provide the exercise of parliamentary control also by the Section envisaged in article 71, as well as by the standing parliamentary committees established and functioning during the session."* The European Affairs Committee is not a standing parliamentary committee but a Committee with the status of Special Standing. Therefore, it is not responsible for the elaboration of law proposals. As Article 44 of the Parliament Standing Orders stipulates, the Parliament may decide, after a government proposal to constitute a committee of members for the study of national or of issues of general interest. According to Article 45 (par. 2), *"the committee studies the relevant issues defined in the founding decision of the Parliament and elaborates reports in which also the minority opinions are included. The report is submitted to the parliament and the government and has advisory status."*¹⁰¹

In its sessions Greek members of the European Parliament are invited and have speaking rights. Apart from the Committee of European Affairs that is the main body responsible for ex ante control, the subcommittee of European Economic Governance was established in February 2011 with its first meeting on 11 April 2011. Its mission is to produce proposals and initiatives on European economic governance and not to actually control the Eurozone and the European Council meetings.

In addition, *"Parliamentary control shall be exercised by the Plenum, as specified by the Standing Orders"*.¹⁰² In general, there are six types¹⁰³ of formal rules for the Parliamentary control and, mainly four of them can be used for the parliamentary scrutiny of European Council meetings and Euro zone summits¹⁰⁴, namely the Questions, the

¹⁰⁰ <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/kanonismos-Thematiko-syntagma%202010.pdf>

¹⁰¹ *Op. Cit.*

¹⁰² Greek Constitution (after its third revision in 2008) Chapter Four on the "Organization and functioning of the Parliament" and in Article 70, paragraph 6 at <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20agqliko.pdf>

¹⁰³ <http://www.hellenicparliament.gr/en/Koinovouleutikos-Elenchos/Mesa-Koinovouleutikou-Elegxou>

¹⁰⁴ In addition, "Applications to Submit Documents" (Article 133 of the Standing Orders) cannot be used in the case of parliamentary scrutiny of European Council meetings and Euro zone summits since no documents relating to

Current Questions, the Interpellations and the Current Interpellations. The Members of the Parliament can submit questions¹⁰⁵ to Ministers regarding any matter of public importance in order to keep the Parliament informed. Ministers must reply in writing within twenty five days. In the same framework, the members of the Parliament can *"raise an issue of current significance and address a question to the Prime Minister or the Ministers which for their part should give an oral response to"*¹⁰⁶. In addition, the mission of Interpellations (Articles 134-137 of the Standing Orders) is to control the Government for actions or omissions. It should be pointed out that MPs that have submitted questions or applied for the supply of specific documents, may turn them into interpellations *"should they deem that the minister's response did not suffice"*. Finally, Parliamentarians have the right to submit current interpellations on current affairs (article 138 of the Standing Orders). Current questions (Articles 129-132A of the Standing Orders) and current interpellations (Article 138 of the Standing Orders) may be debated on Mondays in Plenary Sessions as well as in specified sittings of the Recess Section.

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

No.

The national parliament, through its internal Committees, is informed about the discussions which take place in the EC meetings and EZ summits. The parliamentary control, in regard to European issues in general, takes place through the European Affairs Committee (and the Subcommittees) or via the above mentioned list of the determined procedures (question 1). Also, other sectoral Parliamentary Committees (as the Committee of Economic Affairs) can contribute in a specific issue, by examining it in parallel, but differently. These Committees examine, case by case, the issues of each EC's agenda, usually after the end of the above meetings. Thus, it can be pointed out that there is no formal ex-ante control existing in the specific thematic area of the parliament.

The ex ante control is used only before the adaptation of an EU Directive when the parliament can issue recommendation or/and opinion, as well as binding decisions¹⁰⁷ for the Government. The ex ante control is not implemented before the EC and EZ summits. As Mr. Mimis Androulakis, member of the European Affairs Committee, claimed during the last session of the Parliamentary Committee on 28 March 2012 the Greek Parliament did not use all its potential.¹⁰⁸ It is argued¹⁰⁹ that many times the reports of the committees are simply not taken into account and the bills are debated and passed. Generally, the government does not feel threatened by the processes of parliamentary scrutiny.

- Do Parliaments' Rules of Procedure provide for priority debates?

No.

As regards the priority debates, article 52 of the Parliament regulation provides that in the agenda of the parliament are written, by priority, from the Parliament's President, the

¹⁰⁵ Articles 126-128B of the Standing Orders.

¹⁰⁶ Articles 126-128B of the Standing Orders at <http://www.hellenicparliament.gr/en/Koinovoulftikos-Elenchos/Mesa-Koinovouleutikou-Elegxou>

^{107,4} Konitsioti E. "National Parliaments and Supranational Democracy: the challenge of the Lisbon Treaty" («Εθνικά Κοινοβούλια και Υπερ-Εθνική Δημοκρατία: Η πρόκληση της Συνθήκης της Λισσαβόνας») Working Paper 02/2011, KEDIA – Centre for European Governance, 2011.

¹⁰⁸ <http://www.hellenicparliament.gr/Vouli-ton-Ellinon/ToKtirio/Fotografiko-Archeio/#099398ea-2dc8-4ea7-9d01-441d14cda34f>

issues that, according to the Constitution or the Parliament Regulation, have deadlines, within which the parliament has to take decisions or just to debate. The rest so-called "pre-agenda" debates, which is a special procedure aside the normal parliamentary routine strictly limited to party leaders to debate on public national issues, including EU issues and EC and EZ summits, without real decision-making function, only few items were discussed since 1990¹¹⁰.

- Which governmental authorities take part in the parliamentary debates?

There are no standardized procedures for the participation of specific governmental authorities in the parliamentary debates. However, according to article 38 of the Parliament Regulation only for serious law proposals, the Standing Committees can invite for hearings public servants or employees, representatives of the unions or special experts who have the capacity to assist in special or technical matters of the debates. Additionally, according to article 60, the President of the Parliament can allow, after a request from the competent Minister, the entrance and the abidance in the sessions' rooms, of the competent officials (governmental services) and their partners.

- Is there a vote for a parliamentary resolution before the European Council meeting?

No.

The sole responsibility for the EC meeting belongs to the Prime Minister, who is not obliged to follow a resolution of the Parliament. Therefore, are not conducted votes before the EC meetings¹¹¹.

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

The competent body, within the Parliament, which is authorized to **follow** and **examine** the results of the EC and the EZ summits, is the **European Affairs Committee**. According to article 32A of the Parliament Regulation¹¹², President of the Committee is one of the Vice-Presidents of the Parliament with the participation of 30 MPs. In the meetings of the EAC are also participating MEPs, with speaking rights.

The duties of the specific Committee are dealing mainly with: (a) the institutional issues of EU, (b) the cooperation between the national Parliament and other EU Parliaments, (c) European policy issues and (d) actions of the EU institutional instruments with normative acts. So, the Committee does not have real responsibilities to ex-post control the results of the specific institutional instruments. The EAC has a mere consultative status and does not operate as a legislative body¹¹³. Government, on the other hand, is required to transmit all documents and legislative proposals of the EU to the EAC and to other interested parliamentary committees. In addition the Government has to submit an annual general report on its EU related activities regarding European Affair issues. So, the EAC's main mission is to evaluate EU's affairs with particular attention to actions taken by the Greek authorities. Additionally, the EAC expresses its opinion in reports which are submitted to the Parliament and the Government.

¹¹⁰ Mauer A., Wessels W., "National Parliaments on their ways to Europe: Losers or Latecomers?", University of Cologne, Baden-Baden 2001(p. 158)

¹¹¹ Director of the European Affairs Directorate of the Greek Parliament (Interview on 28-05-2012)

¹¹² <http://www.hellenicparliament.gr/Vouli-ton-Ellinon/Kanonismos-tis-Voulis/>

¹¹³ Mauer A., Wessels W., "National Parliaments on their ways to Europe: Losers or Latecomers?", University of Cologne, Baden-Baden 2001

Apart from the European Affairs Committee that was the main body responsible for the follow up of the EC meetings and EZ summits (it was established since 1990), in February 2011 the Subcommittee of European Economic Governance was established with its first meeting on 11 April 2011. Its mission is to produce proposals and initiatives on European economic governance. It is worth mentioning that the small intervention on the decision taken in the EC and EZ meetings (21/7/2011 and 23-24/7/2011) its third meeting (21/7/2011) made by Ms Rodoula Zissi¹¹⁴, was more a welcoming remark to the stance of the Greek government than a post –control mean.

Conclusively, the ex-post control of the EC meetings and EZ summits is limited to the submission of questions of the MPs¹¹⁵ to the Ministers or/and the Government as a whole, each time is going to be adopted a new Directive or to be discussed a vital issue. In this process the EAC records the results of the discussions concerning any decision which was taken during the above meetings.

4. Ex-post control: debates in parliament

- **What is the organization of the plenary debates after the European Council meetings?** *(NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)*
- **Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?**
- **Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?**
- **How is the debate structured? Is there a vote after the debate?**

The competent institutional body to decide on setting the agenda of the debates in the plenary concerning ex post control after the EC and EZ summits is the General Directorate for Legislative Work and Parliamentary Control.¹¹⁶ The General Directorate for Legislative Work and Parliamentary Control sets the agenda based on the motions of parliamentary scrutiny from the members of the parliament (questions, current questions, interpellations and current interpellations). The mission of this Directorate is to promote and facilitate legislative work by coordinating all units and teams of which it is in charge, as well as to exercise parliamentary control according to the provisions of the Parliament's Standing Orders. This General Directorate is subdivided to the Directorate for Parliamentary Control in charge of all means of parliamentary control and especially with regard to the preparation of debates beyond the order of the day (interpellations, current questions, general questions and petitions as well as Special Sessions). This Directorate consists of the following four departments: a) Department for Petitions, b) Department for Questions, c) Department for Interpellations and d) Department on Applications to Submit Documents.

In fact, the most competent Departments for the agenda of the debates in the plenary concerning ex post control after the EC and EZ summits are the Department for Questions and for Interpellations. Questions (and petitions) are included in order to be discussed in the agenda of the sessions at the start of the week. Interpellations are debated in Plenary Sessions. If there are more than one interpellation on the same subject, the Parliament

¹¹⁴ http://www.hellenicparliament.gr/KoinovouleftikesEpitropes/Synedriaseis?met_id=5e6b8842-3049-4bd7-999f-25db20f28639

¹¹⁵ Konitsioti E. "National Parliaments and Supranational Democracy: the challenge of the Lisbon Treaty" («Εθνικά Κοινοβούλια και Υπερ-Εθνική Δημοκρατία: Η πρόκληση της Συνθήκης της Λισσαβόνας») Working Paper 02/2011, KEDIA – Centre for European Governance, 2011.

¹¹⁶ <http://www.hellenicparliament.gr/en/Dioikitiki-Organosi/Ypiresies/Genikes-Diefthynseis/G-D-Nomothetikou-Ergou-kai-Koinovouleftikou-Elenchou/Diefthynsi-Koinovouleftikou-Elenchou>

may decide on their simultaneous debate or even proceed into a general discussion. The means of parliamentary control are valid for the session they are submitted to. If they are not discussed during the regular session, they can be resubmitted. If the members of the Parliament address a question to the Prime Minister or the Ministers, an oral response should be given to by them. Therefore, the participation of the Prime Minister during the discussion depends on the character of each parliamentary question.

Concerning the Parliamentary Committees, and, in particular, the Committees with the status of Special Standing, as the Committee for European Affairs, their main task is to elaborate reports on the issues that belong in their thematic area *"after the suggestion of the Government or of the one fifth of all MPs or of the President of Parliamentary Group Chairman, the report shall be included in respective agenda for parliamentary scrutiny and be discussed, according to article 137, without any voting procedure."*¹¹⁷ In addition, according to the Parliamentary Standing Orders, the Standing Committee on Economic Affairs has the right to examine and elaborate or vote Bills and Law Proposals (as all Standing Committees) that belong to the competence of the ministries of Finance (and of b) Infrastructure, Transport and Networks). Because of its thematic relevance, the Standing Committee on Economic Affairs also deals with EC meetings and EZ summits decisions.

5. Since Lisbon

- **After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?**
- **Did any significant events or changes in formal rules occur after Lisbon in the upper house?**
- **Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?**

There was no significant change after the implementation of the Treaty of Lisbon as far as the Parliamentary Regulation is concerned. The last amendment of the Constitution that took place in 2008 did not contain any relevant changes in Chapter Four on the "Organization and functioning of the Parliament". It was in 2001 that Greece's Parliament involvement in the scrutiny of European legislative acts was recognised in Article 70, paragraph 8). In fact, in of Article 70 (par. 2) stipulated that *"The Standing Orders of the Parliament shall provide for the exercise of the legislative work specified therein, to may also be conducted by the standing parliamentary committees which are established and function during the session, as specified by the Standing Orders and subject to the restrictions of article 72"*¹¹⁸.

In Greece, in general, the question of the debt crisis and the way it is dealt with by the Greek government dominated the domestic political debate. In fact, the political survival of the governments was negatively affected. In November 2011 the then Prime Minister of Greece George Papandreou announced a plan for organizing a referendum in December

2011 on a euro zone bailout package. Even close partners of George Papandreou were opposed to the possibility of a referendum (besides Europe). In the middle of this political instability, Prime Minister George Papandreou resigned and a coalition government was formed in order to deal with the political turmoil until the 11th of April 2012, when the Greek parliament was dissolved in view of the first elections on 6 of May 2012. The plan from the very beginning was that the elections will be held once the new government had

¹¹⁷ Articles 126-128B of the Standing Orders at <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/kanonismos-Thematiko-syntagma%202010.pdf>

¹¹⁸ Article 70- Greek Constitution at <http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20agqliko.pdf>

approved the new EU bailout package. Thus it can be argued that, indirectly, the decisions made by the European Council have influenced the survival of all Greek governments during the period under examination.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

C2 = ordinary meeting of the European Council – 24 and 25 March 2011

C3 = ordinary meeting of the European Council – 23 and 24 June 2011

C4 = meeting of the Heads of State or Government of the Euro Area – 21 July 2011

C5 = ordinary meeting of the European Council – 23 October 2011

C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011

C7 = ordinary meeting of the European Council – 8 and 9 December 2011

C8 = informal meeting of the European Council – 30 January 2012

C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C7	C8	C9
Before the European Council meeting										
Debates in committees										
Debates on the floor										
Formal declaration by the PM										
Vote of a motion										
After the European Council meeting										
Debates in committees		X			X					X
Debates on the floor		X						X		X
Formal declaration by the PM						X				
Vote of a motion										

7. Other comments

- Are there other insitutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

No.

Hungary: Gabriella Ilonszki, Corvinus University of Budapest

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

Formal rules do exist, but as specified below they are sometimes vague or not precisely defined. They exclusively refer to the European Council meetings while Euro zone summits are not mentioned.

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

A new Constitution was accepted by parliament on April 18, 2011 and came into force on January 1, 2012 (Basic Law) (Alaptörvény, AT) to be found at <http://www.kozlonyok.hu/nkonline/MKPDF/hiteles/mk11043.pdf>

In the AT the European Council is NOT mentioned specifically but Article 19 of the AT can be regarded as one that does refer to the European Council meetings as well. Article 19 does not define *obligations* but rather *possibilities* in terms of parliamentary scrutiny. More particularly, it says: "The Parliament *may request* information from the Government on its standpoint to be represented at the decision-making procedure of those institutions of the European Union that require governmental participation, and *may formulate its own standpoint about the* Government's standpoint. The Government will act by taking the Parliament's standpoint into consideration." Please, note that this is my own translation. The translation of the entire AT has been a cause of controversy, even attracted international attention. As of now the official translation of Article 19 of the AT is "The Parliament may request information from the Government on its standpoint represented at the decision-making procedure of those institutions of the European Union that require governmental participation. The Government shall act on the basis of the Parliament's stand during the decision-making of the European Union." A line is missing that is included in the Hungarian text and the last sentence sounds somewhat different. (The official English translation can be found and imported from <http://www.nki.gov.hu/nemzetkoezi-kapcsolatok/501-qthe-basic-law-of-hungary-a-first-commentary>)

It should be noted that the former Constitution was not very specific either: it stipulated that the concrete and detailed rules concerning Government – Parliament connections on EU related issues will be specified by law. This was Law LVIII/2004, see below.

The connections between the Government and Parliament in EU affairs are (were) defined by two laws: Law LIII/2004 and more recently Law XXXVI/2012. With the acceptance of the latter one, the former has lost its relevance, although some important elements have continued to prevail (see the precise description below)

The Standing Orders stipulate some concrete procedures, called "adjustment procedure" relating to general EU related affairs – but not specifically on Council summits.

- If yes, what are these rules about? What obligations does the government have?

Law LIII/2004 was accepted on May 17, 2004 and was entitled "On the cooperation between Government and Parliament concerning European Union affairs" – clearly a requirement for EU accession. Law XXXVI/2012, accepted on April 16, 2012 is entitled "On Parliament", which indicates that this is an overarching law and only one section of it deals with parliament-government connections in EU affairs. (This is Section VI)

Despite continuity between the two laws some differences can be observed between them. The 2004 law explicitly states that the Parliament is entitled to scrutiny, adjustment and information on EU affairs, which it might exercise through its committee(s) (1par.(1)) but this statement is missing from law 2012.

Also, formerly it was stated that the Government should send all of its standpoint proposals in EU affairs to the Parliament (2par.(1) while as of now the Government "ensures access" to these documents for Parliament (63. par.(1)). From the new regulation the right of the Parliament to require a more detailed information about the Government's standpoint proposal (3.par(4) LIII/2004) has been left out.

Both laws stipulate that the Prime Minister *before* the European Council meetings and before "events of strategic importance" informs the special body of Parliament. (7.par.(1)LIII/2004 and 69.par. (2) XXXVI/2012 respectively) – the only difference being that the body has acquired a proper name in the meantime and as of now it is called European Consultation Body (ECB). (Sometimes, in parliamentary discourse the ECB is referred to as "Grand Committee", although in terms of its functions this name is unjustified because it does not give a compulsory mandate to the Prime Minister, it only listens to the Prime Minister's viewpoints and comments it without any obligations.). The ECB is convened by the Speaker of the House and it is composed of PPG leaders, chairs and vice-chairs of the European Affairs Standing committee and the committee dealing with constitutional issues and foreign affairs committee. Other persons might also be invited – at the discretion of the Speaker. These meetings are not public, they are absolutely closed.

The Prime Minister provides information to the Parliament's plenary session about and *after* the European Council meeting (69.par.(4)) and the Government submits a yearly report to the Parliament about the EU affairs (69. par.(5).

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

No, no differentiation.

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

The national parliament - understood as the entire House, that is the plenary – does not take part in the preparation process. But the Prime Minister will meet the European Consultation Body (see above) to discuss the Hungarian position at the summits. For historical evidence it should be noted that originally (around the accession period) this "Grand Committee" was assumed to take up really decisive functions, but this ideal has evaporated in face of government dominance and a weakening parliament.

- Do Parliaments' Rules of Procedure provide for priority debates?

Priority debates (and decisions) are possible but they are not related to EU affairs particularly – although they could be applied for that purpose. At the moment no priority events could have been identified in the parliamentary database about Council summits.

- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?

Priority debates are required by the initiator of the motion and then the plenary session would vote on it – a qualified majority is required. Since however there was no priority procedure on any Council related event, this answer is irrelevant.

- Which governmental authorities take part in the parliamentary debates?

In the parliamentary debates the ministers, and as replacement state secretaries are entitled to participate.

- Is there a vote for a parliamentary resolution before the European Council meeting?

No.

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

According to the formal rules both the plenary and the European Affairs Committee do participate in the control mechanism but these forums are inconsequential.

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

According to the legal regulation (see point 1) the Prime Minister should report to the parliament after the Council meetings. This takes the format of a speech before the agenda normally at the first plenary session after the Council meeting. After the Prime Minister's speech each PPG leader is entitled to respond to the speech and then the Prime Minister can again react. No other plenary debate opportunities are provided.

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

It is the House Committee that decides on the agenda and the format. Practice is somewhat varied both in terms of time and sequence (see below). It should also be noted that out the 9 "potential" occasions the Prime Minister fulfilled his legal obligation only 5 times (see the table below).

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

These prime ministerial speeches show strikingly different faces. While the 2011 October and December meetings were followed by longer than one hour speeches in the Hungarian parliament, the two 2012 speeches lasted for 8 and 5 minutes only (the latter not even followed the normal format, it was not an introductory declaration, rather a response to PPG leaders' queries). As a consequence of the shorter Prime ministerial talk the PPG leaders could speak also shorter (according to the decision of the House Committee, if the PM speaks shorter than 20 minutes the PPG leaders can talk only for 5 minutes). The impression one gets is that in this way the government can limit the opportunities of the opposition to present their views – and the Government can also avoid providing detailed information.

- How is the debate structured? Is there a vote after the debate?

As mentioned above, regularly the Prime Minister introduces his viewpoints and the PPG leaders' comment. Other MPs do not get involved. No vote or not any other accountability measure occurs.

5. Since Lisbon

- **After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?**

None

- **Did any significant events or changes in formal rules occur after Lisbon in the upper house?**

- **Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?**

None

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

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C8 = informal meeting of the European Council – 30 January 2012

C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	no	no	no	no	no	no	no	yes	yes
Debates on the floor	no	no	no	no	no	no	no	no	yes
Formal declaration by the PM	no	no	no	no	no	no	no	no	no
Vote of a motion	no	no	no	no	no	no	no	no	no
After the European Council meeting									
Debates in committees	no	no	no	no	no	no	yes	yes	no
Debates on the floor	no	no	yes	no	yes	no	yes	yes	yes
Formal declaration by the PM	no	no	yes	no	yes	no	yes	yes	yes
Vote of a motion	no	no	no	no	no	no	no	no	no

7. Other comments

- **Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)**

Not anything substantial

- **Some of your own remarks (voluntary):**

The table template did not provide the opportunity to reflect on the activities and the role of the European Consultation Body (ECB) (or Grand Committee, see the answers to Q1), which is consulted regularly before the European Council meetings. Out of the given

dates/events the Prime Minister met the ECB at each occasion except one (the exception is the July 21 Council meeting). It should be noted that these consultations are not public. A later (promised) interview might provide more concrete information on the atmosphere of these consultations.

It is clear (minutes of the European Affairs Committee (EAC), see particularly http://www.parlament.hu/internet/plsql/ogy_biz.keret_frissit?p_szerv=&p_fomenu=31&p_almenu=5&p_ckl=39&p_biz=A340&p_rec=&p_egys=&p_nyelv=HU) that there is a kind of rivalry between the European Affairs Committee and the European Consultation Body. The EAC would like to have more say in the preparation of the viewpoints before the Council meetings.

Some information in the table template are misleading if not put in context. For example, there were no votes of a motion in the plenary relating to Council meetings related affairs but it does not follow that there were no initiatives to this end. For example the opposition Jobbik (extreme right) put forward motions against signing the agreement on the European economic and monetary union on March 1 but because these types of motions are filtered on the committee level and in committees the parliamentary party composition is reflected they will not reach the plenary vote stage.

It should also be noted that the plenary has dealt with these summit events only on the days when the Prime Minister gave his obligatory talk. The plenary agenda around the covered events (one week before and one week after the summit) did not include any plenary debate to this end. It seems that the Hungarian Parliament is very quiet about these important events, which is related to the current situation when the majority is a dominant position.

Literature

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Jacoby, Wade (2010) 'Managing globalization by managing Central and Eastern Europe', *Journal of European Public Policy*, 17(3).

Aron Buzogány – Andrej Stuchlik (2009) *Paved with intentions. Ambiguities of empowering parliaments after Lisbon*. FÖV Discussion Papers, 66, Speyer

Ireland: Gavin Barrett, University College Dublin

Name of your Member State: Ireland (lower house "Dáil", upper house "Seanad")

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

No. Parliamentary scrutiny of European Council meetings and Euro zone summits in the Oireachtas (parliament) is carried out on the basis of practice, rather than on the basis of any formal rules or obligations. No provision is made in the Constitution, statute or parliamentary standing orders in relation to such scrutiny.

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

See previous answer.

- If yes, what are these rules about? What obligations does the government have?

As already noted, the government has no formal obligations in relation to parliamentary scrutiny of European Council meetings and Euro zone summits. Its activities in this regard are a question of practice, not the outcome of the application of formal rules.

Prior to the present parliamentary session (the 31st Dáil) practice had for long been that a statement would be made by the Taoiseach to the Dáil in the days following each European Council. The present government committed itself to adding to this a statement *prior* to each European Council. Thus the current practice is that the Taoiseach (prime minister) (at present Enda Kenny of the Fine Gael party) provides a statement to the Dáil just prior to a European Council meeting. This is followed by a statement by all of the Opposition party (at present Fianna Fáil, Labour, Sinn Féin and Technical Group) leaders. Subsequent to each European Council meeting, the Taoiseach provides another statement to the Dáil. This is followed by statements by each of the Opposition party leaders (whose speaking time may occasionally be shared with party spokespersons on European affairs). There is then a series of questions from the Opposition (open to all TDs ('Teachtaí Dála' or members of parliament)). Answers to these questions are generally taken by the Minister of State for European Affairs (at present Lucinda Creighton of the Fine Gael party) rather than the Taoiseach. Neither *ex ante* nor *ex post* sessions are particularly well attended.

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

European Council meetings are all treated equally, without any particular distinction being made. There is no special provision for Euro zone summits, although since these coincide in time with European Council meetings, the two tend in practice to be dealt with together in the Dáil briefings. Indeed, it may well be - depending on the importance of the themes being dealt with by European Council and Euro zone summit - that the main focus of interest of both statements and questions will be the Euro zone summit rather than on the European Council meeting, although the Taoiseach's statements in particular are more wide-ranging.

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

A commitment made in the 2011 programme for government of the present Fine Gael-Labour coalition provided that "the Taoiseach will be obliged to brief the Oireachtas prior to

attending European Council meetings". Such *ex ante* briefings had not previously been the practice, but have taken place since shortly after the present government took office. Although the programme refers to the Taoiseach being 'obliged' to brief the Oireachtas, the briefings are a matter of political practice only: the requirement to have such briefings has not been embedded in the Constitution, statute or standing orders. The *ex ante* briefings are the only method by which parliament is involved in the process leading up to meetings in the European Councils, and involve statements both by the Taoiseach and by Opposition party leaders. No opportunity is given to question the Taoiseach. The involvement of parliament does not involve 'preparing' the Government's position in European Council meetings, however, but rather involves merely a statement from the Taoiseach, who in turn hears the statements of other party leaders.

- Do Parliaments' Rules of Procedure provide for priority debates?

Debates over and upcoming Council meeting can be and in practice are given priority over other topics, debates and activities,. Discussion on how time is allotted takes place in meetings between the government Chief Whip and party whips, although, in practice, the allotment of speaking time in parliament is ultimately in the hands of the government because it controls a majority of votes in the house, and can therefore impose its will.

- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?

Only the plenary session of the Dáil is involved in the above-described process. In practice, only a small minority of the membership of the house is involved, with only statements being allowed (rather than *e.g.*, parliamentary questions) and those statements normally being confined to party leaders (occasionally shared with parliamentary spokespersons) rather than the membership more broadly).

- Which governmental authorities take part in the parliamentary debates?

In the *ex ante* debates, the Taoiseach always makes the initial statement, with his statement being followed by that of other party leaders.

- Is there a vote for a parliamentary resolution before the European Council meeting?

No vote of any kind is taken. The process consists merely of statements.

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

The only body controlling the results of the European Council is the plenary session of the Dáil. There is no provision either formally or in practice for controlling the result of Euro zone summits but because these coincide in time with European Councils in practice these are also controlled by the plenary session of the Dáil – at least when the outcome is sufficiently politically interesting to attract the interest of members of the lower house. Committees consider the outcome of Council meetings, not generally European Council meetings (although there was one instance in late 2011 of a European Union Affairs Committee being briefed by a senior civil servant on the outcome of a European Council). It is additionally possible for the upper House, the Seanad to request a debate on any European issue that it wishes. This possibility is frequently used, with the result that the Minister of State for European Affairs (whose office is a sub-Cabinet position in the Department of the Taoiseach) tends to spend more time in the Seanad than in the Dáil. The themes of such debates (which tend to be less political and more reflective than Dáil

debates) may possibly overlap with the subject matter of European Council meetings although they are not formally directed at ensuring accountability in relation to them.

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

As already noted, plenary debates after European Council meetings involve a statement by the Taoiseach, followed by statements by the other party leaders. These are followed by questions (generally emanating from party spokespersons on European affairs) directed at the government in relation to European Council matters. In practice, however, this question and answer session is taken by the Minister of State for European Affairs, and the Taoiseach may have left the chamber at this point.

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

Nominally, a meeting of the Government Chief Whip and Opposition party whips may reach agreements on the setting of the agenda. However, in practice it will be the government, *via* the Chief Whip which will set the agenda as in case of any dispute, the government can use its majority to impose its will. Thus in practice the agenda is set by the government. However, it should be noted that the agenda for *ex post* debates on Council meetings follows a more or less fixed routine. In other words, there is not a lot of agenda-setting to be done. In terms of the topics which speakers in the debate wish to address, this is a matter for themselves. Thus for example if the Taoiseach wishes to focus on particular aspects of a European Council meeting or Euro zone summit then he is entirely free to do so (although in practice his speech tends to cover the various issues/outcomes of the European Council).

As regards whether the government can avoid a debate, it should be recalled that the government has no formal obligations in relation to parliamentary scrutiny of European Council meetings and Euro zone summits. In theory therefore, it is entirely possible to avoid a debate on a European Council meeting. However, if the government failed to provide for parliamentary scrutiny *via* statements before – or at least certainly after – the European Council, it could certainly expect that the Opposition would seek to elicit information *via* parliamentary questions in the plenary session of the Dáil (even if it is true that it is entirely possible not to give very satisfactory answers to such questions). Thus in this sense the requirement for the government to account is ineluctable and the current arrangements (certainly as regards *ex post* scrutiny at least) more a choice of form than of substance.

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

The Taoiseach takes part in the parliamentary debates both before and after European Councils although he does not take the questions which form a regular part of the latter debate, this being left in general to the Minister of State for European Affairs.

- How is the debate structured? Is there a vote after the debate?

The debate consists of statements being made by the Taoiseach followed by the other party leaders or spokespersons on European affairs. This is followed by a questions and answers

session which, as just noted, tends to be taken by the Minister of State for European Affairs. Any member of the lower House is free to involve him- or herself in the debate when it comes to the asking of questions. In practice, this tends to be the preserve of the spokespersons on European affairs. No vote is ever taken after the debate.

5. Since Lisbon

- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?

The Treaty of Lisbon itself resulted in no changes being made regarding parliamentary control of the European Council. The February 2011 election resulted in a new Fine Gael-Labour coalition government however, which committed itself to an obligation on the Taoiseach to brief the Oireachtas prior to attending European Council meetings: the only substantive change there has been to parliamentary control of the European Council since the time of the coming into force of the Lisbon Treaty. (There have been, it should be added, changes to statute and Standing Orders to accommodate the subsidiarity control mechanism, but these changes do not have any relevance to European Councils.)

- Did any significant events or changes in formal rules occur after Lisbon in the upper house?

There have been no significant events or changes in formal rules in the Seanad since the coming into force of the Lisbon Treaty.

- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?

The dissolution of the (previous) 30th Dáil on 1 February 2011 was intimately linked with the collapse in popularity of the Brian Cowen-led administration, subsequent to a banking and property crisis compelling Ireland to request formally financial support from the EFSF, the EFSM and the IMF in November 2010 in addition to a series of bilateral loans. While no individual decision by a European Council was a causal factor here, the bailout tended to be associated in the public mind broadly with the EU generally, and with various European Council meetings.

The present government in contrast has successfully portrayed itself as having achieved success at European Councils: (a) securing a reduction in the interest rate on loans made to it by the EFSF and the EFSM, at a time when a similar reduction was provided for Greece (European Council of 11 March 2011 and associated Euro zone summit) and (b) in having secured an economically vital undertaking by the Eurogroup to examine the situation of the Irish financial sector with the view of further improving the sustainability of the adjustment programme, and to treat similar cases equally at a time when recapitalisation of Spanish banks was being assisted. (European Council of 28-29 June 2012 and the associated Euro zone summit). The political impact of these events was undoubtedly positive for the government, but it remains to be seen to what extent.

6. Templates

to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

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 C7 = ordinary meeting of the European Council – 8 and 9 December 2011
 C8 = informal meeting of the European Council – 30 January 2012
 C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	No	No	No	No	No	No	No	No	No
Debates on the floor	No (this was just after general election)	Yes (but this was combined with <i>ex post</i> debate on C1)	Yes	Yes	Yes	Yes (but this was combined with <i>ex post</i> debate on C5)	Yes	Yes	Yes
Formal declaration by the PM	No (this was just after the general election)	Yes (but this was combined with <i>ex post</i> debate on C1)	Yes	Yes	Yes	Yes (but this was combined with <i>ex post</i> debate on C5)	Yes	Yes	Yes
Vote of a motion	No	No	No	No	No	No	No	No	No
After the European Council meeting									
Debates in committees	No	No	No	No	No	No	Yes	No	No
Debates on the floor	Yes (but combined with <i>ex ante</i> debate on C2)	Yes	Yes	No (Dáil adjourned for Summer break July 21st)	Yes (but this was combined with <i>ex ante</i> debate on C6)	Yes	Yes	Yes	Yes
Formal declaration by the PM	Yes (combined with <i>ex ante</i> debate on C2)	Yes	Yes	No (Dáil adjourned for Summer break July 21st)	Yes (but this was combined with <i>ex ante</i> debate on C6)	Yes	Yes	Yes	Yes
Vote of a motion	No	No	No	No	No	No	No	No	No

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

No.

- Some of your own remarks (voluntary):

While there has been a welcome increase in transparency surrounding European Council meetings with *ex ante* and *ex post facto* debates now occurring, and the Taoiseach evidently committed to continuing this tradition, there is equally no doubt that the Irish government remains very firmly in the driving seat in relation to its conduct of European Council meetings. Although the views of Opposition party leaders (and sometimes spokespersons) are now heard in the Dáil prior to European Councils, the power of the Dáil to influence the government to take a position the latter does not wish to is limited to non-existent.

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Italy: Michele Comelli, Istituto Affari Internazionali

Name of your Member State: Italy¹¹⁹

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

Yes for European Council meetings, no for Euro zone summits.

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

The legal basis providing for the parliamentary scrutiny of European Council meetings was established by the Law 11/2005¹²⁰ (in part. Art. 3), also known as the Stucchi-Buttiglione Law that replaced the Law 183/1987 (Fabbri Law) and Law 86/1989 (La Pergola Law). The Stucchi-Buttiglione Law consolidates and clarifies the general legal framework providing for the participation of Italy in EU decision-making¹²¹.

- If yes, what are these rules about? What obligations does the government have?

According to art. 3 of the Stucchi-Buttiglione Law, before each European Council the Italian Government shall provide both houses of the Parliament with the agenda of the meeting and inform them on the positions it plans to adopt. Afterwards, the government shall report on the outcome of the European Council meetings within fifteen days after the meeting.

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

No, they don't make this distinction.

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

The Italian Parliament has been increasingly more active in this regard, in particular since the outbreak of the crisis of the eurozone. The Parliament has intervened before the European Councils and the Euro zone summits with the following instruments: debates in committees, debates in plenary and votes of a motion.

- Do Parliaments' Rules of Procedure provide for priority debates?

No, they don't.

- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?

- Which governmental authorities take part in the parliamentary debates?

The practice was that an undersecretary for Foreign Affairs took part in the parliamentary debate before the European Council. Since the III Berlusconi government (2008-2011) the then Foreign Affairs Minister Franco Frattini established the practice of attending personally

¹¹⁹ First of all, it should be specified that the Italian political system provides for a "perfect bicameralism", that is the Higher and Lower House of the Parliament, respectively named "Senato della Repubblica" and "Camera dei Deputati" enjoy exactly the same legislative powers and are both elective. The Government must obtain the confidence of both Chambers. This is a unique feature within the European Union.

¹²⁰ For the official text of the law (in Italian language) see <http://www.camera.it/parlam/leggi/050111.htm>

I am grateful to Luigi Gianniti, chief of staff, foreign affairs committee, Italian senate for providing relevant informations for completing the present report. The interview took place in July 20th, 2012.

¹²¹ F. Bindi, *Italy and the European Union*, Rome and Washington: Scuola Superiore della Pubblica Amministrazione e Brookings Institution Press, 2011, p. 95

these meetings, without delegating an Undersecretary. However, the role of the Minister of Foreign Affairs was downgraded after the entry into force of the Lisbon Treaty (December 1st, 2009), because Foreign Affairs Ministers were no longer included in the European Council. Moreover, with the entry into force of the current Monti government (in power since November 16th, 2011) the parliamentary debates are usually attended by the Minister for European Affairs. On the one hand this post, which was traditionally assigned to a junior minister, became much more important than before, because European affairs became more salient due to the aggravation of the crisis both at the European and Italian level. For this reason, the Ministry for EU policies was renamed Ministry for European Affairs, tasked with more competences with before and assigned to Enzo Moavero, that used to be a close collaborator of Mario Monti in Brussels and has a strong personal relation with him. This upgrading in the power and profile of the European Affairs Minister has been to the detriment of the Foreign Affairs Minister, that was traditionally in charge of setting out the priorities for Italy's EU policy, together with the President of the Council of the Minister. In a number of occasions the Prime Minister Mario Monti decided to make a declaration before the Parliament, in consideration of the high political importance of the issues to be discussed by the upcoming European Council.

- Is there a vote for a parliamentary resolution before the European Council meeting? The Parliament may adopt both resolution and votes of motion on the position to be adopted by the Italian government at the upcoming European Council. For example, in its plenary session of January 25th, 2012, the Parliament adopted three different motions, put forward by different political groups, providing orientations for the position of the Italian government at the European Council in view of the important European Council of January 30th, 2012, that concluded the negotiations of the Fiscal Compact, the Italian Parliament approved¹²². In its plenary session of January 27th in view of the European Council of June 28-29, the the Italian Parliament approved a resolution and a number of motions.

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

The plenary and/or the committee.

4. Ex-post control: **debates in parliament**

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

The President of the Lower House chairs the meeting. The representative of the Government reports on the results of the European Council, then a debate follows.

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

The agenda is set by the Conference of the Chairmen of the Political Groups represented inside the Lower House. A debate follows the report by the representative of the government, the members of the Parliament (MPS) are authorized to intervene in the debate following their prior registration. The representative of the Government is not supposed to answer to the questions.

¹²² <http://www.camera.it/465?area=8&tema=524&Il+Consiglio+europeo+del+30+gennaio+2012>

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

It used to be a representative of the government at the level of Undersecretary. The Foreign Affairs Minister of the third Berlusconi government (2008-2011), Franco Frattini, introduced the practice of attending these debates, but the combined effect of the entry into force of the Lisbon Treaty and the advent of the Monti government and the upgrading of the role of the Minister for European Affairs triggered a change. Currently, debates in the Parliament following the European Councils are attended either by the Minister for the Foreign Affairs or by the Prime Minister himself, if the summit is considered to be of particular political importance (see point 2).

- How is the debate structured? Is there a vote after the debate?

Parliamentarians that have previously registered can intervene and there is usually no vote after the debate.

5. Since Lisbon

- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?

The main change concerns the downgrading of the role of the Minister for Foreign Affairs that no longer participates in the European Council. Therefore, it is the Minister for Foreign Affairs or the Prime Minister himself that informs the Parliament about the European Council.

- Did any significant events or changes in formal rules occur after Lisbon in the upper house?

- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council? Yes, the fall of the Berlusconi government was due to the combined pressure from the EU and its most important Member States and by that of the financial markets. Both had lost confidence in the ability of the Italian executive to carry out reforms and to put public accounts back in order, restoring the credibility of the country. However, this was not due to the change in formal rules introduced by the Lisbon Treaty.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

C2 = ordinary meeting of the European Council – 24 and 25 March 2011

C3 = ordinary meeting of the European Council – 23 and 24 June 2011

C4 = meeting of the Heads of State or Government of the Euro Area – 21 July 2011

C5 = ordinary meeting of the European Council – 23 October 2011

C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011

C7 = ordinary meeting of the European Council – 8 and 9 December 2011

C8 = informal meeting of the European Council – 30 January 2012

C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	X1		X2		X3				X6
Debates on the floor								X5	
Formal declaration by the PM								X	
Vote of a motion	X							X	
After the European Council meeting									
Debates in committees									X7
Debates on the floor							X4		
Formal declaration by the PM							X		
Vote of a motion									

X1: 9 march 2011 - Committees: 3 and 14 (Senate) and III and XIV (Chamber of Deputies)

X2: 22 june 2011 - Committees: 3 and 14 (Senate) and III and XIV (Chamber of Deputies)

X3: 19 october 2011 - Committees: 3, 5 and 14 (Senate) and III, V and XIV (Chamber of Deputies)

X4: 14 december 2011 - Assembly Senate

X5: 25 january 2012 - Assembly Senate

X6: 23 february 2012 - Committees: 3, 5 and 14 (Senate)

X7: 7 march 2012 - Committees: 3, 5 and 14 (Senate) and III, V and XIV (Chamber of Deputies)

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

The President of the Republic has recently acquired an ever more important role with regard to the position of the Italian government in the European Council. In fact, a practice has recently been established, according to which meetings between the Prime Minister and the President of the Republic have taken place before European Councils.

- Some of your own remarks (voluntary):

Latvia: Zaneta Ozolin, University of Latvia

Name of your Member State: Latvia

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

- If yes, what are these rules about? What obligations does the government have?

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

Yes, there are formal rules regarding the European Council meetings.

First, as the legal bases, paragraph 185.¹ (1) of the Rules of Procedure of Saeima is being applied. It states that "Saeima engages in EU-related matters with the mediation of the European Affairs Committee (EAC) if Saeima has not ruled otherwise". This means that the EAC makes decisions instead of Saeima, and a vote on the respective matters is not required during the plenary meeting.

Second, Saeima employs paragraph 185.³ of the Rules of Procedure stating that "European Affairs Committee scrutinizes the official positions of Republic of Latvia, prepared according to the procedure prescribed by Government, and makes decisions on them before they are being announced to the institutions of the EU."

Third, the Provisions of Government No. 96 (in force since February 3, 2009), „Order, according to which the national positions of the Republic of Latvia regarding the EU affairs are elaborated, harmonized, confirmed and actualized", prescribe even a more specific procedure of elaboration and approval of national positions. These Provisions establish in which cases national positions are being framed, and in which approved by the EAC of Saeima. Paragraph No. 34 of these Provisions states that the responsible body, following the procedure anticipated within the Rules of Procedure of Saeima, submits the national position to the EAC to be reviewed, before the subject is being discussed at the European Council or at the meeting of Council of Ministers; before the subject is being considered according to the substance of the matter during the working party meeting or the Committee of Council of Ministers, or in other stages of consideration of the subject, if this substantially touches on the interests of the Republic of Latvia. The stance of the Saeima's European Affairs Committee is binding.

The key in this paragraph is *other stages of consideration of the subject, if this substantially touches on the interests of the Republic of Latvia*. Namely, the Rules prescribe that the mandate from the EAC must be obtained before the European Council meetings, but in cases substantially touching on the interests of Latvia – also before the informal European Council meetings.

Thus the national positions of Latvia, prepared by the responsible governmental body for the respective Council of Ministers or the meeting of the European Council, are being approved at the EAC (for instance, in case of a planned meeting of Council of ministers of Environment, the positions prepared by the ministry of Environment are approved at EAC of Saeima). What concerns the European Council, the position is elaborated by the Ministry of Foreign Affairs after consultations with the sectoral ministries, depending on the respective agenda of the European Council.

The norm stating that the stance EA is binding, has been legally fixed. In comparison, the majority of the Nordic countries, which have adopted the mandate system, have not legally

established the stance of the Parliament as being binding. Instead of that, the notion of the „Political responsibility“ is being employed.

There are no binding rules regarding the Euro zone summits (as Latvia is not being represented there up to now). However, this might be an issue of interpretation. According to the new Treaty on Fiscal Discipline, such opportunity is provided also to those countries not being members of the Euro-zone. It is most likely that Latvia will continue working according to the rules of the Cabinet of Ministers regarding the issues substantially touching the interests of Latvia.

2. Ex-ante control

- **Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?**
- **Do Parliaments' Rules of Procedure provide for priority debates?**
- **If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?**
- **Which governmental authorities take part in the parliamentary debates?**
- **Is there a vote for a parliamentary resolution before the European Council meeting?**

Saeima as the national Parliament of the Republic of Latvia does not take part in preparation of the meetings of the European Council directly (as this falls under the competency of Government). Nor does Saeima directly participate in preparing the summits of Euro zone. However, the system of Government mandating for each formal meeting of the European Council has been set up in Latvia (as in majority of Nordic countries).

As noted above, discussions preceding the European Council meetings, take place at the EAC. There is a theoretical possibility for these matters to be directed to the Plenary, however there are several reasons why it is not being practised. First, EAC may make decisions on behalf of Saeima, and the mandate of EAC regarding EU-related matters is as strong as the one provided by Saeima (at least, legally). Second, the positions are usually of a restricted accession, meaning that each Parliament member should individually attend the Special Records Management in order to get acquainted with the content of the Position. Third, the legal devices available at the Plenary, are *Decision* or *Law*, thus it would not possible to approve the *Position*, as it is being applied, during a Plenary. Elaboration of a Decision Project would be necessary, which, according to the substance of the matter, would not, most likely, be applicable at the European Council or any other meeting.

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

What concerns the follow-up after the meetings of the European Council and the Euro zone summits, a formal requirement to report on the tenor of these events has not been established. However, if the issue is essential, during the first meeting of EAC, taking place after the respective meeting of the Council, a representative of the responsible ministry shortly reports on the course of the Council. These reports are also available as "Service reports", and the information on the most crucial issues discussed at the Council, as well as decisions made, is being provided during the meetings of Senior Officials, where the servants of the EAC also take part.

As mentioned above, in certain cases the responsible ministry may be asked to report on the course of the Council, even though this is not formally required. Also, the format where these results are being discussed, is the meetings of Senior Officials, although this may not

be labeled as a manifestation of *control procedures*, besides they do not apply to all the issues being discussed at and decisions made by the Council. The same applies to the Euro zone summits.

4. Ex-post control: debates in parliament

- **What is the organization of the plenary debates after the European Council meetings?** *(NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)*
- **Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?**
- **Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?**
- **How is the debate structured? Is there a vote after the debate?**

A legally precise framework has not been elaborated regarding these matters, thus the exchange of ideas in EAC after the European Council meetings takes place rarely. Usually such discussions evolve after a concrete demand stated by a member of the committee. If such discussion takes place, it rests on the paragraph 25 of the Constitution, stating: "Saeima elects the committee, prescribing the number and obligations of its members. Committee possesses rights to demand information and explanations, necessary for its operation, from certain ministers and the self-government bodies, as well as to invite the representatives of respective ministries, as well as self-government institutions to provide explanations during their sittings. Committee may also operate between the sessions." Another paragraph, relevant in this respect, is 172. (1) in of the Rules of Procedure of Saeima, containing a similar content: "Committee has rights, without the mediation of Presidium, to demand the information and explanations, necessary for its operation, directly from the respective minister and organs being subalterned to him/her, as as well as from self-governments, and to invite the respective officials to provide explanations".

5. Since Lisbon

- **After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?**
- **Did any significant events or changes in formal rules occur after Lisbon in the upper house?**
- **Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?**

No changes in control procedure concerning the European Council and the Euro zone summits have been made as a direct consequence of coming into force of the Treaty of Lisbon. Formally, some changes within the Rules of Procedure of Saeima have been implemented, however independently and not due to the Treaty of Lisbon. On October 28, 2010 the paragraph No. 185.5 was expunged from the Rules of Procedure. It obliged the Prime minister or any other member of the Cabinet, authorized by the Prime minister, at least once a half-year to report to the Saeima on what Government has accomplished, and what the planned further activities regarding the EU-related matters are. It was also anticipated that the submission of such report may be followed by a debate. This paragraph was substituted by the paragraph No. 118.3 (1) which states: "The minister of Foreign Affairs, no later than on January 16, submits an annual report (conformed with the Prime Minister) to the Saeima on the accomplished and planned further actions regarding the Foreign Policy of the State. The information on accomplished and planned further actions

regarding the EU-related matters is also included in report. The copies of this report are immediately distributed to the deputies."

The antecedent formulation was expunged from the Rules of Procedure due to the fact that during last six years Prime Ministers in fact did not report to the Saeima. The report to the EAC was provided instead by the representatives of the Ministry of Foreign Affairs.

The Survival of government has not been influenced significantly by the decisions made by the European Council since December 1st 2009.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

C2 = ordinary meeting of the European Council – 24 and 25 March 2011

C3 = ordinary meeting of the European Council – 23 and 24 June 2011

C4 = meeting of the Heads of State or Government of the Euro Area – 21 July 2011

C5 = ordinary meeting of the European Council – 23 October 2011

C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011

C7 = ordinary meeting of the European Council – 8 and 9 December 2011

C8 = informal meeting of the European Council – 30 January 2012

C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	no	yes	yes	no	yes	no	yes	yes	yes
Debates on the floor	no	no	no	no	no	no	no	no	no
Formal declaration by the PM	no	no	no	no	no	no	no	no	no
Vote of a motion	no	no	no	no	no	no	no	no	no
After the European Council meeting									
Debates in committees	no	no	no	no	no	no	no	no	no
Debates on the floor	no	no	no	no	no	no	no	no	no
Formal declaration by the PM	no	no	no	no	no	no	no	no	no
Vote of a motion	no	no	no	no	no	no	no	no	no

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

- Some of your own remarks (voluntary):

The CEA is the final instance regarding positions for the Councils of Ministers, as well as for the European Council. The prerogatives of Constitutional Court have been prescribed in a special law, and these are, in short, checking if the laws and normative acts adopted comply with the Constitution (in a judicial sense).

It should be noted, among other things, that position for the European Council is being reviewed twice. There is a meeting of the Council of General Affairs before each meeting of the European Council. Agenda of the European Council is being considered there, and an

according position of a general nature is being elaborated which is followed by a more specified national position in one week (at the latest).

Purely hypothetically, EAC may inquire the Prime Minister and the Minister of Foreign Affairs about the departure from the national position, and it can steer a Decision Project on enouncing mistrust to ministers or the Prime minister. However, such scenario is less likely, as the composition of EAC is directly proportional to the number of places of parties in Saeima, and it is hardly conceivable that coalition might require demission of the coalition ministers.

Lithuania: Ramunas Vilpisauskas, Vilnius University

Name of your Member State: Lithuania

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

There are formal procedures regarding parliamentary scrutiny of various Council formations, also European Council meetings, but they do not specifically mention Euro zone summits.

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

The Statute of the Parliament (Seimas), Resolution of the Government of Lithuania (GoL) on the Coordination of European Affairs (adopted on January 9, 2004, No 21).

- If yes, what are these rules about? What obligations does the government have?

The Statute of the Parliament establishes that European Affairs Committee and Foreign Affairs Committee has a right to mandate national positions prepared by the Government, monitor the process of representation and negotiations. It is the duty of Prime Minister or particular ministers (in the case of the European Council meetings – Minister of Foreign Affairs) to present the position of the GoL to the Parliamentary European Affairs Committee (or Foreign Affairs Committee) or in the plenary session of the Parliament. In exceptional cases, the position can be presented by viceministers. It should be noted that due to the Constitutional set up of Lithuania, i.e. the popularly elected President who is responsible for foreign policy matters, the issues debated in the European Council meetings are prepared in coordination with President's office. Although it is not clearly specified in the formal rules, the practice is that European Council meetings which focus on foreign policy and security issues are attended by Lithuanian President, while meetings on economic matters are attended by Prime Minister (though it is the President who decides and might also attend EU Summits which deal with economic issues as has been the practice recently). Although the President is informed about the European Affairs Committee and Foreign Affairs Committee meetings, he/she does not participate and is represented by advisors.

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

No.

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

Yes, the position prepared by the Government (in coordination with President's office) is presented by the Minister or vice minister of Foreign Affairs and mandated by the European Affairs Committee and Foreign Affairs Committee (usually in a joint meeting).

- Do Parliaments' Rules of Procedure provide for priority debates?

No.

- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?

European Affairs Committee, Foreign Affairs Committee, sectoral committee can be involved depending on particular issues. On the most important matters of the European Union, the Parliament can organize a parliamentary debate in a plenary session.

- Which governmental authorities take part in the parliamentary debates?

Ministers responsible for particular issues, sometimes vice ministers. Prime minister very rarely takes part. When European Council meetings are debated, it is MFA which presents information and national position.

- Is there a vote for a parliamentary resolution before the European Council meeting?

Usually, there is a mandate given by the European Affairs Committee and Foreign Affairs Committee which often have joint meetings when the position for the European Council meeting is presented and mandated. The decision is usually adopted by consensus. Formal voting rarely takes place.

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

European Affairs Committee, Foreign Affairs Committee, the plenary (though they usually take place in the Committees).

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

Debates after the European Council meetings take place in the European Affairs Committee (and Foreign Affairs Committee, usually in a joint session of both committees). They can also take place in the plenary session.

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

The Chairs of the above indicated Committees. Government has an obligation to report to the European Affairs Committee, and Foreign Affairs Committee, or plenary session on the results of the European Council meetings. In practice, the initiative often comes from the Government.

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

Usually ministers (sometimes vice ministers). Prime Minister very rarely takes part in these debates. President is represented by his/her advisors.

- How is the debate structured? Is there a vote after the debate?

The representatives of the GoL present the results of the meeting, sometimes they are also commented by the advisors to the President, then members of the Committee can ask questions. Usually there is no formal voting.

5. Since Lisbon

- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?

The changes introduced into the Statute of the Parliament regarding the application of principles of subsidiarity and proportionality (in October 13, 2011). Most instruments of parliamentary control were introduced when Lithuania joined the EU in 2004.

- Did any significant events or changes in formal rules occur after Lisbon in the upper house?

No. There is no upper house in Lithuania.

- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?

No.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

C2 = ordinary meeting of the European Council – 24 and 25 March 2011

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C7 = ordinary meeting of the European Council – 8 and 9 December 2011

C8 = informal meeting of the European Council – 30 January 2012

C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	yes	yes	yes	no	yes	no	yes	yes	yes
Debates on the floor	no	no	no	no	no	no	no	no	no
Formal declaration by the PM	no	no	no	no	no	no	no	no	no
Vote of a motion	no	no	no	no	no	no	no	no	no
After the European Council meeting									
Debates in committees	no	yes	no	no	yes	no	yes	yes	yes
Debates on the floor	no	no	no	no	no	no	no	no	no
Formal declaration by the PM	no	no	no	no	no	no	no	no	no
Vote of a motion	no	no	no	no	no	no	no	no	no

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

No.

- Some of your own remarks (voluntary):

The answers to the question no. 6 regarding particular European Council and Euro zone meetings is based on publicly available minutes of the European Affairs Committee and Foreign Affairs Committee.

Lithuanian Prime minister took part personally only in one discussion of the upcoming EU Summit of 2011.11.25, but his input concerned the negotiations of the next EU financial perspective for 2014-2020, not Euro zone issues. In other joint European Affairs and Foreign Affairs Committees meetings minister of vice minister of foreign affairs presented Lithuanian position on European Council meetings. Besides, I also got additional confirmation that no plenary sessions have been organized in the Parliament on these summits, they have been only debated in the joint committees meetings. In general, I would say that because the President took over from Prime minister the representation of Lithuania on euro zone issues as well which was not so much practiced before 2009 (as I wrote in my contribution, before Ms. Dalia Grybauskaitė became a President in 2009, usually the President either used to go to the EU summits together with PM (before the Lisbon), or used to go when foreign policy and security issues dominated the agenda, while Prime Minister used to represent Lithuania when economic issues dominated. Since 2009 it has changed and since President is not attending Parliamentary Committee meetings, they are not debated in a usual fashion. And the most important thing - since Lithuania is not EMU members and euro is increasingly less popular among voters, besides, Lithuanian economy has been growing from 2010, these issues have not been very high on the political agenda in general. Plus, EU issues in general are not very high on domestic agenda (with the exception of EU funding).

Luxembourg: Astrid Speitzer, University of Luxembourg

Name of your Member State: Luxembourg

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

Yes, the Rules of procedures of the Chamber (in their version of March 2012) refer in article 169 to Annex 2 "Agreement on the cooperation between the Chamber of Deputies and the government in European Union affairs" («Aide-memoire sur la coopération entre la Chambre des Députés et le Gouvernement du Grand-Duché de Luxembourg en matière de politique européenne»)

- If yes, what are these rules about? What obligations does the government have?

The Agreement states in point I.5 that the Chamber and its committees have the right to ask members of government who take part in meetings of the European Council to come explain their position on pending files before they take part in those meetings. After the European Council meeting, the Chamber may again ask the respective member of government to render account of the negotiation results.

Furthermore, the Agreement in point I.6 advises the government to forward all documents, reports, communications and information, which are part of the agenda of European Council meetings, immediately after their reception, and except the Chamber receives them from European institutions directly.

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

No. The Agreement mentions European Council and Council of Ministers meetings and the same rules apply for both of them.

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

The Chamber may ask for a presentation of the government position before the Council. In practice, this happened only a few times and government prepares European Council meetings and Eurozone summits without systematic parliamentary involvement.

- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?

The Conference of Presidents normally decides upon an invitation of the Prime Minister to a plenary debate. Motions may be introduced by any deputy, with the support of four other members of parliament (Art. 85 RoP), inviting the government to take an initiative or to adopt a certain position.

- Do Parliaments' Rules of Procedure provide for priority debates?

The Agreement in point IV fixes a yearly presentation of a government report on European affairs (to be introduced in the second semester) and one on the transposition of European directives and the application of Community law (to be introduced in the first semester).

The Chamber decides, after reception of a respective report, upon date and hour of a debate. Council meetings are not specifically mentioned under those provisions.

Apart from those foreseen meetings, urgent debates may be held on European issues as well (Article 39 RoP) and deputies may and do pose urgent questions (Article 81 RoP) on European matters.

- Which governmental authorities take part in the parliamentary debates?

In plenary, the Prime Minister gives declarations concerning European Council meetings. Ministers discuss their participation in a respective Council formation. In his role as the President of the Eurogroup, Luxembourgish Prime Minister Jean Claude Juncker also takes part in discussions on Euro zone summits. In Hours of Actuality, any member of government may be requested to appear before the plenary. The organisation of committees corresponds to the one of ministerial departments, and the respective corresponding minister is asked to appear before the committee.

- Is there a vote for a parliamentary resolution before the European Council meeting?

Not obligatory but in case a motion was introduced.

3. Ex-post control: institutional body

- Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

Similar to the ex-ante control, the Chamber may invite the respective minister to debate in its plenary or committees after a Council meeting.

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

The minister first announces a declaration on European and international affairs, then representatives of all parliamentary groups intervene before other deputies may speak and finally the minister responds.

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

The Conference of Presidents is the institutional body which decides on the agenda of the plenary debates. In practice, as members of the Conference of Presidents "weight" depending the backing they have in the Chamber in terms of parliamentary seats, decisions can be taken by governing parties. If, for a specific issue, a majority cannot be found in the Conference of Presidents, a parliamentary group may still draw on other means to decide on the agenda of a plenary debate and from time to time opposition parties initiate Hours of Actuality to European topics. Also the government may take the initiative to suggest a discussion of a European Council meeting/Euro zone summit, in case it is deemed important.

With the Agreement the government agreed to follow invitations of the Chamber to discuss European topics. In practice, decisions about debates are taken consensually and in any

case government has the backing of the parliamentary majority. When national (economic) interest is at stake, the cooperation works well.

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

As no clear distinction is made between ex-ante and ex-post control, the same provisions apply as above. (In plenary, the Prime Minister gives declarations concerning European Council meetings. Ministers discuss their participation in a respective Council formation. In his role as the President of the Eurogroup, Luxembourgish Prime Minister Jean Claude Juncker also takes part in discussions on Euro zone summits. In Hours of Actuality, any member of government may be requested to appear before the plenary. The organisation of committees corresponds to the one of ministerial departments, and the respective corresponding minister is asked to appear before the committee.)

- How is the debate structured? Is there a vote after the debate?

The debate normally starts with a declaration of the Prime Minister, and is followed by a statement of the representatives of each party. Time is allotted depending on the number of seats a group holds in the Chamber, i.e. 10 min for Conservatives, Socialists, Liberals and Greens, 5 min for ADR ("Alternative Democratic Reform party") and 2,5 min for The Left. Then, other deputies may ask to intervene. The Prime Minister is given 10 min to respond in the end.

No regular vote takes place after the debate, unless a Motion was brought up.

5. Since Lisbon

- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?

Yes, in May 2009, Article 168 (today's Article 169) of the Rules of Procedures was changed and the Agreement between CHD and government was introduced as an annex. It formalizes the possibility to discuss European Council meetings and obliges the government to keep the Chamber informed.

Before the formal rules were introduced and before the Lisbon Treaty excluded ministers of foreign affairs from European Council meetings, it was the latter reporting to the Committee of external and European affairs, Defense, Cooperation and Immigration. Those meetings were held upon request in committee.

- Did any significant events or changes in formal rules occur after Lisbon in the upper house?

Not applicable.

- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?

No.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

C2 = ordinary meeting of the European Council – 24 and 25 March 2011

C3 = ordinary meeting of the European Council – 23 and 24 June 2011
 C4 = meeting of the Heads of State or Government of the Euro Area – 21 July 2011
 C5 = ordinary meeting of the European Council – 23 October 2011
 C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011
 C7 = ordinary meeting of the European Council – 8 and 9 December 2011
 C8 = informal meeting of the European Council – 30 January 2012
 C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	Yes ¹²³	No	No	No	No	No	No	No	No
Debates on the floor	No	No	No	No	No	No	No	Yes	No
Formal declaration by the PM	No	No	No	No	No	No	No	Yes ¹²⁴	No
Vote of a motion	No	No	No	No	No	No	No	Yes	No
After the European Council meeting									
Debates in committees	No	Yes ¹²⁵	No	No	No	No	No	No	No
Debates on the floor	No	Yes	No	No	No	No	Yes	No	No
Formal declaration by the PM	No	No	No	No	No	No	Yes ¹²⁶	No	No
Vote of a motion	No	Yes	No	No	No	No	Yes	No	No

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

The Council of State checks the constitutionality of every bill proposal and amendment. If Council results have to be implemented by law, the Council of State has a suspensive veto of three months, as for all other bill proposals.

- Some of your own remarks (voluntary):

The answers to this questionnaire are mainly based upon the Rules of procedures of the Chamber (in their version of March 2012), records of parliamentary debates, and research in the Chamber's online archive on www.chd.lu but also on a short interview with Chamber's administrative personnel.

A recently concluded Master thesis deals with the Chamber of deputies and European integration:

Thill, Jacques: L'intégration des parlements nationaux dans l'architecture institutionnelle de l'Union européenne. Une étude de cas: la Chambre des Députés et la construction européenne. Master thesis, University of Luxembourg, June 2012.

¹²³ Réunion de la Commission des Affaires étrangères et européennes, de la Défense, de la Coopération et de l'Immigration du 15/12/2010 Information par M. le Ministre des Affaires étrangères sur la préparation du Conseil européen et du Conseil Affaires générales

¹²⁴ Déclaration sur la position du Gouvernement luxembourgeois à l'égard du Traité international sur la stabilité, la coordination et la gouvernance dans l'Union économique et monétaire (suivie d'un débat)

¹²⁵ Discussions were held in the framework of two bills implementing decisions taken at the European Council:

- Loi du 3 juillet 2012 portant approbation de la décision du Conseil européen du 25 mars 2011 modifiant l'article 136 du traité sur le fonctionnement de l'Union européenne en ce qui concerne un mécanisme de stabilité pour les États membres dont la monnaie est l'euro. (6334)
- Loi du 22 septembre 2011 modifiant la loi du 9 juillet 2010 relative à l'octroi de la garantie de l'Etat dans le cadre de l'instrument européen de stabilisation de la zone euro (6314)
- Réunion de la Commission des Finances et du Budget du 20/03/2012 and P-2011-O-FI-37-01
- Réunion de la Commission des Finances et du Budget du 22/06/2011

¹²⁶ Déclaration de M. Jean-Claude Juncker, Premier Ministre, Ministre d'État, relative aux conclusions du Conseil européen des 8 et 9 décembre 2011, suivie d'un débat

Malta: Roderick Pace, University of Malta

Name of your Member State: Malta

1. The formal rules

The Standing Orders of the House of Representatives constitute the formal rules on parliamentary scrutiny of European Council and Euro-zone meetings.

The Constitution of Malta lays down the most basic Standing Orders of the House which have to do with the election of the Speaker, the quorum, voting, language of the laws, office of the Clerk etc. Section 67 of the Constitution states that "subject to the provisions of this Constitution, the House of Representatives may regulate its own procedure." This provides the legal basis for the detailed elaboration of Standing Orders to regulate House and Committee business often referred to simply as the "Standing Orders" (Subsidiary Legislation, Standing Orders of the House of Representatives Order, Const.02). These have legal force (Legal Notice 46/65). The Maltese Constitution twice makes direct reference to the "Standing Orders" in its text but not to how they must originate.

Standing Order 120F specifies the composition of the Standing Committee on Foreign and European Affairs (SCEUFA) and its main functions. The Committee made up of 9 members including the chair who is appointed from the government side, covers both EU policies and Foreign policy and the Minister of Foreign Affairs is one of its members with the right to vote. Maltese members of the European Parliament have the right to participate in its meetings, but they cannot vote or move motions or amendments. The Committee has the power to setup working groups, the first of which is tasked with filtering and exercising preliminary scrutiny of EU documents.

The House Business Committee can refer matters to it while EU legislative proposals can be referred by the SCEUFA to other House Standing Committees such as the one on Social Affairs.

Standing Order 120F badly needs revising in the light of recent EU Treaty changes. It empowers the SCEUFA to scrutinize on its own initiative all issues and measures to be "taken by the Council of Ministers" as well as "any document which is published for submission to the European Council, the Council or the European Central Bank", proposed common strategies, common positions etc. Hence it has a very general sweep that practically includes all meetings without distinction. Main pipeline acquis and Malta's positions prior to Council meetings are discussed but not specifically Euro-Zone summits or European Council meetings. Foreign minister reports on General Affairs/Foreign Affairs Council meetings.

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

The House does not debate in advance of meetings for the European Council and Euro-zone summits.

- Do Parliaments' Rules of Procedure provide for priority debates?

Yes Parliamentary Rules do provide for emergency debates in the House to deal with priorities, but if what is intended by "priority" in the question is "prior" then the answer is No. No statements or debates occur prior to European Council, ordinary council or Euro-zone summits.

- Is there a vote for a parliamentary resolution before the European Council meeting?

No.

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

Technically, given the Standing Orders, this should fall within the remit of the SCEUFA but since the PM makes a statement to the House Plenary session which is accompanied by a question and answer session – and not a debate, a more detailed scrutiny of the results of the Council/Summits does not take place. It must be added, some of the main issues might surface on SCEUFA's agenda at later stages. It is thus a piece meal approach not an organic, comprehensive discussion of the Council or Euro-summit etc. No motion on the Council meetings is voted in parliament after the Council

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

The Prime Minister makes a statement in the House, time is allotted for this statement and questions which are answer by the PM.

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

The House Business Committee sets up the debate on the initiative of the Government. Technically the Government can avoid a statement and also the Q&A if it does not make a statement but this is difficult to envisage given that a parliamentary tradition has now been established for the Prime Minister to make such a statement at the first sitting of the House following the summit/Council. When Parliament is in recess no statement is made.

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

The PM leads the session (debate) starting by presenting the statement to the House and normally he answers the questions fielded by the opposition.

- How is the debate structured? Is there a vote after the debate?

There is no vote after the debate and no motion.

5. Since Lisbon

- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?

No

- Did any significant events or changes in formal rules occur after Lisbon in the upper house?

Not applicable

- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?

No

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012
Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011
C2 = ordinary meeting of the European Council – 24 and 25 March 2011
C3 = ordinary meeting of the European Council – 23 and 24 June 2011
C4 = meeting of the Heads of State or Government of the Euro Area – 21 July 2011
C5 = ordinary meeting of the European Council – 23 October 2011
C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011
C7 = ordinary meeting of the European Council – 8 and 9 December 2011
C8 = informal meeting of the European Council – 30 January 2012
C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	No	No	No	No	No	No	No	No	No
Debates on the floor	No	No	No	No	No	No	No	No	No
Formal declaration by the PM	No	No	No	No	No	No	No	No	No
Vote of a motion	No	No	No	No	No	No	No	No	No
After the European Council meeting									
Debates in committees	No	No	No	No	No	No	No	No	No
Debates on the floor	No	No	No	No	No	No	No	No	No
Formal declaration by the PM	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Vote of a motion	No	No	No	No	No	No	No	No	No

NB

European Council meetings are not discussed in a Parliamentary Committee as an item per se. Neither did they ever form part of a Motion on which a vote was taken.

With regards to whether specific debates on the floor were held on the above Ministerial statements, Parliamentary procedure dictates that following each statement, Members of Parliament ask questions which are then answered by the Prime Minister and the Minister of Finance and the Economy. It is to be underlined that no vote is ever taken at the end of the discussion following such a Ministerial Statement.

It is also to be underlined that a general discussion was held on 19 July 2011, on the situation in the Euro zone (Sitting 384 of 19.7.11). It was also agreed at the time that no vote was to be taken on this agenda item.

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

No Constitutional Court scrutiny or any other body.

- Some of your own remarks (voluntary):

1. When the Euro zone countries were asked to contribute to the Bailout fund for Greece, a debate and a vote took place in Parliament because it involved a money bill. Bill No. 86 - Participation and Guarantees under the European Financial Stability Facility (Amendment) Bill - Committee Stage (cont.) - 3rd Reading approved at the sitting No 390 of 10 October 2011. Unanimous Vote.
2. Discussion of European Union issues takes place mainly within the SCEUFA, a recent example of which is the European Stability Mechanism (ESM) which was discussed both in the said committee as well as in plenary. In discussions taking place in the ESM national specialists are also invited to reply to technical questions. On 6 July 2012, a plenary debate was held on all articles of the ESM Treaty before a final vote taken on the same date.

Netherlands: Iona Ebben / Adriaan Schout / Jan Marinus Wiersma, Institute for International Relations Clingendael

Name of your Member State: The Netherlands (lower house: Tweede Kamer (Chamber) upper house: Eerste Kamer (Senate))

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

The formal rules regard parliamentary scrutiny in general, and not specifically that of the European Council meetings or Euro zone summits.

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

- If yes, what are these rules about? What obligations does the government have?

The legal basis for parliamentary scrutiny is the Constitution. Article 68 determines that Ministers or State-Secretaries have to provide the Chamber with information when it so requests, unless such provision of information contradicts the interest of the state¹²⁷.

It is general practice that the Cabinet informs the Chamber on its position before European Council meetings and Euro zone summits take place, they do so in the form of an annotated agenda. After the summits the Cabinet informs the Chamber on the outcome with a report.

Once every year the standing committee on European Affairs discusses the general provision of information with the State-Secretary. Such discussions are concluded with a letter from the State-Secretary which states the agreements they have reached, and such a letter thus determines the rules (they are semi-formal, because letters from the Cabinet are promises to the Chamber, but they do not have the status of laws). For example in a letter dated 14 February 2012 the State-Secretary agrees the Cabinet will in principle provide the annotated agenda 1 week before the Council-meeting takes place¹²⁸, with the side-note that this is not possible for all Council-formations (for example ECOFIN) because the preparation in Brussels is done shortly beforehand.

The Chamber may request extra information from the Cabinet, and concerning the Euro zone it has done so. In a resolution the standing committee on Financial Affairs demanded that as long as measures to combat the euro-crisis were discussed in the ECOFIN and Eurogroup meetings the Cabinet should inform the committee within 24 hours of all that has been discussed¹²⁹.

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

The rules do not make a distinction between different types of meetings.

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

¹²⁷ Dutch Constitution, http://wetten.overheid.nl/BWBR0001840/geldigheidsdatum_10-07-2012 (last retrieved 9 July 2012), please note that all documents are translated from Dutch to English by the author

¹²⁸ Dossier 22112, Chamber document (Kamerstuk) 1366

¹²⁹ Dossier 21501-07, Chamber document (Kamerstuk) 782

Yes, the parliament prepares meetings through its standing committees in a so-called Algemeen Overleg (General Discussion) which usually takes place a couple of days before the Council convenes in Brussels.

- Do Parliaments' Rules of Procedure provide for priority debates?

Yes, rule 54a of the Rules of Procedure provides that Members can indicate the subject of the debate they wish to hold at the start of the meeting¹³⁰. If 30 Members or more support the request for the debate it will be held on a day which is decided by the Speaker of the House.

- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?

Normally the General Discussion takes place within the standing committees, several of which can be present for the preparation of one European Council Meeting (for example the standing committee on European Affairs as well as the standing committee on Financial Affairs). For the European Council meetings it has been practice since end 2010 to hold all General Discussions in the plenary¹³¹, and this has also been the case for the preparation of the Euro zone summits.

- Which governmental authorities take part in the parliamentary debates?

For the preparation of the European Council it has been practice in the last couple of years that it is always the Prime-Minister that explains the position of the Cabinet¹³². Often he is accompanied by other Ministers such as the Minister of Foreign Affairs or the State-Secretary of European Affairs. Members of the Cabinet are often supported by some of their staff from the Ministry, especially if the debate concerns highly technical matters. For the debates on the Eurozone the Minister of Financial Affairs also takes part in the debate. According to rule 55a of the Reglement van Orde (Rules of Procedure) of the Second Chamber it is possible to invite Members of the European Parliament to the debate¹³³. MEP's can give information and participate in the discussion.

None of the Cabinet-members can avoid a debate, if the Chamber has requested their presence they are expected to be there, and should the Prime-Minister or another Minister decide not to turn up the Members of the Chamber may simply halt their proceedings until the Cabinet-member they want to question is present.

- Is there a vote for a parliamentary resolution before the European Council meeting?

The Chamber can adopt resolutions before the European Council and Euro zone meetings, but such resolutions can only be tabled in plenary sessions. As noted above the General Discussions preparing the European Council have been in the plenary since 2010, so this facilitates the adoption of resolutions¹³⁴. If adopted by a majority of the Second Chamber, resolutions more or less force the Cabinet to change its position, but even in this case it is not a formal mandate. Materially however the outcomes of (Statements of) General

¹³⁰ Reglement van Orde, http://www.tweedekamer.nl/images/Reglement_van_Orde_versie_28_april_2011_118-220034.pdf (last retrieved 9 July 2012)

¹³¹ Bovenop Europa, p. 22

¹³² Interview with a clerk from the European Affairs Committee, Tweede Kamer, 27 April 2012

¹³³ Reglement van Orde, http://www.tweedekamer.nl/images/Reglement_van_Orde_versie_28_april_2011_118-220034.pdf (last retrieved 9 July 2012)

¹³⁴ For other configurations of the Council it is practice that Members may table a debate concerning a so-called 'Statement General Discussion' if they wish to propose a motion. In accordance with Article 44a of the Rules of Procedure Members there will be no lengthy plenary debate in these cases (indeed the debate has already taken place in the General Discussion) and Members may only speak for 2 minutes. Such debates are therefore called '2-minute debates'.

Discussions and resolutions are binding for the position the Cabinet will take in the Council¹³⁵. There is no limitation on the number of resolutions that may be adopted by the Chamber in preparation of European Council and Euro zone meetings, sometimes there are quite many.

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

As a starting point of the ex-post control the Cabinet always sends a report (Verslag) of the outcome of the European Council or Euro zone summit in the form of a letter to the Chamber. The letter is received by the Registry which forwards it to the relevant standing committee(s) (for example, European Affairs, Financial Affairs or both). All the Members of the standing committee receive the letter and in their procedural meeting they decide how to proceed. Usually the report is put on the agenda of the next relevant meeting (for example the next General Discussion or plenary).

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

As a result of the shift towards the preparatory phase Members of the Chamber do not usually request a separate debate after receiving the outcome-report. Often the results are taken up as arguments for the next preparatory debate. A debate afterwards was requested only twice. The first time a debate was requested because the statements of the Prime-Minister appeared strongly out of touch with the statements from other EU-leaders and the Chamber wanted clarifications. The second time a debate was requested because the 2011 October 23 and 26 meetings had resulted in outcomes that the Chamber deemed too vague.

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

The relevant standing committee (European Affairs or Financial Affairs) can put the report of a European Council or Euro zone summit on the agenda of the plenary. When it is set on the agenda it is the Chamber itself which decides whether or not the topic will be debated, this is done in the so-called 'regeling van werkzaamheden' (scheme of proceedings). If the Chamber wishes to have a debate the Cabinet cannot avoid it, the Prime-Minister or other relevant Ministers can always be held accountable by the plenary.

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

Similar to preparatory debates the Prime Minister or the relevant Minister takes part in the debate, and they can be supported by civil servants from their Ministry.

- How is the debate structured? Is there a vote after the debate?

The debate is structured in the same way as the preparatory debates, first the spokesmen of the different political parties get the floor, after which the Prime-Minister and/or other members of the Cabinet have the chance to reply. During the speaking time of both the party-spokesmen and the Cabinet-officials interruptions in the form of questions are

¹³⁵ Bovenop Europa, p. 13; Kester & van Keulen (2011) 'De Tweede Kamermethode': versterkte parlementaire invloed op Europese besluitvorming, RegelMaat, aflevering 6, p. 304

allowed. The debate may be followed by votes but only if the Members of the Chamber have tabled resolutions. There is no practice of general votes after the debates.

5. Since Lisbon

- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?

The standing committee on European Affairs decided to debate its General Discussions in the plenary, which means that the control is carried more broadly and with the entire Chamber. As noted above for the other configurations of the Council the procedure is normally that the General Discussion beforehand takes place in the standing committee. The control function has shifted almost entirely towards the preparatory phase as opposed to control in the phase after the meetings, and a system of mandates is developing more and more.

- Did any significant events or changes in formal rules occur after Lisbon in the upper house?

The changes in the formal rules are of a more general nature (not specifically related to democratic control of the European Council). The subsidiarity-tests no longer take place in a joint committee (with Members of both Houses), since the entry into force of the Treaty of Lisbon both Houses perform their own subsidiarity-tests and also take separate decisions whether such a test will be undertaken. For example concerning the legislative proposal on the right to strike the Chamber decided to perform a subsidiarity-test but the Senate decided not to do so. There is still coordination between both Houses, for example concerning the topics that will undergo the test, for which arguments will be exchanged.

- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?

Yes and no. Yes because there was a minority government in the Netherlands since 2010, and its survival was thus more precarious in general. Especially concerning European issues the government had to rely on opposition-parties (because its 'support-party' was anti-European), and it was important for the government to achieve outcomes in the European Council that were acceptable to a majority in the Chamber. No because the largest opposition-party (the Labour-party) had indicated it would not conduct strong opposition on European issues, and it thus never made an attempt to let the government fall or to make strong demands.

So the sphere of the debates has never been so high-strung that the Cabinet had severe fears of collapsing, but in a way the possibility was looming in the background.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

C2 = ordinary meeting of the European Council – 24 and 25 March 2011

C3 = ordinary meeting of the European Council – 23 and 24 June 2011

C4 = meeting of the Heads of State or Government of the Euro Area – 21 July 2011

C5 = ordinary meeting of the European Council – 23 October 2011

C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011

C7 = ordinary meeting of the European Council – 8 and 9 December 2011

C8 = informal meeting of the European Council – 30 January 2012
 C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	N	N	N	N	N	N	N	N	N
Debates on the floor ¹³⁶	Y	Y	Y	Y	Y	Y	Y	Y	Y
Formal declaration by the PM ¹³⁷	Y	Y	Y	Y	Y	Y	Y	Y	Y
Vote of a motion	Y	Y	Y	Y	Y	Y	Y	Y	Y
After the European Council meeting									
Debates in committees	N	N	N	N	N	N	N	N	N
Debates on the floor ¹³⁸	N	N	N	Y	N	Y	N	N	N
Formal declaration by the PM ¹³⁹	Y	Y	Y	Y	Y	Y	Y	Y	Y
Vote of a motion	N	N	N	Y	N	Y	N	N	N

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

If the outcome of the summits involves a new treaty (such as with the ESM) then another body which has an advisory function also becomes involved. This body is the Council of State (Raad van State) and its function is to give advice on legislation and treaties. Such advice can only be in a 'yes or no'-manner because the Council of State has no power to make amendments or the like.

- Some of your own remarks (voluntary):

Selected Literature

Kester, J. & van Keulen, M., *'De Tweede Kamermethode': versterkte parlementaire invloed op Europese besluitvorming*, RegelMaat 2011 (26) 6 p. 303-314.

De Bruijn, Th. J.A.M., *De veranderende rol van nationale parlementen in de Europese Unie*, RegelMaat 2011 (26) 6 p. 327-338

Ten Broeke, J. H. & Schouw, A.G. *Boven op Europa – Evaluatie van de versterkte EU-ondersteuning van de Tweede Kamer, 2007–2011*, rapport der Tweede Kamer, 2011.

Van Baalen, J.C., *Op tijd is te laat*, rapport der Tweede Kamer, 2002

Gerards, M., *Parlement aan zet – Voorstellen ter versterking van de parlementaire betrokkenheid bij Europa*, rapport der Tweede Kamer, 2006

¹³⁶ As noted above, the standing committee on European Affairs had decided to change its way of working and hold all preparatory debates in the plenary

¹³⁷ We have interpreted the 'formal declaration' so also include the statements that are sent to parliament before every European Council or Euro zone meeting. This is because in the Netherlands the debate is never opened by the Prime-Minister, the order is that the Cabinet sends information the Chamber, about which a debate is scheduled. In this debate Members of the Chamber comment on the information (in the case of European Council meetings the annotated agenda) and ask questions, to which the Prime-Minister then responds. If the Members want to influence the position of the Cabinet they adopt resolutions in which they make their opinion clear.

¹³⁸ Only those occasions where a separate debate was requested are marked here, but it must be noted that it is general practice that Members taken into account the result of the previous summit when they prepare the next one.

¹³⁹ Here again we have interpreted the 'formal declaration' so also include the statements that are sent to parliament after every European Council or Euro zone meeting. In the cases where a debate was held on the floor the Prime-Minister was also present to answer the questions and concerns of Members of the Chamber.

Poland: Maria Karasinska-Fendler / Anna Jedrzejewska, European Institute in Lodz

Name of your Member State: POLAND

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

- If yes, what are these rules about? What obligations does the government have?

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

The Polish Constitution of April 2, 1997¹⁴⁰, describing particular competencies of the Government, the President and of both houses of the Polish Parliament, including their roles in Poland's external relations and international agreements (i.e. ratification procedures) does not provide particular reference to formal rules regarding the parliamentary scrutiny neither of Poland's participation in EU policies, nor of European Council meetings.

A relevant exception (Art. 90 of the Constitution)¹⁴¹ concerns cases of transfer of sovereign national powers to international organisations (e.g in case of Treaty changes ratification), when a relevant law needs to be passed by both chambers of the Polish Parliament through ratification procedure (with 2/3 majority – in the presence of at least 50% of deputies).

The key and general rule of co-operation and dialogue between the Parliament and the Government in Poland is that the latter is obliged to answer deputies' questions within 21 days after lodging (Art. 115, 1-2)¹⁴².

The current formal rules establishing the position of both houses of the Polish Parliament in EU Affairs are regulated by the Act of 8 October 2010 r. on cooperation of the Council of Ministers with the Sejm and the Senate in matters relating to the Republic of Poland's membership of the European Union¹⁴³, hereinafter referred to as the Co-operation Act (CA).

This Act establishes the responsibilities of the Council of Ministers and the Prime Minister (Art. 1), as well as the responsibilities and powers of the Sejm and the

Senate or bodies of each chamber, competent under their rules of procedure¹⁴⁴ and refers to the statutory responsibilities and rights of the President of the Republic of Poland with regard to decision taken thereof.

In the Sejm, the competent body is the European Union Affairs Committee (EUAC, SUE - in Polish), composed of a maximum of 46 deputies – representing, on a proportional basis, the Sejm party groupings and alliances consisting of at least 15 members. At the formal

¹⁴⁰ Constitution of the Republic of Poland of 2nd April 1997

<http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>

¹⁴¹ *ibid.*

¹⁴² *ibid.*

¹⁴³ http://libr.sejm.gov.pl/oide/en/images/files/dokumenty/polskie_akt_prawne/cooperation_act.pdf

¹⁴⁴ Rules of Procedure of the Polish Parliament, Law of July, 30 1992; Annex to The Announcement of the Marshal of the Republic of Poland of 17Jan .2012, item .32.

legal level the Parliament and especially its Committee for European Union Affairs is equipped with strong legal tools allowing for execution of efficient control over European affairs led by the Polish government. But, in fact and in real terms, there are some weaknesses of the existing legal framework, arising specifically from the lack of provisions for Parliament's granting to the government the binding mandates prior to the European Council meetings. Neither the ex-post procedures provide for discharge of government's activities within the European Council apart from the "confirmation of receipt (or hearing) the information". Even if the Cooperation act (Article 3, pt 2) and Standing orders of the Sejm provide for the possibility of requesting from the government any information related to Poland's membership in the European Union, still, the ex-ante information about the forthcoming European Council summits is limited to rather laconic presentation of the European Council meetings agendas and very limited information about the government's position to be taken during summits. Moreover, apart from the formal possibilities pointed out above, the European Council meetings are practically not present in Cooperation Act, except for procedures referred to in Article 14 of CA.

In general, the provisions of this Co-operation Act relating to the Sejm, cover:

- right to receive information from the government on the Republic of Poland's participation in the works of the EU (periodically (at least every 6th months) or on demand and within the 21 days period) (Art. 3), including the exercise of the Presidency (Art. 21 CA)
- right to receive information on work programmes of the Council, and evaluation of annual legislative programmes of the immediately after their receipt from EU Institutions (Art. 5 CA);
- co-operation in the making of EU law (Art. 4 -16 CA);
- co-operation in the revision of the Treaties (Art. 9), which obliges the Government to immediate transfer to the Sejm of proposals of Member Countries' standpoints for the Council) within the ordinary procedure – seeking opinions prior to a decision not to convene the Convention; or – within simplified procedure ("general passerelle clause") and in the cases treated on a par, in terms of effect, with that clause under Art. 14 and 15 of the Co-operation Act.
- co-operation in implementing EU law into the Polish legal system (Art. 18 CA);
- co-operation in the lodging of complaints by the Sejm with the European Court of Justice (Art. 17 CA);
- co-operation in expressing opinions on candidates for certain posts in the EU (Art 19 -20 CA);

A special clause was put into the Co-operation Act's text in view of the Polish Presidency of the EU Council (Art. 21 – 22 CA), imposing additional information obligations on the Council of Ministers in relation to the EU Affairs Committee (EUAC). No later than one month before the beginning of the Presidency, the Council of Ministers was required to present to this body its information on the priorities of Presidency, and, during the Presidency, the government was obliged to keep the EUAC informed about the progress in the exercise of the Presidency, as well as to provide an evaluation of the achievement of the priorities, and to attach the evaluation of the Presidency priorities to the general report (submitted under Article 3 (1) of the Act), covering the Presidency period.

The obligation of transmission of draft positions of the Republic of Poland, information on the Poland's positions and of seeking opinions of EUAC embrace:

- transmission of a draft position of Poland on EU draft legislative acts and draft legal acts adopted under Article 352 (1) of the TFEU - following the submission of a draft act by an authorised EU institution, within the time limits prescribed by the Act (Article 7 (1) and (2) CA);

- transmission of a draft position of Poland on a draft other than legislative act on request of the EUAC (Article 8 CA);

- (with some decisions on Polish position restricted to the discretion of the President of the Republic of Poland¹⁴⁵) the government is seeking opinions of the competent body of Sejm and Senate (prior to the consideration in the Council of a draft legislative act or draft legal act under Article 352 (1) of the TFEU; or prior to the presentation in the Council or the European Council of a position on matters mentioned in Article 12 (1) and (2)¹⁴⁶ of CA as well as prior to the European Council's decision not to convene the Convention referred to in Article 48 (3) of the Treaty on European Union (Art. 16 CA).¹⁴⁷

Thus, the European Affairs Committee may also express its opinion on the Poland's position to be taken or presented in the Council or in the European Council within the Committee's debate on the basis of general rules established by the CA.

However, the Cooperation Act refers to the European Council directly twice in the document, namely in the Art 12 (2) CA referring to Art. 86 (4) TFEU and providing obligation put on the government to seek opinion of the Parliament and to provide written information containing a substantiation of the position of the Republic of Poland¹⁴⁸ or in Art 14 of CA referring to selected Articles of the Treaties¹⁴⁹ and providing for particular instructions for the representative of Poland in the European Council.

¹⁴⁵ a draft legal act of the European Union referred to in Article 31 (3), Article 42 (2) or Article 48 (7) of the Treaty on European Union or in Article 312 (2), second subparagraph, of the Treaty on the Functioning of the European Union or in Protocol (No. 9) on the decision of the Council relating to the implementation of Article 16 (4) of the Treaty on European Union and Article 238 (2) of the Treaty on the Functioning of the European Union between 1 November 2014 and 31 March 2017 on the one hand, and as from 1 April 2017 on the other, annexed to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community (Art 14 CA) and draft legal act of the European Union referred to in Article 81 (3), Article 153 (2), fourth subparagraph, Article 192 (2), second subparagraph, Article 333 (1) or Article 333 (2) of the Treaty on the Functioning of the European Union (Art 15 CA).

¹⁴⁶ under Article 3 (2) of Protocol (No. 36) on transitional provisions annexed to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community, Article 1 or Article 4 of the decision of the Council relating to the implementation of Article 16 (4) of the Treaty on European Union and Article 238 (2) of the Treaty on the Functioning of the European Union between 1 November 2014 and 31 March 2017 on the one hand, and as from 1 April 2017 on the other, and on the draft legal act of the European Union referred to in Article 82 (2) (d) or Article 83 (1), third subparagraph, of the Treaty on the Functioning of the European Union.

¹⁴⁷ Thus, the European Council summits do not fall into any other category of interaction between the government and the Parliament than "information" and practically the European Councils are not present in the debates (neither ex-post, nor ex-ante), unlike in case of the procedures regarding the EU legal acts and positions taken by Poland in the Council as well as in case of Article 48 point 3 TEU (where opinion (not binding) is sought) as well as the procedures referring to implementation of EU law (where parliamentary adoption of the Polish legal act is required).

The new powers given to the Sejm in the light of the EU Treaties concern the right of veto, referring to one of the following procedures: the passerelle clause under the Art. 48 of the TEU other articles referred to in Article 14 of the Cooperation Act (also under article 15 of Cooperation Act as well as ratification procedures (under relevant national laws) altered by introduction of Article 23 of the Cooperation Act).

¹⁴⁸ Art 12 (2) CA: Prior to the presentation of a position of the Republic of Poland in the European Council on a draft legal act of the European Union referred to in Article 86 (4) of the Treaty on the Functioning of the European Union, the Council of Ministers shall seek the opinion of the competent body under the rules of procedure of the Sejm and the competent body under the rules of procedure of the Senate, presenting written information containing a substantiation of the position of the Republic of Poland.

¹⁴⁹ Article 14 (CA).

1. A decision on the position of the Republic of Poland on a draft legal act of the European Union referred to in Article 31 (3), Article 42 (2) or Article 48 (7) of the Treaty on European Union or in Article 312 (2), second subparagraph, of the Treaty on the Functioning of the European Union or in Protocol (No. 9) on the decision of the Council relating to the implementation of Article 16 (4) of the Treaty on European Union and Article

An opinion expressed by the EUAC should provide a basis for Poland's position. If a position taken or presented by the government in the Council or in the European Council has not taken into account the EUAC's opinion, a Member of the Council of Ministers or a representative of the Council of Ministers are required to explain reasons for such a discrepancy to the SUE.

As it concerns the issue of Treaties' change, the Prime Minister is required to seek the opinion of the Sejm prior to the European Council's decision (Art. 12, 1-2 of Co-operation Act).

As for the time being, there are no specific formal rules introducing distinction between various types of European Council meetings.

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

Despite the existing potential of Polish legal framework, and deputies' and political parties right to put questions or demands for a debate on particular issues, the Sejm as the full house in practice does not take part in preparation of the European Council summits.

However, the Sejm got involved in preparation of the Polish Presidency priorities, having had a debate on Information of the Polish Government's Priorities on the 28th of June 2011 (presented by the State Secretary of the Ministry of Foreign Affairs, Mikolaj Dowgielewicz).

- Do Parliaments' Rules of Procedure provide for priority debates?

No, they don't. According to the Rules of Procedure of the Polish Parliament the single persons responsible for the Parliament's Lower and Higher Houses debates programmes are Marshals (the Speakers) of those Chambers after the provision of opinions by the Conventions of Seniors¹⁵⁰ of both houses.

- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?

None.

- Which governmental authorities take part in the parliamentary debates?

In most of cases these are Secretaries or Undersecretaries of State appointed/introduced by the Prime Minister.

- Is there a vote for a parliamentary resolution before the European Council meeting?

238 (2) of the Treaty on the Functioning of the European Union between 1 November 2014 and 31 March 2017 on the one hand, and as from 1 April 2017 on the other, annexed to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community, shall be taken by the President of the Republic of Poland on proposal of the Council of Ministers, with consent granted by statute.

2. The Council of Ministers' proposal referred to in paragraph 1 shall provide that a representative of the Republic of Poland in the European Council is obliged to:

- 1) support the adoption of a legal act of the European Union, or
- 2) abstain.

3. The proposal referred to in paragraph 1 shall be submitted to the President of the Republic of Poland after consent is granted by statute.

4. The representative of the Republic of Poland shall support the rejection of a legal act of the European Union if the President of the Republic of Poland has not taken the decision referred to in paragraph 1.

¹⁵⁰ A Sejm and Senate internal bodies providing for cooperation of parliamentary political groupings/club in matters related to the activities and functioning of the houses. Composed of the Marshal (Speaker) Vice-Marshals and Heads of officially recognised party clubs and party groupings in the Sejm and the Senate.

No, in fact there was no such a vote.

The single formal procedure of discharge of Government's information is "the acknowledgment of receipt"¹⁵¹.

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

The mentioned above SUE is the single body, which is regularly informed on EU matters (it is worth of mention that the activities of this Parliament Committee during the researched period were concentrated mainly on the EU Law implementation and on reports of progress in the execution of Polish Presidency priorities).

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

In fact, the single plenary debate, which was indirectly linked to the European Council of December, 8-9, 2011, took place on the 15th of December, 2011. The Prime Minister Donald Tusk introduced Min. Radoslaw Sikorski, who presented an "Information of the Future of the European Union". This debate constituted an answer to deputies of Law and Justice, disappointed with the public lecture of Min. Sikorski in Berlin. This debate embraced the vote of no-confidence for Min. Radoslaw Sikorski (the State Secretary for External Affairs) and – only indirectly – referred to the December European Council outcomes.

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

The Speaker of the Sejm is able to put any issue into the programme of debates of the Polish Parliament sitting, on the initiative coming out of the political parties' clubs, of the 15 individual deputies or on demand of at least 100 000 citizens¹⁵². The Government can avoid such a debate in co-operation of the Speaker of the Sejm.

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

In the period covered with this research there were some rare cases when the Prime Minister himself took the floor on the EU matters. All EU issues were rather debated in the SUE, where the Government's representatives were Secretaries or Under-Secretaries of State. Within the SUE practice the competent Member of the Government provided necessary information.

- How is the debate structured? Is there a vote after the debate?

There were no votes after debates. The single procedure was the "acknowledgment of receipt".

¹⁵¹ ibid

¹⁵² ibid, Art.: 32-50.

¹⁵² Citizens of other countries claiming Polish origins and maintaining links with Poland

5. Since Lisbon**- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?**

No, there were not. The introduced changes in Rules of Procedure of the Polish Parliament concerned:

- the six months' Polish Presidency,
- the practical arrangements concerning the subsidiarity check,
- a strengthened right to receive information,
- monitoring of the area of freedom, security and justice and
- participation in expanded parliamentary co-operation.

b. Did any significant events or changes in formal rules occur after Lisbon in the upper house?

No, they did not.

c. Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?

No, it was not a case.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

C2 = ordinary meeting of the European Council – 24 and 25 March 2011

C3 = ordinary meeting of the European Council – 23 and 24 June 2011

C4 = meeting of the Heads of State or Government of the Euro Area – 21 July 2011

C5 = ordinary meeting of the European Council – 23 October 2011

C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011

C7 = ordinary meeting of the European Council – 8 and 9 December 2011

C8 = informal meeting of the European Council – 30 January 2012

C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	No	Yes ^a	Yes ^a	No	Yes ^a	No	Yes ^a	No	Yes ^a
Debates on the floor –	No	No	Yes ^c	No	No	No	No	No	No
Formal declaration by the PM –	No	No	No	No	No	No	No	No	No
Vote of a motion –	No	No	No	No	No	No	No	No	No
After the European Council meeting									
Debates in committees –	No	Yes ^b	No	No ⁱ	No ⁱ	No ⁱ	Yes ^d	No	No
Debates on the floor –	No	Yes ^b	No	No	No	No	Yes ^e	No	No
Formal declaration by the PM –	No	No	No	No	No	No	Yes ^f	No	No
Vote of a motion –	No	Yes ^b	No	No	No	No	Yes ^g	No	No
^a – information only, voting only on “confirmation of receipt of the government information” not counted as substantive matter vote ^b – the ex-post activity of parliament concerns the adoption of the national law ratifying the European Council decision on the change of the Article 136 of the TFEU, the relevant Polish law passed on 11 May 2012 and countersigned by the President of the Republic on 26 May 2012. This information was not present in the interviews (probably because of the “ratification the adoption of the law exceeds greatly the time-span on the researched period), put in the table on the basis of the official Sejm documentation. ^c – discussion in the plenary mainly focusing on the presentation of the Polish Presidency Priorities, yet per se indirectly embracing the European Councils to take place under Polish Presidency ^d – the sitting was mainly devoted to the presentation of the Ministers of Foreign Affairs, Radoslaw Sikorski’s information on Poland’s position and achievements of December 2011 European Council but also Minister’s exposé in Berlin constituted a substantive part of the debate in the Committee. ^e – the plenary debate dominated by the vote of non-confidence against Minister of Foreign Affairs, Radoslaw Sikorski, although the Prime Minister’s information of the future of the European Union was also discussed. ^f – Prime Minister’s statement devoted to the future of the European Union in the context of the concluding Poland’s presidency ^g – vote (failed) on rejection of the PM’s information on the future of the European Union ⁱ – reports on the presidency over Council formations, no reference to European Council as such									

7. Other comments

- a. Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)
- b. Some of your own remarks (voluntary):

The Constitutional Court was involved in a debate concerning the introduction of the Co-operation Act referring to the lower Chamber of the Polish Parliament only. The conclusion has not been made yet and the procedure is still on the floor. According to the Polish Constitution the competencies of running external affairs does not include Senate’s role (exception being made for contacts with Polish “*Polonia*”¹⁵³ in the world only).

Recommendation for further readings

Lena Kolarska-Bobińska: „Co warto, co należy zmienić? Poprawa jakości demokracji w Polsce” [*What is Worth changing, what should be changed. Improving the quality of democracy in Poland*], Institute of Public Affairs, Warsaw, 2008;

Piotr Czarny: „Opinia prawna na temat wybranych rozwiązań projektu ustawy o współpracy Rady Ministrów z Sejmem i Senatem w sprawach związanych z członkostwem Rzeczypospolitej Polskiej w Unii Europejskiej” [*Opinion on selected solutions of the draft law on cooperation of the Council of Ministers with the Sejm and the Senate in matters relating to the Republic of Poland's membership of the European Union*] (ref. to Sejm working document no 3000), 4 June 2010;

Andrzej Szmyt: „Opinia prawna na temat wybranych rozwiązań projektu ustawy o współpracy Rady Ministrów z Sejmem i Senatem w sprawach związanych z członkostwem Rzeczypospolitej Polskiej w Unii Europejskiej” [*Opinion on selected solutions of the draft law on cooperation of the Council of Ministers with the Sejm and the Senate in matters relating to the Republic of Poland's membership of the European Union*] (ref. to Sejm working document no 3000), 4 June 2010;

Aleksander Fuksiewicz: „Sejm i Senat rok po wejściu w życie Traktatu lizbońskiego – dostosowanie do reformy instytucjonalnej” [*Sejm and Senate a year after entry into force of the Lisbon Treaty*], Institute of Public Affairs, Warsaw, 2011.

Portugal: Davor Jancic, Utrecht University

Name of your Member State: Portugal

1. The formal rules

The general legal framework for the relations between Portugal and the European Union is laid down in the Constitution of 1976. The adoption of this document marked the beginning of democratic government in Portugal. It was adopted after the peaceful Revolution of Carnations (*Revolução dos Cravos*) of 25 April 1974, which ended several decades of dictatorship under the rule of António de Oliveira Salazar.

1.1. Constitutional regulation of Portugal's relations with the European Union

The Constitution warrants Portugal's entry into "agreements for the exercise jointly, in cooperation with or by the Union's institutions, of the powers needed to construct and deepen the European Union".¹⁵⁴ Since the Constitution defines sovereignty as single and indivisible,¹⁵⁵ there is no mention of a transfer of sovereignty to the EU. It has been argued that the focus on the joint exercise of powers between Portugal and the European Union is conducive to their "interdependent cooperation" and the "normative and institutional dialogism" between their respective legal orders.¹⁵⁶

It is important to emphasise that democratic principles occupy a pivotal place in the regulation of Portugal's relations with the European Union. Namely, three conditions must be fulfilled for Portugal to become a Member State of the EU: (a) reciprocity, (b) respect for the fundamental principles of the democratic state based on the rule of law and (c) respect for the principle of subsidiarity.¹⁵⁷

1.2. Scrutiny of European Council meetings

The legal rules regulating the parliamentary scrutiny of European Council meetings are laid down in the Act no. 43/2006 on the Monitoring, Assessment and Pronouncement by the Assembly of the Republic Within the Scope of the Process of Constructing the European Union (hereinafter: European Scrutiny Act), which was adopted on 25 August 2006.¹⁵⁸ This Act was amended on 17 May 2012.¹⁵⁹ No other legal document establishes provisions on the control of European Council meetings.

There is no explicit legal obligation for the Government to inform MPs specifically about European Council meetings. This is implied, however, in both *ex ante* and *ex post* meetings in plenary or in committee as described below under the relevant headings. Furthermore, it should be emphasised that the Constitution places a general duty on the Government to supply the Assembly with information on the construction of the European Union in good time.¹⁶⁰ The European Scrutiny Act and the Assembly's Rules of Procedure (*Regimento*), the latter of which was last amended in October 2010, also militate the establishment of a

¹⁵⁴ Article 7(6) of the Constitution.

¹⁵⁵ Article 3(1) of the Constitution.

¹⁵⁶ Pires, Francisco Lucas. "A experiência comunitária do sistema de governo da Constituição portuguesa," in *Perspectivas constitucionais: nos 20 anos da Constituição de 1976 – Volume II*, by Jorge Miranda (ed.), Coimbra: Coimbra Editora, 1997: 837-838.

¹⁵⁷ Article 7(6) of the Constitution. This provision was first introduced by *Lei constitucional no. 1/92* of 25 November 1992 as a consequence of the Maastricht Treaty. See more in: Miranda, Jorge. "La Constitution portugaise et le traité de Maastricht," *Revue Française de Droit Constitutionnel*, No. 12, 1992: 679-688.

¹⁵⁸ *Lei no. 43/2006 Acompanhamento, apreciação e pronúncia pela Assembleia da República no âmbito do processo de construção da União Europeia*, *Diário da República*, 1ª série, No. 164, 25 August 2006, p. 6201.

¹⁵⁹ *Lei no. 21/2012 Primeira alteração à Lei no. 43/2006 relativa ao acompanhamento, apreciação e pronúncia pela Assembleia da República no âmbito do processo de construção da União Europeia*, *Diário da República*, 1ª série, No. 96, 17 May 2012, p. 2582.

¹⁶⁰ Article 197(1)(i) of the Constitution. This provision was introduced by the constitutional amendment of 1992.

regular process of consultation between the Assembly and the Government.¹⁶¹ In similar fashion, the European Scrutiny Act obliges the Government to provide the Assembly with information about the “matters and positions to be debated in European institutions”, which thus encompasses information on European Council meetings.¹⁶² The only European Council documents that are explicitly mentioned as compulsory for the Government to submit to the Assembly are European Council authorisations to apply the general bridging clauses (so-called *passerelles*), which permit the Council of Ministers to decide by qualified majority instead of by unanimity and to adopt decisions in accordance with the ordinary legislative procedure instead of in accordance with a special legislative procedure.¹⁶³

1.3. Scrutiny of Eurozone summits

There is no legal regulation of this matter in Portugal. In practice, Eurozone summits are occasionally referred to during committee and plenary sessions devoted either to the scrutiny of European Council meetings or to other matters altogether. Yet this is not done systematically but rather as an issue accompanying the central topic of the debate. Thus, in parliamentary meetings related to the scrutiny of EU affairs, Eurozone summits are hardly ever an independent agenda point. When these summits are indeed debated, this occurs mainly in the form of MPs’ questions to the Government, the subject and contents of which MPs can freely choose.

Nonetheless, the European Scrutiny Act envisages the organisation of plenary debates about various instruments for the economic governance of the EU, which include the European Semester and the Stability and Growth Programme (*Programa de Estabilidade e Crescimento*) in particular.¹⁶⁴ The Government participates in this type of plenary debate, but it is not specified at which level.

2. Ex-ante control

2.1. Rules and procedures

Since the 2012 amendment of the European Scrutiny Act, the Assembly will hold a plenary debate *before* each meeting of the European Council.¹⁶⁵ The Government is present during this plenary debate and is represented at the level of Prime Minister, thus providing an opportunity for MPs to engage in high profile discussions with the Government. The first such plenary debate took place on 27 June 2012, before the ordinary European Council meeting of 28/29 June 2012.

There is no distinction between ordinary, extraordinary and informal meetings of the European Council. It is therefore unclear whether the reference in the European Scrutiny Act to holding a plenary debate before *each* European Council meeting means that plenary sessions will also be organised for extraordinary and informal European Council meetings. It appears more likely that a plenary session will only be held before ordinary European

¹⁶¹ Article 1(2) of the European Scrutiny Act and Article 261(2) of the Rules of Procedure.

¹⁶² Article 5(1)(b) thereof.

¹⁶³ Article 5(2)(c)-(d) of the European Scrutiny Act. See Article 48(7) TEU for the general bridging clauses.

¹⁶⁴ Article 4(1)(d) thereof. The Stability and Growth Programme is a document prepared by the Portuguese Government within the framework of the European Semester and, thus, it does not refer to the EU’s Stability and Growth Pact.

¹⁶⁵ Article 4(1)(a) of the European Scrutiny Act.

Council meetings and that all other types of European Council meetings will be scrutinised in committee. In spite of this, holding a plenary debate remains a possibility, because the European Scrutiny Act entitles both the Assembly and the Government to initiate a debate about any matter discussed in EU institutions that falls under the Assembly's competence in general.¹⁶⁶

Prior to the 2012 amendment, a plenary debate was only organised *after* the last European Council meeting of each EU Presidency and it was not required that the Government be represented by the Prime Minister. This means that there has been both a move from *ex post* towards *ex ante* scrutiny of European Council meetings and an elevation of the Government's accountability duties. This change affords greater leeway for MPs to influence the position that the Government intends to defend in the European Council.

According to the Assembly's Rules of Procedure, the agenda for plenary debates is set by the President of the Assembly after hearing, in a consultative manner, the Conference of Leaders, which is a body that gathers the leaders of the political groups represented in Parliament.¹⁶⁷ The Rules of Procedure assign relative priority to the assessment of Portugal's participation in the process of constructing the European Union.¹⁶⁸ Absolute priority is given to matters such as declaring war or state of emergency, assessing the Government's programme and motions of confidence and censure.¹⁶⁹ Yet the Government and parliamentary groups may request that priority debates be held about issues of national interest that ought to be addressed urgently.¹⁷⁰ This provision may therefore be used to initiate a plenary debate about matters discussed or scheduled for discussion in the European Council that are of paramount importance for Portugal.

Furthermore, unless a plenary debate has been scheduled, the European Scrutiny Act foresees meetings between the European Affairs Committee and a member of the Government in the weeks before *and* after European Council meetings.¹⁷¹ This has been the case both before and after the 2012 amendment. In this event, the Government provides the European Affairs Committee with the agenda of the forthcoming European Council meeting. If the European Council is scheduled to adopt a declaration or another initiative, then the European Affairs Committee needs to ask the Government to furnish such information too, because it is not sent automatically. In practice, the Government is as a rule represented by the Secretary of State for European Affairs. As mentioned above, it could be argued that these committee meetings will also be devoted to extraordinary and informal European Council meetings.

2.2. Pronouncement

In general terms, the Constitution entrenches the Assembly's *ex ante* involvement in EU decision making by obliging it to pronounce itself on matters pending before EU institutions in the sphere of its exclusive legislative competence.¹⁷² This duty is affirmed in the

¹⁶⁶ Article 4(4) thereof.

¹⁶⁷ Article 59(1)-(2) thereof.

¹⁶⁸ Article 62(3)(c) thereof.

¹⁶⁹ Article 62(2) thereof.

¹⁷⁰ Article 63(1) thereof.

¹⁷¹ Article 4(1)(f) thereof.

¹⁷² Article 161(n) of the Constitution. This provision was first introduced by *Lei constitucional no. 1/97* of 20 September 1997. According to one opinion, this constitutional provision shows that there had been a "clear erosion" of the Assembly's legislative powers in the EU context, because the Government had acquired "exclusive decision-making protagonism" in areas falling within the Assembly's exclusive legislative competence. Otero, Paulo. "A revisão constitucional de 1997: sistema de actos legislativos: opinião," *Legislação: Cadernos de Ciência de Legislação*, No. 19-20, 1997: 143. Under Article 164 of the Constitution, the following 21 areas fall under the Assembly's exclusive legislative competence: national, regional and local elections; referendums; the Constitutional Court; defence and the armed forces; states of siege and emergency; citizenship; territorial waters; political associations and parties; basic elements of the education system; the status and role of holders of offices established under the Constitution; local authorities; restrictions on the exercise of rights by the military, police, and security services; appointment of Portuguese members of EU bodies, with the exception of the European

Assembly's Rules of Procedure.¹⁷³ The European Scrutiny Act develops this duty insofar as it requires the European Affairs Committee to adopt a formal written opinion (*parecer*) in consultation with the competent specialised committee. The written opinion is then submitted to the plenary and may be passed in the form of a resolution (*resolução*).¹⁷⁴ Yet it should be underlined that this procedure mostly, albeit not exclusively, pertains to draft EU proposals and initiatives, thus those adopted by the European Parliament and the Council of Ministers.

Nevertheless, the 2012 amendment of the European Scrutiny Act inserted a provision that enables the adoption of a written opinion also regarding "other initiatives of European institutions".¹⁷⁵ The Assembly may hence also pronounce itself on European Council decisions mentioned in the Treaties,¹⁷⁶ and, as the template below shows, the Assembly indeed does so in practice.

Finally, no parliamentary pronouncement has the effect of giving the Government a mandate to be defended at the EU level, as is the case, for instance, in Denmark. Since the Government is not legally bound, the effect of the Assembly's pronouncement is comparable to that of an opinion or recommendation.

3. Ex-post control: institutional body

The Portuguese Assembly possesses the constitutional prerogative to supervise and consider Portugal's participation in the process of constructing the European Union.¹⁷⁷ *Ex post* control over European Council meetings is carried out by the European Affairs Committee in the form of meetings with the Secretary of State for European Affairs, who presents an oral report to MPs on the issues debated in the European Council and the positions assumed by Portugal.¹⁷⁸ Though no longer mentioned in the European Scrutiny Act, *ex post* plenary debates are another means of scrutinising the activities and decisions of the European Council, which MPs may and do sometimes utilise in parliamentary practice.

As mentioned above (see sub-heading 1.3.), Eurozone summits are not systematically monitored either *ex ante* or *ex post*, although in practice MPs at times assess their results or refer to them in parliamentary debates. More recently, and especially in the context of the sovereign debt crisis in the Eurozone, the Assembly's Budget, Finance and Public Administration Committee has begun following matters discussed at European Council meetings in greater depth, albeit still infrequently.

4. Ex-post control: debates in parliament

There is no legal requirement for debates to be held in the plenary after European Council meetings. Yet, just as in the case of Eurozone summits, issues discussed at European Council meetings are in practice debated in the plenary thanks to MPs' questions to the Government.

Only hearings with a Government representative in the European Affairs Committee are legally required. The agenda for these meetings is decided by the Chairman of the

Commission; the intelligence system and state secrets; state, regional, and local budgets; national symbols; finances of the autonomous regions; police forces and security services; and autonomy of the President of the Republic's support services.

¹⁷³ Articles 35 and 261(1) thereof.

¹⁷⁴ Article 2 thereof.

¹⁷⁵ Article 1-A thereof.

¹⁷⁶ These include, for instance, European Council decisions concerning Common Foreign and Security Policy [Articles 22(1), 26(1), 27(1) and 31 TEU], the possible establishment of common defence [Article 42(2) TEU], simplified and ordinary Treaty revision procedures [Articles 48(6) and 48(2)-(5) TEU respectively], emergency brakes in the fields of social security [Article 48(2) TFEU] and criminal justice [Articles 82(3) and 83(3) TFEU], and broad guidelines of the economic policies of the Member States [Article 121(2) TFEU].

¹⁷⁷ Article 163(f) of the Constitution. This provision was introduced by the constitutional amendment of 1992.

¹⁷⁸ Article 4(1)(f) of the European Scrutiny Act.

European Affairs Committee upon receiving advice from the Committee's advisers. Their advice is not mandatory, although the Chairman usually accepts their suggestions about points to be included on the agenda. The Government can avoid neither *ex ante* plenary debates nor *ex post* meetings in the European Affairs Committee, although postponements are possible if justified reasons for it exist (e.g. absence of the Prime Minister in the case of plenary debates).

5. Since Lisbon

The entry into force of the Treaty of Lisbon provoked two significant changes.¹⁷⁹ On the one hand, the European Affairs Committee informally decided to reform its scrutiny procedures and introduce the so-called 'enhanced' and 'urgent' scrutiny procedures in addition to the ordinary scrutiny procedure.¹⁸⁰ However, this change refers to the monitoring of pre-legislative and legislative initiatives of the EU. On the other hand, the European Scrutiny Act was amended as described above under Heading 2.1.

In the post-Lisbon Treaty period, the Portuguese Government's term of office ended prematurely once. This happened on 23 March 2011 when the Socialist Prime Minister José Socrates tendered resignation to the President of the Republic. A parliamentary election ensued on 5 June 2011 and the Social Democrats won. The direct cause of the resignation was the refusal of the Assembly to approve the Government's austerity measures as proposed in its Stability and Growth Programme for the period 2011-2014 (*Programa de Estabilidade e Crescimento*).¹⁸¹ It is of note that some parliamentary groups had expressed dissatisfaction with the Government's conduct even prior to the latter's resignation. Namely, on 10 March 2011, slightly less than a fortnight before the resignation, the Left Bloc (*Bloco de Esquerda, BE*) submitted a motion of censure against the Government requesting from it inter alia to declare what measures it intended to negotiate during the extraordinary European Council meeting and the Eurozone summit that were to take place the following day.¹⁸² The motion was unsuccessful because it did not garner the support of an absolute majority of the MPs. It was voted down by the then still ruling Socialist Party (*Partido Socialista, PS*), while the then main opposition party the Social Democrats (*Partido Social Democrata, PSD*) and the Democratic and Social Centre – People's Party (*Centro Democrático e Social – Partido Popular, CDS-PP*) abstained. Besides the Left Bloc, which initiated the motion, only the smaller opposition parties voted in favour of the motion: the Communists (*Partido Comunista Português, PCP*) and the Greens (*Partido Ecologista 'Os Verdes', PEV*).¹⁸³

However, even though the Government's resignation was rooted in the failure of its austerity programme, it is possible to argue that there is an indirect and remote link between the resignation and the European Council, insofar as the Government's Stability and Growth Programme was drafted in the broader context of the so-called 'European Semester', which is an initiative of the European Council agreed in June 2010 and launched in 2011. This initiative is a six-month period lasting from January to June each year, during which the European Council prepares recommendations and guidelines for the Member States to implement in their medium-term budgetary strategies before adopting their final annual budgets.

¹⁷⁹ See further in: Resende, Madalena Meyer and Paulo, Maria Teresa. "Implementing the Treaty of Lisbon: the Portuguese Parliament as an actor in the European legislative arena," in *The Europeanisation of Portuguese Democracy*, by Nuno S. Teixeira and António Costa Pinto (eds), New York: Columbia University Press, 2012: 85-109.

¹⁸⁰ See more on this reform in: Jančić, Davor. "The Portuguese Parliament: blazing the trail to the European scrutiny trophy?," *Interdisciplinary Political Studies*, Vol. 1, No. 1, 2011: 93-108.

¹⁸¹ *Diário da República, Reunião plenária de 23 de março de 2011, 1ª série, No. 67*, 24 March 2011, pp. 77-79.

¹⁸² See the interventions by Francisco de Assis (PS) and Luís Fazenda (BE) in: *Diário da República, Reunião plenária de 10 de março de 2011, 1ª série, No. 62*, 11 March 2011, pp. 39 and 56.

¹⁸³ *Diário da República, Reunião plenária de 10 de março de 2011, 1ª série, No. 62*, 11 March 2011, p. 66.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012. Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011
 C2 = ordinary meeting of the European Council – 24 and 25 March 2011
 C3 = ordinary meeting of the European Council – 23 and 24 June 2011
 C4 = meeting of the Heads of State or Government of the Euro Area – 21 July 2011
 C5 = ordinary meeting of the European Council – 23 October 2011
 C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011
 C7 = ordinary meeting of the European Council – 8 and 9 December 2011
 C8 = informal meeting of the European Council – 30 January 2012
 C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	yes	yes	no	no	yes	yes	yes	yes	yes
Debates on the floor	no	no	no	no	no	no	yes	no	no
Formal declaration by the PM	no	no	no	no	no	no	no	no	no
Vote of a motion	no	no	no	no	no	no	no	no	no
After the European Council meeting									
Debates in committees	yes	yes	no	yes	yes	yes	no	yes	yes
Debates on the floor	no	yes	no	yes	no	no	yes	yes	yes
Formal declaration by the PM	no	no	no	no	no	no	yes	no	no
Vote of a motion	no	yes	no	no	no	no	yes	no	no

Explanation of the template

a) Committee scrutiny activities:

- In line with the legal rules presented above, all committee meetings were held in the European Affairs Committee, except in the case of C7, which was held in the plenary because according to the rules in force prior to the 2012 amendment of the European
- Scrutiny Act, parliamentary control over the last European Council of each Presidency had to be carried out in plenary rather
- than in committee. In this particular case, the Government was represented by the Minister of State and Foreign Affairs.
- There were no committee or plenary debates regarding C3 due to the dissolution of the Assembly, which was provoked by the resignation of the Socrates Government.
- Only the committee meeting with respect to C5 was held in the presence of a more highly ranked Government representative than is the usual practice. To wit, the meeting was held with the Minister of State and Foreign Affairs rather than with the Secretary of State for Foreign Affairs. The reason was the salience and urgency of the EU's response to the crisis in Syria.

(b) Plenary scrutiny activities:

- **C2** – The European Council Decision 2011/199/EU of 25 March 2011 amending Article 136 of the Treaty on the Functioning of the European Union with regard to a stability mechanism for Member States whose currency is the euro¹⁸⁴ was debated in the plenary on 7 December 2011. On this occasion, two resolutions were proposed: one by the Government¹⁸⁵ and the other by the Left Bloc.¹⁸⁶ The former resolution was adopted and the latter rejected at the plenary session of 9 December 2011.¹⁸⁷ The Portuguese Assembly thereby approved this European Council Decision.
- **C4** – On the same day when the Eurozone summit took place in Brussels (21 July 2011), there was a plenary session in the Portuguese Assembly, during which Carlos Zorrinho (PS) made a political declaration (*declaração política*) criticising the Government's treatment of EU affairs. The ensuing debate did not address the Eurozone summit as such, although it was mentioned in passing by several MPs. A week later, on 28 July 2011, there was another plenary session at which António Rodrigues (PSD) made a political declaration welcoming the conclusions of the Eurozone summit. The following day, on 29 July 2011, one part of the plenary session was devoted to the debate with the Prime Minister, Pedro Passos Coelho (PSD).¹⁸⁸ During this debate, one question on the outcome of the Eurozone summit was put to him by Luís Montenegro (PSD) and the Prime Minister provided an answer. Thus, although the Prime Minister gave no formal declaration on this Eurozone summit as an independent agenda point, there were *ex post* scrutiny activities in the plenary.
- **C7** – During the plenary session of 7 December 2011, one day before the European Council meeting, António Braga (PS) initiated a debate about its the agenda by means of a political declaration.¹⁸⁹ After the European Council meeting, four plenary debates addressed the results thereof. The first plenary debate took place on 15 December 2011 in the presence of the Minister of State and Foreign Affairs and it was initiated by the Left Bloc within the framework of the so-called 'actuality debates'.¹⁹⁰ The second plenary debate was held on 16 December 2011 in the presence of the Prime Minister, who gave a formal declaration about the European Council meeting. This plenary was carried out within the framework of the pre-2012 amendment of the European Scrutiny Act, which required a plenary debate to be held after the last European Council meeting of each EU Presidency (see the first bullet under 'Committee scrutiny activities'). The third plenary debate, which occurred on 8 February 2012, saw the submission of two draft resolutions. One of them was moved by the Left Bloc and sought the rejection of the Fiscal Treaty (*Tratado Orçamental*)¹⁹¹ and the other was moved by the Socialist Party and recommended the Government, EU institutions and Member States to focus their efforts on the promotion of economic growth and creation of jobs.¹⁹²

¹⁸⁴ OJ L91/1 of 6.4.2011.

¹⁸⁵ *Proposta de resolução no. 7/XII* seeking approval of the said European Council Decision.

¹⁸⁶ *Projeto de resolução no. 135/XII* seeking rejection of the said European Council Decision.

¹⁸⁷ See *Resolução no. 9/2012 – Aprova a Decisão do Conselho Europeu de 25 de março de 2011 que altera o artigo 136.º do Tratado sobre o Funcionamento da União Europeia no que respeita a um mecanismo de estabilidade para os Estados membros cuja moeda seja o euro*, *Diário da República*, 1ª série, No. 24, 2 February 2012, p. 568.

¹⁸⁸ See Article 224 of the Rules of Procedure of the Assembly.

¹⁸⁹ For the purpose of clarity, it should be emphasised that at this same plenary session, as mentioned above (see comments for C2), two resolutions were moved about the decision of the European Council of 25 March 2011, of which the one approving this decision was adopted on 9 December 2011. This resolution therefore refers to a previous European Council meeting, even though it was adopted in the period surrounding a later European Council meeting.

¹⁹⁰ Article 72 of the Rules of Procedure of the Assembly.

¹⁹¹ *Projeto de resolução no. 205/XII*.

¹⁹² *Projeto de resolução no. 209/XII*.

The fourth and the last plenary session, that of 10 February 2012, rejected the former and adopted the latter resolution.¹⁹³

- **C8** – Three plenary sessions addressed this European Council meeting. First, at the plenary session of 1 February 2012, two days after the meeting, the conclusions thereof were assessed by MPs in the context of the political declaration made by Carlos Zorrinho (PS), who criticised the Government's economic policy. Second, on 3 February 2012 another plenary session gave rise to a debate with the Prime Minister, during which questions were posed *inter alia* about the European Council meeting and the Prime Minister gave an extensive reply. Yet this reply does not qualify as a formal declaration, because the Prime Minister would not have been obliged to account for the Government's participation in the informal European Council meeting had the questions not been asked. Third, at the plenary session of 22 February 2012 a political declaration was made by João Semedo (BE) contesting the response to the Greek crisis agreed by the European Council and advocating the renegotiation of the amount and terms of payment of Portugal's debt.
- **C9** – After the European Council meeting, at the plenary session of 7 March 2012 a question was put to the Prime Minister by Luís Montenegro (PSD) about the outcome of this meeting and the Prime Minister gave a reply.

7. Other comments

7.1. Other bodies and the scrutiny of European Council meetings

No other body outside Parliament plays a role in scrutinising the results of European Council meetings and Eurozone summits. Although since the amendment of 2005¹⁹⁴ the Constitution guarantees the possibility of holding a referendum on the European Union, this refers only to instances where a treaty aimed at constructing or deepening the Union needs to be approved and not to decisions of the European Council.¹⁹⁵

7.2. Concluding remarks

While the Portuguese Assembly practices both *ex ante* and *ex post* scrutiny of European Council meetings, the accent has since 2012 been placed on *ex ante* accountability mechanisms.

It is also crucial to note that the policing of the meetings of the Council of Ministers after the 2012 amendment is no longer performed automatically but only "when considered necessary".¹⁹⁶ This is due to the MPs' realisation that it is essential not to scrutinise each and every EU document but to prioritise and select among them a handful for in-depth follow up. This change may leave MPs more room to discuss European Council activities.

Regarding the control over European Council meetings, the Assembly combines plenary sessions and committee meetings, the former of which will gain prominence in the following period thanks to the legislative amendments to that effect. Similarly, the document-based system of scrutiny, established in 2006 with the adoption of the European Scrutiny Act, is complemented by the Government's oral statements during hearings in the European Affairs Committee, which are held after European Council meetings.

¹⁹³ See *Resolução no. 24/2012 – Recomenda ao Governo, às instituições europeias e aos Estados membros da União Europeia que concentrem os seus esforços na promoção do crescimento económico e na criação de emprego*, *Diário da República*, 1ª série, No. 39, 23 February 2012, p. 874.

¹⁹⁴ *Lei Constitucional no. 1/2005* of 12 August 2005.

¹⁹⁵ Article 295 of the Constitution.

¹⁹⁶ Article 4(1)(g) of the European Scrutiny Act.

Romania: Angela Tacea, Sciences Po Paris

Name of your Member State: Romania

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

No. The formal rules on parliamentary scrutiny in the Camera Deputatilor (Lower Chamber) and in the Senat (Upper Chamber) do not specifically address European Council or Euro zone summits, but they contain a general framework for parliamentary scrutiny over European issues. Moreover, on the 25th of June 2012, the Romanian Parliament adopted a law regarding the cooperation between the Parliament and the Government on European issues. The Liberal Democratic Party (PDL) group from the Senate appealed to the Constitutional Court. The appeal mainly questions the articles 18th and 19th of the law, both of them making reference, among others, to the parliamentary scrutiny procedure of the European Council meetings. The Court should state on the constitutionality of the law on September 19, 2012.

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

Constitution: The Romanian Constitution makes no reference to the scrutiny procedure of the EU draft legislation, but only to the obligation of the Government to inform the Parliament about binding EU acts (article 148- paragraph 5 of the Constitution¹⁹⁷).

Legal provisions: "Decision n°11 of the Camera Deputatilor from the April 19, 2011 on working procedure and decision making mechanism for the exercise of parliamentary scrutiny over the draft EU legislative acts, under the provisions of the Treaty of Lisbon on the role of national Parliaments"¹⁹⁸ sets up the parliamentary scrutiny procedures for EU documents, but makes reference only to the European Commission, the Council of the European Union and the European Parliament.

"Government Decision N° 115/2008 on the establishment of national coordination mechanism of EU affairs for Romania's participation in the decision-making process of the institutions of the European Union"¹⁹⁹ specifies the obligation of the

European Affairs Council (a governmental body) to inform the Romanian Parliament about its conclusions.

"Law on the cooperation between the Parliament and the Government in EU Affairs"²⁰⁰ (adopted by the Parliament, but not promulgated yet and under the examination of the Constitutional Court) obliges the Government to inform the Parliament about the conclusions of the European Council meetings, sets the rules of the Romanian

¹⁹⁷ Article 148- paragraph 5 of the Romanian Constitution

http://www.cdep.ro/pls/dic/site.page?den=act2_1&par1=6#t6c0s0a148 (last retrieved on the 16th of July 2012) .

¹⁹⁸ Decision n°11 from the 19th of April 2011, <http://www.cdep.ro/pls/dic/site.page?id=910&idl=2> (last retrieved on the 16th of July 2012)

¹⁹⁹ Government Decision N° 115/2008, <http://www.maeur.ro/articol/hotarare-privind-instituirea-sistemului-national-de-coordonare-a-afacerilor-europene-in-vederea-participarii-romaniei-la-procesul-decizional-al-institutiilor-uniunii-europene-hg-1152008->, (last retrieved on the 24th of July 2012).

²⁰⁰ Draft bill on the cooperation between the Parliament and the Government in EU Affairs <http://www.dae.gov.ro/articol/2656/proiect-lege-privind-cooperarea-intre-parlament-si-guvern-in-domeniul-afacerilor-europene> (last retrieved on the 25th of July 2012)

representation to the European Council meetings and the procedures concerning the Romanian position defended in the European Council meetings.

Parliament Declaration n° 1/2012 on the current issues on the agenda of the European Union and the incumbent obligations of Romania, published in the *Monitorul Oficial* (Official Journal), Part I, n° 392, of June 12, 2012²⁰¹ establishes the obligation of the government to inform ex-ante the Parliament about the agenda of the European Council. The Parliament has to deliver a non-binding mandate concerning Romania's positions. In the same time the declaration obliges the government to inform ex-post the Parliament about the adopted decisions in the European Council.

- If yes, what are these rules about? What obligations does the government have?

The rules make reference to the working procedure and decision-making mechanism for the exercise of parliamentary scrutiny over the draft EU legislative acts, under the provisions of the Treaty of Lisbon on the role of national Parliaments. These rules mainly oblige the government to keep parliament informed, before the European Council as well as after the European Council. This is currently done through the European Affairs Council (a governmental body), which identifies Romania's priorities regarding the evolutions decided within the European Council.

Moreover, the "Law on the cooperation between the Parliament and the Government in EU Affairs" (adopted by the Parliament, but not promulgated yet and under the examination of the Constitutional Court) obliges the government to periodically send briefings on the results of the participation in European Council meetings to both chambers of the Parliament.

The 18th article (1) of the law states that Romania is represented at the European Council meetings either by the president or by the prime-minister. (2) The establishment of the Romanian delegation leader at the European Council meetings is done by agreement between the Romanian Government and the Presidential Institution, at least 20 working days before the meeting date. (3) In case the agreement shall not be concluded in time, the Parliament in joint session, appoints the head of the Romanian delegation to the European Council meeting.

The 19th article (1) Within at least 7 working days before the European Council meeting, the Government sends to the two chambers of Parliament the mandate that the Romanian Delegation intends to present. (2) The Parliament adopts the mandate before the European Council meeting (3) and whether the head of the Romanian delegation to the European Council meetings presents other position than that received by mandate, the government have to justify its position.

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

No, the rules do not make any distinction between the different types of meetings of the European Council.

²⁰¹ Parliament's Declaration n° 1/2012 on the current issues on the agenda of the European Union and the incumbent obligations of Romania http://www.avocatnet.ro/content/articles/id_29307/Declaratia-Parlamentului-Romaniei-nr-1-2012-problemele-actuale-aflate-pe-agenda-Uniunii-Europene-si-obligatiile-ce-revin-Romaniei-in-baza-acestora.html (last retrieved on the 25th of July 2012).

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

No. Only the European Affairs Council and the Coordination Committee for European Affairs, both of them governmental bodies, prepare Romania's position to the European Council and Euro zone summits. The Parliament is only informed about it without any further scrutiny power. However, the Parliament can organize hearings with the prime minister before the European Council meetings. It was done only once before the ordinary meetings of the European Council of 23-24 June 2011 and twice in 2007 and 2008. However, the "Law on the cooperation between the Parliament and the Government in EU Affairs" (adopted by the Parliament, but not promulgated yet and under the examination of the Constitutional Court) and Parliament Declaration n° 1/2012 on the current issues on the agenda of the European Union and the incumbent obligations of Romania provides the Parliament the possibility to take part in the preparation of meetings of the European Council (see section 1), by adoption the non-binding mandate.

- Do Parliaments' Rules of Procedure provide for priority debates?

Parliament's Rules of Procedure do not specifically provide priority for debates of the European Council or Euro zone summits in the plenary. No debate in the plenary has been organized so far before a meeting of the European Council.

- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?

Nor the plenary of the Camera Deputatilor, neither that of the Senat have been involved ex-ante during the period 2011-2012 in the discussion of the European Council or Euro zone summits.

Sometimes, the European Affairs Committee can debate the European Council meetings and can organize hearings with the prime minister or the minister for European Affairs.

In the Camera Deputatilor, the Department for Parliamentary Studies and European Law (*Departamentul pentru studii parlamentare si drept comunitar*) is involved in the scrutiny of European legislation and preparation of the European Council meetings.

- Which governmental authorities take part in the parliamentary debates?

Even though, there are no formal rules. Usually, the minister for European Affairs is invited by the European Affairs Committees to take part in the Senat and Camera Deputatilor debates. The Prime Minister never made a declaration before a European Council meeting.

- Is there a vote for a parliamentary resolution before the European Council meeting?

No resolution is voted before the European Council meetings. The "Law on the cooperation between the Parliament and the Government in EU Affairs" (adopted by the Parliament, but not promulgated yet and under the examination of the Constitutional Court) and Parliament Declaration n° 1/2012 on the current issues on the agenda of the European Union and the incumbent obligations of Romania, obliges the government to obtain a mandate from the Parliament before the European Council meetings. The mandate is drafted by the government and adopted by the Parliament. Even though the mandate is not binding, if the head of the Romanian delegation to the European Council meetings presents other position than that received by mandate, the government should justify its position.

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

Although no procedure is formalized, the European Affairs Committee of both chambers can control the results of the European Council and the Euro zone summits. For the timeframe 2011/2012, it was the case of the Senat on the 20th of December 2011, after the European Council meeting of 8-9 December, when the Minister for European Affairs was invited.

The plenary was involved for the first time after the European Council meetings of 28-29 June 2012, when the prime minister presented the report on the decisions adopted at the European Council before the joint extraordinary plenary session of the Camera Deputatilor and the Senat.

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

The organization of the joint extraordinary plenary session of the Camera Deputatilor and the Senat and the presentation of the report on the decisions adopted at the European Council of 28-29 June 2012 by the prime minister is not only not a formalized and institutionalized rule, but is also due to the political scandal between the prime minister and the president on the issue of Romania's representation in the European Council. Citizens have requested the approval to take part in the plenary, but the proposal was rejected. Due to this rejection, the Liberal Democratic Party (PDL) group quitted the debate. The debate was highly mediatised.

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

According to Parliament Declaration n° 1/2012 on the current issues on the agenda of the European Union and the incumbent obligations of Romania, the government is obliged to inform the Parliament both ex-ante and ex-post. However, on one side, this rule is not institutionalized and on the other informing the Parliament does not necessary imply a debate in the plenary. As the debate in the plenary was organized for the first time after the European Council meetings of 28-29 June 2012, it can't be generalized. The Joint Offices of the Chambers organized the meeting at the request of prime minister. (*Birourile Reunite ale Camerelor*)²⁰².

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

As, only two debates were organized after a European Council meeting (one in Senat in the EAC and the other one in plenary joint session), it is difficult to establish even an informal rule that the Parliament follows. In the EAC meeting in the Senat, the Minister for European Affairs was invited to take part at the debates. In the joint session the prime minister made an official statement and presented a report on the decisions adopted at the European Council.

- How is the debate structured? Is there a vote after the debate?

The joint session of the Camera Deputatilor and the Senat was organized as follows:

- Official statement by the prime minister

²⁰² Rules and procedures of <http://senat.ro/Start.aspx>

- Statements by a representative of each parliamentary party group (10 minutes for affiliated MPs and 5 minutes for non-affiliated and independent MPs)
- Rapid answer of the prime minister and of an MP.

No vote is organized ex-post. The parliamentary scrutiny is mainly done ex-ante. Once the Romanian position has been presented in the Council, the Parliament does not want to go against the position taken by the President/Prime Minister. The idea of scrutiny and accountability is not very present ex-post. The main role of the Parliament ex-post is to publically expose the Romanian position in the European Council and not to control the government. Moreover, the "Law on the cooperation between the Parliament and the Government in EU Affairs" (adopted by the Parliament, not promulgated yet and under the examination of the Constitutional Court) provides the framework for the adoption of a mandate, on the bases of which Romanian position in the European Council meeting is taken. In this case, a vote ex-post wouldn't make sense.

5. Since Lisbon

- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?

Yes. Considering that the existing legislation (article 111 and the following, 148-paragraph 5 of the Constitution, Government Decision N° 115/2008 on the establishment of national coordination mechanism of EU affairs for Romania's participation in the decision-making process of the institutions of the European Union and the rules and procedures of the Chambers) were insufficient and that they were not assuring a suitable and continuous participation of the Parliament in EU affairs as stated in the Lisbon Treaty, the Parliament adopted the "Law on the cooperation between the Parliament and the Government in EU Affairs". As mentioned in section 1 the law is not promulgated and is currently under the examination of the Constitutional Court.

- Did any significant events or changes in formal rules occur after Lisbon in the upper house?

No. Since the Lisbon Treaty, the Formal rules of the Senat have not been modified. The only occurred change is that the European Affairs Committee, previously a common committee for both Senat and Camera Deputatiilor (2007-2011), was divided into two committees, each chamber having now its own EAC. The formal rules of the EAC of the Senat reflect the changes brought by the Lisbon Treaty, however they do not make any implicit reference to European Council Meetings and their control.

- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?

No.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011
 C2 = ordinary meeting of the European Council – 24 and 25 March 2011
 C3 = ordinary meeting of the European Council – 23 and 24 June 2011
 C4 = meeting of the Heads of State or Government of the Euro Area – 21 July 2011
 C5 = ordinary meeting of the European Council – 23 October 2011
 C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011
 C7 = ordinary meeting of the European Council – 8 and 9 December 2011
 C8 = informal meeting of the European Council – 30 January 2012
 C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	No	No	No	No	No	No	No	No	No
Debates on the floor	No	No	No	No	No	No	No	No	No
Formal declaration by the PM	No	No	No	No	No	No	No	No	No
Vote of a motion	No	No	No	No	No	No	No	No	No
After the European Council meeting									
Debates in committees	No	No	No	No	No	No	No	No	No
Debates on the floor	No	No	No	No	No	No	No	No	No
Formal declaration by the PM	No	No	No	No	No	No	No	No	No
Vote of a motion	No	No	No	No	No	No	No	No	No

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

No. The Constitutional Court can control adopted texts before parliamentary ratification when they are asked to. It can play an important role regarding "Law on the cooperation between the Parliament and the Government in EU Affairs".

- Some of your own remarks (voluntary):

The concept of parliamentary control of the European Council is rather a young concept for Romanian Parliament. Accordingly, there is no formalization of it, nor ex-ante, neither ex-post and the activities of both Chambers are rather on an issue basis than a general rule, be it formal or informal. Sometimes standing Committees or the EAC are involved, other times the plenary. Even though Lisbon Treaty has provided the framework for parliamentary scrutiny, for the time being it is not implemented. However 2012 seems to change both the legislation and the informal practices in the Romanian parliament.

Slovakia: Andrea Figulova, Institute of European Studies and International Relations at Comenius University

Name of your Member State: Slovak Republic

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

- If yes, what are these rules about? What obligations does the government have?

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

The Slovak Government has established the responsibility for its European policy and EU issues towards the National Council of the Slovak Republic (hereinafter referred to as NC SR or Parliament) and its control power in the field of European affairs through:

- Constitutional Act No.397/2004 Coll on the Cooperation of the National Council of the Slovak Republic and the Government of the Slovak Republic in European Union Affairs

- Act No. 350/1996 Coll on the Rules of Procedure of the National Council of the Slovak Republic.

The Constitutional Act is basic framework for adaptation of the relationship among legislative and executive branches in the field of EU affairs. This cooperation is in two levels

- the obligation of the Slovak government to submit materials and information to the Parliament and competence of the NC SR (or the European Affairs Committee; hereinafter referred to as EAC) to approve/disapprove or change the position/mandate of the Slovak Republic.

(This Act was proposed by a group of deputies from all parliamentary political parties with the exception of the SDKU-DS (party of Prime Minister Mikuláš Dzurinda at that time) and adopted on June 24, 2004. It was the time of turbulence, distrust in the government and between coalition parties. The political situation had a real impact on the character of the Act. The coalition parties wanted to ensure the control over individual ministers while dealing in the EU and the opposition perceived the Act as a tool of weakening the government's position. (The Danish model of strong parliament with decisive powers and with a room for maneuver for the government at the EU negotiations was used as an example.)

If the Committee approves a draft position/opinion of the Slovak Republic, it shall be binding for a member of the government representing the Slovak Republic at the session of a respective Council of the European Union or at the European Council meeting. If the Committee fails to express its opinion on the draft position of the Slovak Republic within two weeks of its submission, an authorized member of the government shall act on the draft position of the Slovak Republic (so called silent procedure).

This procedure enables NC SR or the Chairman of the European Affairs Committee to give tacit agreement with the governmental draft position. Also, constructive disapproval principle can be adopted – the EAC does not approve its own position – the government proposal is an official position of the country. The reasons behind could be explained by MP's composition of the Committee (which is the copy of the government majority in the NC SR) or by late engagement of the Committee before the Council meeting (due to late information process).

An authorized member of the government may divert from the position only in unavoidable case and with due consideration for the interest of the Slovak Republic, but shall without delay inform European Affairs Committee (hereinafter referred to as EAC)/the Chairman of the EAC and explain the reason of it.

The Act No. 350/1996 Coll (hereinafter referred to as Rules of Procedure), regulates the composition and scope of the EAC in the Parliament, as well as participation by MEPs at meetings of the EAC etc.

Other legal documents governing this area are: the Status of the Ministerial Council of the Government for EU Affairs (Government Resolution No.981/2005) and so called Revised Mechanism of Preparation of Positions on the Acts approved by the EU Council in the Slovak Republic (Government Resolution No. 884/2007) that describe the way how to submit proposals of the positions of the ministers of the Slovak government on legislative proposals of the European Commission to the EAC of the NC SR and how to apply approved positions at the EU Council meetings as well as f.e. creation of Departmental Coordination Committees on the EU affairs in the ministries and their information flow.

There are no distinctions between the different types of meetings of the European Council.

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

The National Council of the Slovak Republic delegates this power via law on the European Affairs Committee, which is, on behalf of the NC SR, authorized to exercise scrutiny competence across all EU policies. NC SR is involved in the preparation of the meetings in the form of consultation and preparation of draft positions in the NC SR via EAC. Expert background of the EAC is Department for the European Affairs of the Office of the NC SR.

The Prime Minister and the Member of the Government shall appear before the EAC with prepared position of the Slovak Republic and calls for its approval. Advisors of the Department (the Department changed name in February 2011 to Division of the EU agenda of the Department of the Foreign Affairs and EU agenda) provide analysis, confrontation and questioning on the proposed preliminary positions in written with emphasis on recent developments in the proposal in terms of the Slovak interests, the state of negotiations, the position of other Member States or situation in international politics. The opinion also suggests additional questions and provide recommendation to the members of the EAC (Advisors of the EAC can ask for help Parliamentary Institute of the NC SR to provide additional information). The advisors are focusing mainly on so called the priority proposals. The priority proposals are determined by the government and adopted by the NC SR every year on the basis of the European Commission's Legislative and Work Programme and on the basis of its impact assessment on the interests of Slovak Republic.

- Do Parliaments' Rules of Procedure provide for priority debates?

According to the Article 17/ 2 of the Rules of Procedure – *"The Speaker of the National Council shall also convene a session when so requested by not less than one fifth of the Members. In their request, the Members shall propose the agenda. In such a case, the Speaker of the National Council shall convene the session of the National Council within seven day."*

These so called "extraordinary" or "priority" session are use f.e. in case of debate on a motion of no-confidence in the government, or any of its members; in the case of a fast-

track legislative procedure or in the case of various important issues of the domestic or foreign policy (as f.e. when a resolution of the United Nations Security Council on actions safeguarding the international peace and security adopted under Section 41 of the Charter of the United Nations).

- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?

In this case it's a classic way the legislative process of the NC SR session. (Depending on the application must pass through the **designated committee** (s) and recommendation to the plenary NC SR).

- Which governmental authorities take part in the parliamentary debates?

Allowed attendance at sessions under the Constitution are: the President of the Republic, the Prime Minister, and Ministers of the Government, the President of the Constitutional Court of the Slovak Republic, the Chairman of the Supreme Audit Office of the Slovak Republic and the Attorney-General, the Governor of the National Bank of Slovakia. They shall have the right to attend the sessions of the National Council, and may not be excluded from these sessions. In case of request by the NC SR, a member of the government or a head of other state administration body is obliged to attend a session.

- Is there a vote for a parliamentary resolution before the European Council meeting?

Not as such. (see Question 1)

A novelization of the Rule of Procedure meant that EAC is authorized to approve the draft position/opinion of the members of the government in the European institutions. There are two paragraphs in which NC SR reserved the right to negotiate in plenary.

In the case of the deliberations on proposals of legally binding acts of the European Communities and the EU and other acts of EU, that will be discussed by representatives of the governments of EU member states. And in case of adoption of the positions of the Slovak Republic on proposed legally binding acts and other acts of the EU, that will be discussed by representatives of the governments of EU member states.

This was used only four times in the plenary of NC SR (three times only on the resolution of the EC/EU):

First time, in the case of opening of the accession **negotiations with Turkey** in October 2004. The EAC wanted to change of Slovak position, because original proposal did not mention the open – ended character of the accession negotiations (by this time the Rules of Procedure were not updated and this was only one case when the plenary officially approved position of the Slovak Republic).

Even though it was not a part of EU decision, in 2006 the opposition referred the case of **harmonization of taxes** to the plenary and proposed a Declaration on the Tax Sovereignty that was not approved. (It can be considered as priority debate even before EC proposed a resolution).

Third case was **Kosovo**, in March 2007 when politicized case of approving Ahtisaary plan in the EAC, while plenary adopted non binding declaration denying full independency of Kosovo (However, it is the base for official Slovak position, still).

And the latest case regarding to Euro-zone **loan to Greece** in June 2010, while the plenary did not approved this topic for discussion at the beginning and the session was stopped. So this was a case when the EAC did not approve a proposal and the governmental position became the official one.

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

The EAC is responsible body, where all of the mandate/positions are controlled. It is up to the MP's in the EAC to decide whether they want to be informed about the results of the EC or other negotiations in the EU. In 2010/2011 it was not a case. (excluding ex post meetings).

In some cases of GAERC/GAC decisions the position was approved ex post. In these cases there was no involvement of the Parliament in the decision making process – de facto silent procedure approval applies automatically. At these meetings Slovak Republic is represented by Minister of Foreign Affairs of the Slovak Republic.

However, according Rule of Procedure the government provides regular notification for the EAC by members of the Government on all topical issues discussed in the bodies of the European Communities and European Union, of which they are members. They are sent via email to the EAC members.

Unless resolved otherwise by the NC SR, by the end of March of each year the Government submits to the NC SR a report on matters related to Slovakia's membership in the European Communities and the European Union for the preceding calendar year.

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

- How is the debate structured? Is there a vote after the debate?

There are no plenary debates, not debates at the EAC.

5. Since Lisbon

- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?

No.

- Did any significant events or changes in formal rules occur after Lisbon in the upper house?

The EAC approved two bills that allow the parliament to use powers under the Treaty of Lisbon.

The amendment of the Rules of Procedure modify the obsolete terminology (EC vs. EU), expansion of the EAC competencies on conformity assessment on draft legislation with the EU subsidiarity principle and anchoring a provision concerning discussion on action for breach of this principle by legislative acts of the EU and also the extension of deadline for submission of preliminary position of the government to the proposal of EU bills from current 3 to 4 weeks.

The amendment of the Constitutional Law No.397/2004 Coll on cooperation of the Government and NC SR in the European affairs, beyond the above proposed changes proposed to implement the use of so-called transition clause (passarela) for changing the approval procedure at EU level. In Slovak conditions was proposed to implement a regime

of veto change of approved procedure at the European level ex ante. In other words, the Prime Minister is obliged to submit to the NC SR a proposal to use the transition clause. Since the application of passarella at the European Council requires unanimity, the NC SR shall oblige the Prime Minister to follow certain opinion/position in this area (yes / no for the proposal). During the third reading in June, 2011, this bill was not approved (needed constitutional majority was not reached).

As the necessity of ensuring fulfillment of the tasks of the Office of NC SR under the amendment of the Rules of Procedure (implementation of conformity assessment of the draft of the EU legislative act with the subsidiarity principle at the EAC), there was adopted a Mechanism of drafting positions of the reasoned opinion in the Office of NC SR. It determines who can be the initiator for an investigation of compliance of mentioned proposal.

In the EAC there were three reasoned opinions approved. On May 12, 2011 the EAC approved reasoned opinion on the proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB) in the European Union. On November 10, 2011 was approved reasoned opinion on Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances, And the last one, on February 2, 2012 the EAC approved reasoned opinion on proposal for a regulation of the European parliament and of the Council COM(2011)779 on specific requirements regarding statutory audit of public-interest entities. In any of these examples was not achieved needed a quorum for the activation of yellow cards on European level.*

* In the case of CCCTB there were 14 votes; required for use of the mechanism of yellow card required is 18. The question is whether it was enough sufficient indicator to show that national parliaments in this legislation are not satisfied.

- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?

Yes, indeed. While approving ESFS in NC SR in October 2011, the vote was linked to the vote of confidence in the Government of PM, Iveta Radičová. The vote failed because coalition partner refused to support ESFS 2.0. Parliament approved the expanded "bailout" in a repeat vote in few days after the opposition voted in exchange for early elections.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012
Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011
C2 = ordinary meeting of the European Council – 24 and 25 March 2011
C3 = ordinary meeting of the European Council – 23 and 24 June 2011
C4 = meeting of the Heads of State or Government of the Euro Area – 21 July 2011
C5 = ordinary meeting of the European Council – 23 October 2011
C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011
C7 = ordinary meeting of the European Council – 8 and 9 December 2011
C8 = informal meeting of the European Council – 30 January 2012
C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	no	yes	yes	no	yes	yes	yes	yes	yes
Debates on the floor	no	no	no	no	no	no	no	no	no
Formal declaration by the PM	no	yes	yes*	no**	yes	yes	yes	yes	yes
Vote of a motion	no	no	no	no	no	no	no	no	no
After the European Council meeting									
Debates in committees	yes	no	no	no	no	no	no	no	no
Debates on the floor	no	no	no	no	no	no	no	no	no
Formal declaration by the PM	yes	no	no	no	no	no	no	no	no
Vote of a motion	no	no	no	no	no	no	no	no	no

* The vote on the resolution No. 129 of the EAC - 5/0/6 (for / against / abstentions). The EAC did approve a resolution, as the presented draft opinion did not receive the necessary support for an absolute majority of the members of the EAC present pursuant to Article 4 § 52 of the Rules of Procedure.

**NC SR (or the EAC) is not expressly by law provided with the obligation to meet about every EU Council. Not even it does not need to approve or modify the opinion of the SR before each meeting of the EU Council. The EAC has the power to deal with matters which are considers a priority.

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

- Some of your own remarks (voluntary):

5. Since Lisbon – According to the EAC and the staff, after the Lisbon Treaty came into power, EAC became a “model” for other candidate countries. In 2010 the EAC presented the Slovak legislation towards European affairs in Croatia and in 2012 in Serbia.

Slovenia: Ana Marija Kristovic / Vid Tomic / Zlatko Sabic, Faculty of Social Sciences in Ljubljana

Name of your Member State: Republic of Slovenia

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

The formal rules do not specifically address European Council or Euro zone summits, but they contain a general framework for parliamentary scrutiny of European issues. This framework can be used and is used for the control of European Council and Euro zone summits.

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

1. Constitution of the Republic of Slovenia (Article 3a, since 2003)²⁰³;
2. Act on cooperation between the National Assembly and the Government on matters related to the European Union²⁰⁴;
3. Act on Foreign Affairs²⁰⁵;
4. Rules of Procedure of the National Assembly (Article 154)²⁰⁶. Explained further below.

- If yes, what are these rules about? What obligations does the government have?

Article 3a of the Constitution of the Republic of Slovenia states that "In procedures for the adoption of legal acts and decisions in international organisations to which Slovenia has transferred the exercise of part of its sovereign rights, the Government shall promptly inform the National Assembly of proposals for such acts and decisions as well as of its own activities. The National Assembly may adopt positions thereon, which the Government shall take into consideration in its activities.«

According to the Act on cooperation between the National Assembly and the Government on matters related to the European Union, the Government is independent on the issues related to the European Union however with certain limitations. The National Assembly cooperates on the formulation of the positions of the Republic of Slovenia to the matters related with the EU. The National Assembly discusses these matters within the set timeframe or formulates its will to discuss these matters otherwise the position of the Republic of Slovenia is officially confirmed. When and if the Government during the negotiations in the European Council realizes that these positions cannot be achieved or can hamper national interest it can ignore this positions and immediately inform the National Assembly about this decision.²⁰⁷

²⁰³ Constitution of the Republic of Slovenia. Accessible at: <http://www.us-rs.si/o-sodiscu/pravna-podlaga/ustava/> (last retrieved July 13 2012). Please note that all official documents are in Slovenian language and translated by the authors.

²⁰⁴ Act on cooperation between the National Assembly and the Government on matters related to the European Union. Accessible at: http://www.dz-rs.si/wps/portal/Home/deloDZ/zakonodaja/izbranZakonAkt?uid=F90885BD56145045C1257815002E0749&db=urad_prec_bes&mandat=VI (last retrieved 13 July 2012).

²⁰⁵ Act on Foreign Affairs. Accessible at: http://www.dz-rs.si/wps/portal/Home/deloDZ/zakonodaja/izbranZakonAkt?uid=84D03B205AD7990DC12578D4002CC5D9&db=urad_prec_bes&mandat=VI (last retrieved 13 July 2012).

²⁰⁶ Rules of Procedure of the National Assembly. Accessible at: http://www.dz-rs.si/wps/portal/Home/deloDZ/zakonodaja/izbranZakonAkt?uid=936306C4566C4011C12578230031D27E&db=urad_prec_bes&mandat=VI (last retrieved 13 July 2012).

²⁰⁷ Although this is formally possible this has never been the case in practice. Interview with a clerk of the Committee on Foreign Policy, Slovenian National Assembly, 17, July 2012.

The National Assembly does however have the precedence over the Government on the issues related to the international agreement that are the foundations of the EU. Once a year, there is a general debate in the National Assembly on the matters related to the EU on the basis of the introductory speech from the Prime Minister. The National Assembly then also designs a position on political orientations regarding the working of the Republic of Slovenia in the EU.

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

No. The only distinction is between the matters related to the foreign and security policy (in the domain of the Committee on Foreign Policy) and other EU matters (in the domain of the Committee on EU Affairs) or if there is a proposal from Council of EU related to the articles 81(3) or 48(7) of the Treaty on the EU.

Although these rules make no distinction it is a common practice to differentiate between meetings that can lead to changing national legislature and other types of meetings.²⁰⁸

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

Yes, but mainly through subordinate bodies. Since 2004 there was only one plenary meeting in relation to the meeting of the European Council, otherwise this preparation is always done through responsible committees.

- Do Parliaments' Rules of Procedure provide for priority debates?

Yes, however there is no further explanation on which issues or cases.²⁰⁹

- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?

A Committee that is in charge of the matters related with the foreign and security policy is Committee on Foreign Policy, while all other matters related to the EU is under the domain of Committee on EU affairs. Other bodies with competence on specific areas can cooperate as well. A representative of National Council (sort of upper house of the parliament) is also present on meetings of every Committee in order to stay informed about developing on the relevant topic.²¹⁰

There is a difference when it comes to meetings that can lead to changes in national legislature. In these cases the primary work is done by the relevant Committee and later on by one of the two aforementioned Committees.

- Which governmental authorities take part in the parliamentary debates?

Prime minister and other ministers (if the topic falls within their authority) as well as the Heads of Government Offices (applies in the same manner as for other ministers).

- Is there a vote for a parliamentary resolution before the European Council meeting?

Yes, however this resolution refers only to the binding position of the Republic of Slovenia.

²⁰⁸ Interview with a clerk of the Committee on Foreign Policy, Slovenian National Assembly, 17 July 2012.

²⁰⁹ Rules of Procedure of the National Assembly (Article 154d). Accessible at: http://www.dz-rs.si/wps/portal/Home/deloDZ/zakonodaja/izbranZakonAkt?uid=936306C4566C4011C12578230031D27E&db=urad_prec_bes&mandat=VI (last retrieved 13 July 2012).

²¹⁰ *Ibid.*

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

Both of the aforementioned bodies: Committee on Foreign Policy and Committee on EU affairs respectively.

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

Usually there are no plenary or other types of debates after European Council meetings; however the Parliament can make a demand for a debate.²¹¹ The Government does however report to the aforementioned bodies on regular basis in written form. When/if the Government does not realize the positions set up in advance by the competent parliamentary bodies the Government must report and explain the circumstances and reasons for such decision.²¹²

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

There are no plenary debates.

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

There are none, but if the Parliament would have decided to entertain one then the same governmental authorities would take part as in the case of ex-ante control.

- How is the debate structured? Is there a vote after the debate?

There is no specified structure due to fact there were no debates so far.²¹³

5. Since Lisbon

- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?

There were only minor changes related to the occurrences that are result of violations of the principle of subsidiarity.

- Did any significant events or changes in formal rules occur after Lisbon in the upper house?

The Rules of Procedure of the Parliament were significantly modified regarding the procedural matters related to the EU.

- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?

No. The issue of contributing to EU's financial aid package to Greece was thoroughly debated in the Parliament and the public as well and the same applies for the new fiscal rule accepted by the European Council.

²¹¹ Interview with a clerk of the Committee on Foreign Policy, Slovenian National Assembly, 17 June 2012.

²¹² Act on cooperation between the National Assembly and the Government on matters related to the European Union. Accessible at: http://www.dz-rs.si/wps/portal/Home/deloDZ/zakonodaja/izbranZakonAkt?uid=F90885BD56145045C1257815002E0749&db=urad_prec_bes&mandat=VI (last retrieved 13 July 2012).

²¹³ Interview with a clerk of the Committee on Foreign Policy, Slovenian National Assembly, 17 June 2012.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

C2 = ordinary meeting of the European Council – 24 and 25 March 2011

C3 = ordinary meeting of the European Council – 23 and 24 June 2011

C4 = meeting of the Heads of State or Government of the Euro Area – 21 July 2011

C5 = ordinary meeting of the European Council – 23 October 2011

C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011

C7 = ordinary meeting of the European Council – 8 and 9 December 2011

C8 = informal meeting of the European Council – 30 January 2012

C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	No	Yes	Yes	No	Yes	Yes	No	Yes	Yes
Debates on the floor	No	No	No	No	No	No	No	No	No
Formal declaration by the PM ²¹⁴	No	Yes	Yes	No	No	No	No	No	Yes ²¹⁵
Vote of a motion	No	Yes	Yes	No	No	Yes	No	Yes	Yes
After the European Council meeting									
Debates in committees	Yes	No	No	No	No	No	No	No	No
Debates on the floor	No	No	No	No	No	No	No	No	No
Formal declaration by the PM	No	Yes	No	Yes	No	Yes	Yes	Yes	Yes
Vote of a motion	Yes	No	No	No	No	No	No	No	No

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

Constitutional court can review legislature or international treaties after they have been adopted or ratified in the case of latter, therefore it can have a potential ex-post control over these results.

National Council which serves as a *sui generis* upper house in Slovenian parliamentary system can have indirect control over these results. More in depth, it can adopt a suspension veto in the process of adopting a new legislature (therefore an ex-post control), which means that the National Parliament has to address the initial issue one more time.

- Some of your own remarks (voluntary):

²¹⁴ Cabinet of the former prime minister of the Republic of Slovenia Borut Pahor. Accessible at: http://www.nekdanji-pv.gov.si/2008-2012/nc/si/medijsko_sredisce/sporocila_za_javnost/ (last retrieved July 15 2012).

²¹⁵ Cabinet of the prime minister of the Republic of Slovenia Janez Janša. Accessible at: <http://www.kpv.gov.si/> (last retrieved July 15 2012).

Spain: Manuel Sánchez de Dios , Universidad Complutense de Madrid

Name of your Member State: Spain

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?

Yes, there are specific rules addressing parliamentary scrutiny of European Council or Euro zone Summits.

In addition, the executive is submitted to the general rules of parliamentary accountability established in the Constitution and the Standing Orders of both chambers.

- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?

There is the Law 8/1994 from May 19 that rules the Joint Committee on European Union Affairs²¹⁶ (JCEUA)

- If yes, what are these rules about? What obligations does the government have?

Art. 3 establishes that the Government is compelled to inform to the JCEUA on its main lines of policy

Art. 3 also establishes that the Government must send to both chambers of parliament a written report on the developments that happened during the outgoing presidency before the ordinary meeting of the European Council²¹⁷

Art. 4 establishes that there must be a hearing in a plenary session of the Congreso de los Diputados after every European Council meeting. In this hearing the Government should inform of what has been decided and must have a debate with parliamentary parties.

- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

No

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?

In a very limited way. There is no obligation for the Government to inform in a plenary session prior to a European Council meeting. Usually there are informal meetings between

²¹⁶ <http://www.senado.es/otrasdis/legislac/normas/LEY894.html>. The JCEUA has 44 members of both houses (19 from the Senate) and is chaired by the President of the Congress that delegates to a member of the committee.

²¹⁷ Up to now the government has never made such a reports.

the Prime Minister and the leader of the opposition prior to EC meetings and summits²¹⁸. Moreover there is a practice of having government hearings in committee²¹⁹

- Do Parliaments' Rules of Procedure provide for priority debates?

The Standing Orders²²⁰ give the Government priority to include any topic in the agenda. At the same time the Board of Spokesmen of the Congress may resolve, for reasons of urgency and subject to unanimity, to include certain business on the agenda that has not yet fulfilled the due process²²¹.

- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?

A general practice is to have a hearing of a representative of the Government in the JCEUA before every summit²²².

- Which governmental authorities take part in the parliamentary debates?

The Minister of Foreign Affairs and the Secretary of State on the European Union²²³.

Usually the representatives of the major opposition party demand the hearing of the Foreign Minister, instead of the Secretary of the State in the JCEUA.

- Is there a vote for a parliamentary resolution before the European Council meeting?

No. The hearings have only informative interest for MPs and the public opinion²²⁴. The representative of the Government informs about all the subjects that are going to be treated in the European Council. At most, the Government is able to know the points of concern or the worries of the parliament²²⁵.

After the hearing, sometimes parties propose and vote a "non law proposition" after the

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

The plenary of the Congreso de los Diputados²²⁶.

In addition, permanent committees of both chambers and the JCEUA have hearings of government members when decisions are transformed into legislative proposals.

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings?

²¹⁸ Manifested by the leader of the opposition Perez Rubalcaba in a plenary session of the Congress of march 14 in 2012 <http://www.congreso.es/portal/page/portal/Congreso/Congreso/Iniciativas>

²¹⁹ However Law 38/2010 establishes that a hearing of a Government member must be held before every meeting of the Council in the JCEUA.

²²⁰ Art. 67 of the Congress and art. 71 of the Senate

²²¹ Usually when there is a debate in the JCEUA, it is the day before the European Council meeting.

²²² When there are "oral questions in committee" about European Council matters the Bureau of the chambers send them to the JCEUA to be answered

²²³ Occasionally other members of the government participate in the preparatory work.

²²⁴ The session is open to the media and it is publicized by internet via the parliamentary channel. According to the Clerk of the JCEUA, D. Manuel Delgado, sometimes representatives of foreign governments are present.

²²⁵ The members of the opposition usually criticize that the representative of the Government only explains the content of the agenda without pointing out the Spanish political options.

²²⁶ The debate usually takes place in an ordinary plenary session

They are considered by Standing Orders as acts of "specific information by the Government" (art. 203). Members of the Cabinet at their own request or by resolution of the Bureau of Congress and the Board of Spokesmen appear before the full house to report on a European Council meeting. The initiative for the adoption of such resolution rests with two parliamentary groups or one-fifth of Members of the House.

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

The agenda of the plenary sittings is drawn up by the Speaker in agreement with the Board of Spokesmen.

Usually the initiative is taken by the members of the Government.

The Government cannot formally avoid a plenary debate after an EC meeting in the chamber, but it happens in practice²²⁷.

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

Ministers and the Prime Minister can take part in plenary debates. In practice it is the PM who goes to the House to inform about European summits

- How is the debate structured? Is there a vote after the debate?

First is the oral intervention of the Cabinet member, then the representatives of each parliamentary group may speak for ten minutes to make their positions known, put questions or make remarks, which shall be answered by the Government.

The debate ends after the Speaker, in agreement with the Bureau and after having consulting the Board of Spokesmen, allocates time for MPs to put succinct questions or request clarifications on the information furnished. To this end, the Speaker shall fix a maximum number or duration of speeches.

There is no vote after the debate. It is just a plenary session for deliberation²²⁸.

5. Since Lisbon

- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?

There were limited changes because the JCEUA was established in 1985 and since then it has developed ex ante and ex post control²²⁹. The ex post control via plenary debate after every EC meeting was a practice introduced in 1989²³⁰ and was formalized in the constitutive law of the JCEUA (Law 8/1994).

However after the Treaty of Lisbon come into play there have been significant changes in relation to: a) ex ante control of Council meetings by Law 38/2010 (see note 4) and b) the control of subsidiarity principle by Law 38/2010. Both laws reformed the Law 8/1994

- Did any significant events or changes in formal rules occur after Lisbon in the upper house?

No

²²⁷ The plenary debate after every European Council meeting is considered the most important debate on the EU affairs

²²⁸ Usually leaders of the opposition parties make recommendations. After the debate, and as a different procedure, parliamentary parties can ask oral questions, ask for reports, propose interpellations and motions, non law propositions or resolutions to have a vote. It can be used to criticize or to give orientation to the government.

²²⁹ See M. Sanchez de Dios: "Executive parliamentary control" in A. Almaraz (Ed.): *Spain and EC Membership evaluated*, Pinter/ St. Martin's Press, 1993: 219-228

²³⁰ At the end of the first Spanish presidency

- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?

Not directly but indirectly. The Zapatero government, that was a minority government, had to call early elections one year after he was forced to implement some restrictive fiscal policies agreed upon at the extraordinary Euro zone summit of 7th of May 2010.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012.

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

C2 = ordinary meeting of the European Council – 24 and 25 March 2011

C3 = ordinary meeting of the European Council – 23 and 24 June 2011

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C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011

C7 = ordinary meeting of the European Council – 8 and 9 December 2011

C8 = informal meeting of the European Council – 30 January 2012

C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	no	YES	YES**	no	no	no	no	no	no
Debates on the floor	no	YES*	YES*	no	no	no	no	no	no
Formal declaration by the PM	no	No	no	no	no	no	no	no	no
Vote of a motion		No	no	no	no	no	no	no	no
After the European Council meeting									
Debates in committees	no	No	YES	no	no	no	no	no	No
Debates on the floor	no	No	YES	no	no	no	no	YES	YES
Formal declaration by the PM	no	No	YES	no	no	no	no	YES	YES
Vote of a motion	no	No	no	no	no	no	no	no	no

*By means of an oral question in a plenary sessions. An oral question in a plenary session opens a small debate of 5 minutes between an MP and a Cabinet member.

** By means of a hearing in the JCEUA of the State Secretary of Economy to prepare the Council of Economy and Finances (ECOFIN) for the meeting of June 14

7. Other comments

- Are there other insitutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

Spain has a federal system. The 17 Autonomous Communities share the legislative function with the State and they are very zealous of their power. They do not have a special or direct participation in controlling the executive in relation to European Councils and Euro summits but their Regional Parliaments are very active in the control of the subsidiarity principle.

The Constitutional Court is a relevant actor in the Spanish system and its Declaration 1/2004 is the most important decision adopted concerning the EU. It explains the meaning and the scope conferred to Art. 93 of the Constitution that is considered the

material grounds to allow participation of Spain in the EU. The Declaration did not define any specific constitutional obligations regarding the participation of National Parliament in the EU-related matters.

The Constitutional Court has only indirect reactive power to control European Council decisions. The CC can only act if there is concrete legislation and the legitimized actors ask for a constitutional review.

- Some of your own remarks (voluntary):

The Spanish Cortes were dissolved in september 27 of 2011 and the new parliament was formed in december 13 of 2011. The new Prime Minister was named in december 22 of 2011. As a result in the Council meetings C5, C6 and C7 participated a caretaker Prime Minister. At the time of the C8 the new JCEUA was not set up yet.

Selected literature

J.A. Camisón Yagüe: *La participación directa e indirecta de los parlamentos nacionales en los asuntos de la Unión Europea*, Servicio de Publicaciones del Senado, Madrid, 2010

J. Laso Pérez: "Spain: Parliamentary control of European Union affairs: from a slow adapter to a national player?" in G. C. Rodríguez Iglesias and L. Ortiz Blanco (Eds.): *The role of National Parliaments in the European Union*, Servicio de Publicaciones de la Facultad de Derecho de la Universidad Complutense de Madrid, 2010, 427-476

F.J. Matia Portilla: "Democracia y representación en la Unión Europea: el lugar de los parlamentos nacionales en el marco de la Unión Europea", in A.M. Carmona Contreras (Ed.): *La Unión Europea en perspectiva constitucional*, Ed. Aranzadi, Navarra, 2008, 127-148

Sweden: Hans Hegeland, Parliament of Sweden

Name of your Member State: Sweden

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?
- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?
- If yes, what are these rules about? What obligations does the government have?
- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

Yes, there are formal rules regarding the parliamentary scrutiny. The rules are found in the Riksdag Act, which regulates the organisation and working procedures of the Riksdag. The Riksdag Act occupies an intermediate position between fundamental law (the Constitution) and ordinary law. The Riksdag act can be amended either by means of a *single* decision with qualified majority or using the same procedure as in the case of fundamental law (two decisions before and after a general election, with single majority).

The Riksdag Act (chapter 10, article 10, third paragraph) states that the Government shall consult the Riksdag's Committee on EU Affairs prior to meetings of the European Council. This is the central rule. The rules do not make any distinctions between the different types of meetings of the European Council, both regular and extraordinary meetings are included. Sweden is not a member of the Euro zone.

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?
- Do Parliaments' Rules of Procedure provide for priority debates?
- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?
- Which governmental authorities take part in the parliamentary debates?
- Is there a vote for a parliamentary resolution before the European Council meeting?

The Riksdag takes part in the national preparation of meetings of the European Council through the Riksdag's Committee on EU Affairs. The formal rules are described in question 1 *The formal rules*. In practice, the Prime minister consults the Committee on EU Affairs in public meetings. First, the Prime minister presents the issues that will be dealt with at the European Council, and his and the government's views. Then the members of the Committee on EU Affairs ask questions and state their opinion. The Prime minister answers, and the chairman of the Committee on EU Affairs summarizes whether there is a majority for the views of the government (the Prime minister) or not.

The meetings are public and televised at the website of the Riksdag; often the meetings are also broadcast by

national television. Media follows the meetings. A verbatim record is kept (as from all deliberations in the Committee on EU Affairs) and published at the website. A shorthand record is also kept. The dissenting views of the minority in the Committee are thus public through the verbatim record, and in the shorthand record it is noted which party groups that have a dissenting view. Typically, the meeting lasts one hour.

One could say that the statements of the Prime minister, especially his first statement (which he typically reads aloud from a written text), constitutes a Formal declaration by the PM. One could also say that the dissenting views of the minority function as a Vote on that

statement. But in formal terms the deliberations in the Committee on EU Affairs are not Formal declarations or Votes for a parliamentary resolution.

When it comes to the *preparation* of meetings in the European Council that takes place in the Council of ministers the Government is obliged to inform the Committee on EU Affairs of matters which are to be decided by the Council of ministers. The government shall also consult the Committee on EU Affairs regarding the conduct of negotiations in the Council prior to decisions in the Council. Thus, the Government deliberates with the Committee on EU Affairs regarding the preparatory work in the different configurations of the Council.

The Standing Committees also follow EU affairs within their subject areas. The Government shall, according to the Riksdag Act, deliberate with the committees in matters concerning EU business decided by the committees. Ministers or state secretaries (the person who works most closely to the minister) deliberate with the standing committees. Matters which later are discussed at meetings of the European Council may have been subject to deliberations in a Standing Committee.

Regarding priority debates, the Speaker of the Riksdag may determine, after conferring with representatives of the party groups, that a debate shall take place at a meeting of the Chamber on matters unconnected with other business under consideration. But this form is in practice not used for debates before meetings in the European Council.

There is no vote for a parliamentary resolution before the European Council meeting, but as stated above the chairman of the Committee on EU Affairs summarizes whether there is a majority for the views of the government or not.

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

After each meeting, in the European Council, the Prime minister reports to the plenary (or the Committee on EU Affairs if the plenary is not gathered, as the week following the European Council meeting in March 2012, C9 in question 6 below).

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

- How is the debate structured? Is there a vote after the debate?

In the beginning of the plenary debate, the Prime Minister reports on the results of the European Council meeting. Then, members of parliament ask questions to the Prime Minister.

It is the Speaker of the Riksdag who sets the agenda. Formally, the report after European Council meetings is a kind of Information from the Government. In practice, the Riksdag and the Government agree (since sometime around 1998) that the Prime Minister should report to plenary after the European Council meetings. Formally, the government could

avoid this kind of debate, but if so other means would be available for the Riksdag, such as questions and interpellations.

When the Prime Minister has reported, the floor is open for questions from members of parliament to the Prime Minister. Typically this session takes some 45 minutes.

There is no vote after the debate.

5. Since Lisbon

- **After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?**

- **Did any significant events or changes in formal rules occur after Lisbon in the upper house?**

- **Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?**

There were no significant changes regarding the parliamentary control of the European Council after the Treaty of Lisbon came into force. The regulation in the Riksdag Act that the Government shall consult the Committee on EU Affairs prior to meeting of the European Council came into force 1 st January 2007, before the Treaty of Lisbon came into force. The regulation was considered to be a formalization of practice, and did not change actual behaviour. It did not have anything to do with the Lisbon Treaty.

The Riksdag has only one chamber.

The survival of a government has not been influenced in one way or another by decisions made by the European Council since December 1st 2009.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

C2 = ordinary meeting of the European Council – 24 and 25 March 2011

C3 = ordinary meeting of the European Council – 23 and 24 June 2011

C4 = meeting of the Heads of State or Government of the Euro Area – 21 July 2011

C5 = ordinary meeting of the European Council – 23 October 2011

C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011

C7 = ordinary meeting of the European Council – 8 and 9 December 2011

C8 = informal meeting of the European Council – 30 January 2012

C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
Debates on the floor	No	No	No	No	No	No	No	No	No
Formal declaration by the PM	No	No	No	No	No	No	No	No	No
Vote of a motion	No	No	No	No	No	No	No	No	No
After the European Council meeting									
Debates in committees	No	No	No	No	No	No	No	No	Yes
Debates on the floor	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No
Formal declaration by the PM	No	No	No	No	No	No	No	No	No
Vote of a motion	No	No	No	No	No	No	No	No	No

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

- Some of your own remarks (voluntary):

No other institution or body play a role in the control of European Council meetings. After the Lisbon treaty came into force, an internal investigation concerning how the Riksdag handles EU Affairs discussed the formal regulation of the consultation in the Committee on EU Affairs of European Council (the main task for the internal investigation concerned other aspects of the handling of EU business in the Riksdag). As mentioned above, the Riksdag Act states that the Government shall consult the Committee on EU Affairs prior to meetings of the European Council. It is now proposed (but has not been decided yet) that the Government shall consult the Committee prior not only to *meetings* but also prior to *decisions* of the European Council. The reason is that the European Council according to the Lisbon Treaty may also make formal decisions (according to 29 articles in the EU Treaties). In practice, the Government has already consulted the Committee for this kind of decisions.

It is important for the Prime Minister to have support in the Riksdag before meetings in the European Council. The present government is a non-socialist minority government. During the years 1994–2006 Sweden had a Social democratic minority government, which in many domestic issues was supported by the Green Party and the Left Party. In EU affairs, however, the Social democratic government sought support from the non-socialist parties. Often, the present non-socialist minority government seeks support from the Social democrats in important EU issues.

Two examples show that the government wants to have support in the Riksdag for its actions in the European Council, and if the government does not gain a majority in the Riksdag the government follows the views of the majority (i.e. the opposition).

First, in the deliberations in the Committee on EU Affairs before the European Council 24 and 25 March 2011, the Prime minister said that Sweden would not join the Euro Plus Pact since there was not support in the Riksdag for that.

Second, at the Statement of the Members of the European Council 30 January 2012 (Towards Growth-friendly Consolidation and Job-friendly Growth) there is a note at page 1 saying:

"For parliamentary reasons, the Swedish Prime Minister was not in a position to subscribe to this statement."

(http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/127599.pdf).

Thus, Prime Minister declared in the European Council that there was not parliamentary support for this statement. In the account in the Chamber in the Riksdag after the European Council meeting the Prime Minister said that he took the advice of the Committee on EU Affairs seriously, and therefore could not support the statement. The Prime Minister said that he thought the statement of the Members of the European Council was good, but since the Social democrats said no the Prime Minister said that he and Sweden could not support the statement.

United Kingdom: Ariella Huff / Julie Smith, Cambridge University

Name of your Member State: United Kingdom (Lower Chamber: House of Commons)

1. The formal rules

- Are there formal rules regarding the parliamentary scrutiny of European Council meetings and Euro zone summits?
- If yes, what are their legal bases (Constitution, Legal provisions, Standing Orders, other)?
- If yes, what are these rules about? What obligations does the government have?
- If yes, do these rules make distinctions between the different types of meetings of the European Council (regular, extraordinary, Euro zone summit)?

There are no formal rules for the scrutiny of European Council meetings in the House of Commons. The European Scrutiny Committee (ESC) considers this to be part of its role in practice, but as the European scrutiny system is largely document-based there is no explicit reference to European Councils in the Standing Orders establishing the ESC's remit.

However, the Scrutiny Reserve (based on a 1988 Resolution of the House, not the Standing Orders) does, in theory, oblige the government to refrain from making any decisions on legislative proposals in the Council while the proposal is still 'under scrutiny' in Parliament – i.e. documents that the ESC has not cleared from scrutiny or which are awaiting debate in committee or in the plenary. This reserve is automatic. If ministers breach the scrutiny reserve, they must explain their decision at the first possible opportunity to the Committee (when the reserve is breached, this is usually as a result of the need to make an unusually urgent decision in the Council).

Since the UK is outside the Eurozone its ministers do not participate in EZ summits.

2. Ex-ante control

- Do national parliaments take part in the preparation of meetings of the European Council and Euro zone summits?
- Do Parliaments' Rules of Procedure provide for priority debates?
- If so, which bodies are responsible for, and involved in, this preparatory work (for example, committees, plenary or other bodies)?
- Which governmental authorities take part in the parliamentary debates?
- Is there a vote for a parliamentary resolution before the European Council meeting?

Parliament does not play an active role in preparing for European Council summits, although by convention the European Scrutiny Committee and its counterpart in the House of Lords are sent letters by the government in advance of the meetings explaining the major issues on the agenda and the UK position on each of them. Furthermore, the scrutiny reserve provisions outlined above mean that any legislative proposals on the Council's agenda are usually cleared by the Committee in advance of the Council meeting. There are no provisions for Priority Debates or for equivalent debates to be held *ex ante*; Parliament also cannot issue mandates to ministers before meetings. However, in February 2012 the chair of the ESC, William Cash MP, secured an Emergency Debate on the Treaty on Stability, Co-ordination and Governance in EMU ahead of the European Council held on 1-2 March. [Note: under the Labour Government statements were sometimes made prior to European Council meetings; the practice has not been used by the Coalition Government that took office in May 2010]

3. Ex-post control: institutional body

Which is the responsible body within the Parliament to control the results of the European Council and the Euro zone summits (the plenary, committees, other bodies)?

For European Council meetings, the Prime Minister usually makes a statement to a plenary session of the House of Commons a few days after the meeting. Note that this is not the case for other Council meetings, which are usually only reported on in writing. The statements and debates are all available publicly in Hansard.

The ESC can decide to summon ministers to give further oral or written evidence after a Council meeting. In practice this tends to happen only after European Council meetings. Although ESC deliberations are not public, all evidence given by ministers is publicly available online.

4. Ex-post control: debates in parliament

- What is the organization of the plenary debates after the European Council meetings? (NB: if there are no debates in the plenary but in committees, do indicate this fact and answer accordingly)

- Which is the competent institutional body to decide on setting the agenda of the plenary for those debates? Who takes the initiative in practice? Can the government avoid a debate?

- Which governmental authorities take part in the parliamentary debates? Does the Head of Government/ Prime Minister take part?

- How is the debate structured? Is there a vote after the debate?

The Prime Minister's post-Council statement (outlined above) is followed by a short debate. The PM must make this statement, which means that it cannot easily avoid debate, but ultimately it is the government which sets the day's agenda for the plenary, not parliament. The PM usually takes part in the debate, which is not followed by a vote.

5. Since Lisbon

- After the Treaty of Lisbon came into force, were there significant changes regarding the parliamentary control of the European Council?

- Did any significant events or changes in formal rules occur after Lisbon in the upper house?

- Since December 1st 2009, was the survival of a government influenced in one way or another by decisions made by the European Council?

The Treaty of Lisbon did not result in any significant changes to parliamentary control (or otherwise) of the European Council or the UK Government's participation in it. At the time of writing, the House of Commons European Scrutiny Committee was conducting an inquiry into its procedures but this was not prompted by the Lisbon Treaty. In fact, the staff numbers in both Houses have been slightly reduced; in the Commons due to budgetary pressures and in the Lords as a result of changes made to the sub-committee structure in light of the chamber's increased size arising from domestic reasons.

The Government's survival has not been threatened since December 2009. However, the Prime Minister did face criticisms for his so-called 'veto' at the 8-9 December 2011 European Council, when he tried to block a new treaty. His actions were the subject of a long *ex post* debate and considerable media scrutiny. He also faced the opprobrium of his Liberal Democrat Deputy, while winning support from Eurosceptics in his own Conservative Party. Britain's relationship with the EU (and discussion of a potential referendum to determine future membership) is far more politically salient in the UK.

6. Templates to be filled out regarding the lower chamber's behaviour towards each of the 9 European Council meetings and Euro zone summits held between March 2011 and March 2012

Please fill in "yes" or "no" in each box.

C1 = extraordinary meeting of the European Council and the meeting of the Heads of State or Government of the Euro Area – 11 March 2011

C2 = ordinary meeting of the European Council – 24 and 25 March 2011

C3 = ordinary meeting of the European Council – 23 and 24 June 2011

C4 = meeting of the Heads of State or Government of the Euro Area – 21 July 2011

C5 = ordinary meeting of the European Council – 23 October 2011

C6 = informal meeting of the European Council and meeting of the Heads of State or Government of the Euro Area – 26 October 2011

C7 = ordinary meeting of the European Council – 8 and 9 December 2011

C8 = informal meeting of the European Council – 30 January 2012

C9 = ordinary meeting of the European Council – 1 and 2 March 2012

	C1	C2	C3	C4	C5	C6	C7	C8	C9
Before the European Council meeting									
Debates in committees	No	No	No	No	No	No	No	No	No
Debates on the floor	No	No	No	No	No	No	Yes*	No	No
Formal declaration by the PM**	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Vote of a motion	No	No	No	No	No	No	No	No	No
After the European Council meeting									
Debates in committees***	No	Yes	No	No	No	No	No	No	No
Debates on the floor	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
Formal declaration by the PM	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes
Vote of a motion	No	No	No	No	No	No	No	No	No

* This was a Westminster Hall debate, which can be initiated by any member of the House, rather than a plenary.

** Submitted in writing, not given orally.

*** The formal minutes of the ESC meetings (which are private) are not clear as to whether debates were held or not. I have only indicated 'yes' in one instance where the European Council was clearly references in the minutes.

7. Other comments

- Are there other institutions or bodies, outside of Parliament, which play a role in the control of these results? (i.e. Constitutional courts)

No, parliament is sovereign.

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS

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ISBN 978-92-823-4307-4
doi: 10.2861/179