STUDY

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Democratic control and legitimacy in the evolving EU economic governance framework

External author:

Berthold RITTBERGER

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Democratic control and legitimacy in the evolving EU economic governance framework

Abstract

The European Semester (ES) is a centrepiece of the EU's evolving economic governance architecture and its democratic legitimacy and accountability has been contested in pre- and post-pandemic times. This paper introduces two perspectives – a democratic and a technocratic perspective – to evaluate the accountability of the ES, based on a survey of existing literature. Whereas there is broad agreement that the ES has deficiencies according to both perspectives, procedural reforms have only a limited potential to narrow accountability gaps. A focus on proceduralism overlooks the more fundamental democratic deficits that plague the EU's economic governance system.

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AUTHORS

Berthold RITTBERGER, University of Munich, Germany

ADMINISTRATOR RESPONSIBLE

Samuel DE LEMOS PEIXOTO

EDITORIAL ASSISTANT

Donella BOLDI

LINGUISTIC VERSIONS

Original: EN

ABOUT THE EDITOR

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To contact the Economic Governance and EMU Scrutiny Unit or to subscribe to its newsletter please write to:
Economic Governance and EMU Scrutiny Unit
European Parliament
B-1047 Brussels
E-mail: egov@ep.europa.eu

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LIST OF ABBREVIATIONS

AGS	Annual Growth Survey
AMR	Alert Mechanism Report
CSR	Country Specific Recommendation
ED	Economic Dialogue
EDP	Excessive Deficit Procedure
EIP	Excessive Imbalance Procedure
EMU	Economic and Monetary Union
EP	European Parliament
ES	European Semester
IDR	In-depth Review
MEP	Member of the European Parliament
MIP	Macroeconomic Imbalance Procedure
NMI	Non-majoritarian institution
NRRP	National Recovery and Resilience Plan
RQMV	Reverse Qualified Majority Voting
RFF	Recovery and Resilience Facility
SGP	Stability and Growth Pact
TSCG	Treaty on Stability, Coordination and Governance

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EXECUTIVE SUMMARY

Background

The EU's economic governance framework has become a focal point in EU's crisis governance in the context of both the euro crisis as well as the Corona pandemic. The European Semester (ES) is a centrepiece of the EU's economic governance architecture, which has been recently upgraded due to its role in disbursing the funds made available through the Recovery and Resilience Facility (RFF) to moderate the socio-economic fallout during resulting from the Corona pandemic. The ES has been subject to various lines of criticisms. While some scholars argue that the ES suffers from legitimacy and accountability deficits, others highlight its limited effectiveness, since domestic compliance with the recommendations adopted in the context of the ES is rather patchy. Policy-makers and observers have expressed the expectation that by coupling the RFF to the ES, closer cooperation between the member states, the Commission and the Council will enhance domestic ownership of national reform programmes, which in turn will improve domestic compliance and hence narrow prevailing legitimacy gaps.

Aim and findings

This study evaluates claims about the legitimacy deficit attributed to the ES in the aftermath of the euro crisis as well as against the backdrop of the Corona pandemic. To this end, it introduces two normative standards, a technocratic and a democratic standard of legitimacy, which offer different perspectives on the nature and quality of the legitimacy deficit attributed to the ES. The study shows that the ES, as it was originally introduced, faces shortcomings with regard to democratic as well as technocratic accountability: Since the functioning of the ES leads to a diffusion political authority, democratic accountability relationships are diluted. For democratic accountability relationships to be effective, they require a clear and uninterrupted chain of delegation. Moreover, the study argues that ES weakens technocratic accountability because it provides for a rather frail rule-based system that provides the Commission with outsized political discretion. The linking of the RFF to the ES is likely to have a mixed effect on accountability. Through the RFF, the ES features financial incentives, which is poised to increase its effectiveness. The RFF will also ensure that the ES is wedded to the EU's legal order, which will delimit the potential for discretionary behaviour by the Commission. As a result, the technocratic accountability of the 'upgraded' ES makes slight improvements. From the purview of democratic accountability, the RFF accentuates the shortcomings of parliamentary accountability, especially with regard to the EP. While the EP was successful in enhancing the substantive policy scope of the RFF, it fell short of securing adequate procedural rights, leaving the adoption of the main political and economic priorities to guide the elaboration of domestic reforms programmes to the Commission and the Council. The study concludes that with the adoption of the RFF and its integration in the ES, the notion of ownership has received renewed attention and eclipsed – at least partially – recurring concerns about the Semester's legitimacy and accountability gaps.

1. THE EUROPEAN SEMESTER: CENTREPIECE OF THE EU'S EVOLVING ECONOMIC GOVERNANCE

Against the backdrop of the euro crisis and, more recently, the economic fallout caused by the Covid-19 pandemic, the EU's economic governance framework has become a focal point in the EU's (post-) crisis governance. One of the centrepieces of the EU's economic governance architecture is the European Semester (ES), the yearly cycle of economic and budgetary surveillance of the member states. First launched in 2011 in response to the sovereign debt crisis, the ES integrates various legal instruments in a single policy-cycle with the goal to reinforce the Stability and Growth Pact (SGP) and widen the surveillance to prevent macro-economic imbalances and social divergences. Following the Covid-19 pandemic and the economic fallout it generated across the EU, the ES has also become a "foundational piece" of the EU's post-pandemic governance (D'Erman and Verdun 2022: 6). The introduction of the Recovery and Resilience Facility (RFF) ties the disbursement of EU funds (loans and grants) to National Recovery and Resilience Plans (NRRP). In these NRRP, member states must specify the policy and investment priorities and targets to be funded by the RFF. They also have to ensure that their reform plans are consistent with the relevant Country Specific Recommendations (CSRs), which are part of the Semester's regular policy cycle. The "marriage" (Nguyen and Redeker 2022) between the RFF and ES adds fiscal capacity of unprecedented scope to the EU's system of economic governance. While the effectiveness of the CSR adopted in the context of the ES is widely debated, tying funding decisions to the achievement of concrete policy achievements, as defined in the NRRP, is likely to spur domestic reforms processes. The introduction of the RFF and "wedding" it to the ES marks a change to the EU's system of economic governance, since the possibility to withhold funds provides economic coordination with more teeth (see Nguyen and Redeker 2022: 4).

As a system of governance, the ES seeks to coordinate member states' economies with a mix a of "hard" and "soft" governance instruments, combining binding rules with mechanisms emphasizing deliberation and voluntary compliance (Armstrong 2014). Originally conceived, the ES is a form of governance that sits uneasily with prevailing modes of governance in the EU: It is neither purely "intergovernmental" nor does it align with the predominant "Community Method." As Dawson (2015: 983) puts it: "We have 'recommendations', yet they come with sticks attached." Moreover, the ES exemplifies heightened supranational influence, but without further delegation of sovereignty from the domestic to the EU level (Verdun and Zeitlin 2018). What is more, the cycle of budgetary monitoring and economic coordination represents a "series of open-ended decisions" (Dawson 2015: 982) and eschews a clear end point in the decision-making process. In short, the ES as a governance instrument exercises tangible authority, yet the locus of authority appears elusive.

At first sight, the decision-making system of the ES confirms a Eurosceptic's stereotypes about EU decision-making: it is complex, it is highly technocratic, and its policy interventions can curb states' economic and financial room for manoeuvre and thus delimit domestic democratic politics. While the track record of the domestic implementation of the CSR is rather mixed (Vanhercke and Verdun 2022), suggesting that member states selectively resist supranational influence, the ES can wield considerable authority over domestic policy processes. While the jury is still out, the introduction of the RFF has transformed post-pandemic economic governance, strengthening the Commission's discretionary power and thus the potential for supranational influence over domestic reform decisions (Bokhorst 2022). With political authority comes responsibility, which begs the question *who* can be held responsible for policy decisions? In short, on what grounds can the ES be considered legitimate and accountable? While the Eurosceptic might be correct with their assessment of the main features of the ES as a system of governance, they might jump to the premature conclusion that its legitimacy is beyond the pale. Evaluating the nature and scope of the purported legitimacy deficit of the ES depends on the standards one employs. The paper will introduce and discuss two important normative standards, a technocratic and a democratic standard for legitimacy and hence accountability. Based on the existing literature on the EU's economic governance, this paper explores whether and to what extent legitimacy and accountability gaps exist in the ES and if and how these can be redressed.

This paper is organized as follows. The next section (2.) will provide a short overview of the ES and focus on its decision-making modalities in order to highlight legitimacy and accountability challenges. To assess these challenges in a systematic fashion, the third section (3.) will present two perspectives, a democratic view and the technocratic view. Each view emphasizes different yardsticks, which will be subsequently applied to evaluate the legitimacy and accountability challenges posed by the ES (4.). Based on the evaluation of the ES in light of the different accountability perspectives, the final section discusses proposals to redress legitimacy and accountability deficits as well as their limitations (5.).

2. THE EUROPEAN SEMESTER: WHO HAS A SAY?

With power comes responsibility. To know *who* is responsible for decisions in the context of the ES is one precondition to assess the accountability and legitimacy of the ES. The EU's system of economic governance has undergone several stages of reform and expansion since it originated in the context of the Maastricht Treaty and specified in the Stability and Growth Pact adopted in 1997. Against the backdrop of the euro crisis, the SGP was amended by the so-called "Six-pack" and "Two-pack" legislative packages in 2011 and 2013 respectively. The adoption of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG), also referred to as Fiscal Compact, in 2013 provided for an additional tightening of member states' fiscal rules. New instruments that were adopted in the context of revamping the "old" system of economic governance and make it more crisis-proof include stronger and more automatic sanctions in the framework of the Excessive Deficit procedure (EDP); they encompass the Macroeconomic Imbalance Procedure (MIP) to monitor member states' economic policies in order to detect and correct non-fiscal imbalances; other instruments provide for ex ante reviews of national budgets through the Commission; Country-Specific Recommendations (CSR) are proposed by the Commission and adopted by the Council and provide member states with detailed economic policy guidance to align their domestic policy objectives and reform trajectories with EU-level economic and fiscal policy commitments. In short, the reforms following the outbreak of the financial crisis sought to reinforce the SGP. Importantly, these reforms were also geared towards integrating the coordination of economic and budgetary policies in a single policy-cycle, the ES. The ES ties together many of the instruments of the EU's economic governance architecture – including the "Six-pack", the "Two-pack" and the TSCG – in "a single policy co-ordination cycle" (Verdun and Zeitlin 2018: 138). Against the backdrop of the Corona pandemic, the introduction of the RFF has brought yet another set of the changes to the ES. The RFF regulation 2021/241 details the conditions member states have to meet to be eligible for EU funds and shifts the focus of the ES to the NRRPs, which are now at the core of the surveillance of member states' socio-economic policies and lead to a temporary adjustment of the ES cycle (Dias 2022).

The pre-pandemic ES follows a strict timetable and progresses according to set of clearly defined tasks and steps.[1] In the semester's "preparatory" phase, the Alert Mechanism Report (AMR) and the Annual Growth Survey (AGS) are published by the Commission in November. The AGS presents the Commission's perspective on the EU's economic policy priorities for the upcoming year and provides member states with important markers, which they should take into account when defining their own economic policy priorities. The AMR, moreover, details macroeconomic imbalances identified by the Commission in the member states and defines the candidates for In-Depth Reviews (IDR). In the first phase, from January to March, the Commission provides detailed policy guidance for the member states. After the Council adopts overall policy guidelines and socio-economic priorities, the Commission, after consultations with governments and stakeholders, publishes a country report for each member state highlighting the main domestic reform challenges. The second phase begins in April when each member state submits its medium-term budgetary strategy and structural reform plans. The Commission evaluates these plans and proposes CSR, which are subsequently reviewed by the Council. After the revised CSR are endorsed by the European Council, they are finally adopted by the Council in July at the latest, which marks the end of the "European" part of the ES. What follows is

[1] The functioning of the European Semester has been described in detail elsewhere. See, for instance, <https://www.consilium.europa.eu/en/policies/european-semester/how-european-semester-works/> or <https://www.europarl.europa.eu/legislative-train/theme-deeper-and-fairer-economic-and-monetary-union/file-european-semester-improvement>.

the "National Semester" and thus the implementation of the recommendations of the CSR in the context of the budgetary process in each member state. With the introduction of the RFF and its integration in the Semester, member states' reporting obligations emerging from the implementation of the RFF have been streamlined temporarily in the traditional ES cycle (Dias 2022; Nguyen and Redeker 2022).

As this stylized sketch of the ES highlights, the preeminent actors in the context of the ES cycle are the Commission, the Council and individual member states. The Commission plays a crucial role in enforcing the provisions of the SGP. For instance, the Commission is tasked to monitor member states' medium-term budgetary targets, to issue "early warnings" if a member state deviates from its targets, and to propose sanctions in case of sustained non-action. The "Six-pack" legislation tasks the Commission to screen member states for potential macroeconomic imbalances in the context of the MIP. For member states exhibiting imbalances, the Commission can launch an Excessive Imbalance Procedure (EIP) and closely monitor member states' actions to correct imbalances and propose sanctions if states fail to take action. Moreover, the "Two-pack" legislation entrusts the Commission with considerable monitoring power over member states' budgetary plans as well as their socio-economic policy trajectories. For instance, member states subject to the EDC must submit details on their planned fiscal and socio-economic reforms, e.g. on pension systems, taxation, education, public healthcare, to correct their deficits. The Commission thus closely monitors states' economic and fiscal policies, adopts policy recommendations to ensure fiscal stability and prevent economic imbalances within and across member states. Finally, it can also propose "hard" sanctions (mainly financial penalties) if member states fail to act on its recommendations (Dawson 2015: 981). The Commission has, however, refrained from imposing financial penalties so far even though member states' have regularly ignored country-specific recommendations. The post-pandemic ES is likely to reinforce the Commission's role as an enforcer of the reform programmes agreed upon under the RFF as it is now in a position to grant (or refuse) member states' request for the disbursement of funds: "For those CSRs that are addressed in the NRRPs governments now must follow implementation agendas and reach specific milestones before they can request additional payments." (Nguyen and Redeker 2022: 4) Compared with the expectation that, when push comes to shove, the Commission might back down from imposing sanctions, under the RFF member states are now faced with a direct financial loss in case of non-compliance. The RFF has thus firmly put the Commission in the driver's seat to steer and monitor funding decisions (Vanhercke and Verdun 2022: 210). Additionally, in its Communication on orientations for a reform of the EU economic governance framework[2], the Commission is further exploring ways to improve its role as enforcer in the future, including by facilitating the use of financial sanctions via lower amounts and further replicate existing macroeconomic conditionality under the RRF.

The Council also plays an important part in the Semester: It has to adopt the AGS and AMR, adopt the economic priorities defined by the Commission and discuss as well as endorse the CSR proposed by the Commission. With the introduction of the "Six-pack" and the "Two-pack", the Commission's role in the ES has been considerably reinforced, because the conditions for overturning sanctions have become more stringent for the member states. Under the EDP as well as the EIP, sanctions are approved unless there is a quality majority in the Council to overturn them (reverse qualified majority voting). In practice, the Commission has avoided threating sanctions "and seeks to anticipate as much as possible the will of the (majority of the) member states. In turn, the member states have been quite happy to leave the lead to the Commission and to adopt its proposals as a rallying point." (Crum and Merlo 2020:

[2] See <https://economy-finance.ec.europa.eu/system/files/2022-11/com_2022_583_1_en.pdf>.

407) Importantly, and in contrast to the CSRs issued under the SGP or the MIP, post-pandemic governance empowers the Commission to withhold payments to member states under the RFF when it considers member states have failed to reach milestones and targets defined in the NRRPs. To do so, the Commission does not need the Council's approval (see Nguyen and Redeker 2022: 4). The "marriage" between the Semester and the RFF is likely to produce a "hardening" of the former, increasing its bindingness (Vanhercke and Verdun 2022: 218).

In stark contrast to the Commission and the Council, the European Parliament's (EP) role in the ES is confined to "soft" oversight. Post-crisis and post-pandemic governance have instituted various configurations of Economic Dialogues (ED), which allows the EP to invite the Presidents of the Commission, Council, European Council and the Eurogroup, as well as member states or EU institutions, to discuss issues ranging from the surveillance of national budgets and economic policies, the prevention, correction and application of sanctions in instances of macroeconomic imbalances, to questions about member states' excessive deficits. Following the publication of the Five Presidents' Report in 2015[3], the ED became aligned more closely with the ES-cycle. EDs are envisaged for each of the periods structuring the ES: on the AGS early in the year, on the Council's policy guidelines in March and the CSR in July. Moreover, following the Five Presidents' Report, the Commission has intensified its relations and interactions with the EP's plenary, for instance by discussing the EU's economic priorities preceding its presentation of the AGS. Overall, the EP's involvement in the ES is predominantly "consultative and advisory" (Crum and Merlo 2020: 408) and it generates transparency that might otherwise be wanting: "the EP is not formally deciding on anything and it is not able to truly balance the Commission's extended powers. Rather it may only bring to the fore debates on decisions in the economic and fiscal domain which would otherwise be taking place in a more discrete fashion." (Fromage 2018: 290) The RFF regulations extends the EP's opportunities to engage in a "recovery and resilience dialogue" with the other institutions, e.g. by increasing the frequency of exchanges with the Commission to two months. Paragraph 26 of Regulation 2021/241 also invites the EP to pass resolutions on matters pertaining to the RFF and calls upon the Commission to take account of the EP's views. In sum, the EP's prerogatives in the implementation of the RFF are strictly confined to information provision, information exchange and consultation and thus "limited in the sense that it does not have any decision-making powers over the plans submitted by the Member States or the disbursement of funds." (Fromage and Markakis 2022: 392)

Attempts to characterize and categorize decision-making in the ES have been manifold. No clear answer has crystallized in scholarship on the ES about the "nature of the beast" since decision-making in the ES eschews straightforward classification: It is neither "intergovernmental" or "supranational" decision-making, nor does it conform to the "Community Method" (see, for instance, Dawson 2015). It is easier to describe what the ES is not than to describe what the ES actually is. Some emphasize the "hybrid" quality of the ES, since it combines "hard", command-and-control style regulations with "soft", deliberative components that are characteristic of the Open Method of Coordination (Dawson 2015; Verdun and Zeitlin 2018; Crum 2018). Dawson (2015) suggests the ES forms part of distinct "post-crisis method" of decision-making, which contradicts several key tenets of the Community Method. Unlike the Community Method with its rather clear delineation of competencies, the EU's post-crisis mode of economic governance blurs lines of authority and responsibility because "[d]ecision-making never crystallizes … into a 'once and for all' agreement but acts as an ongoing series of open-ended 'decisions'." (Dawson 2015: 982) Unlike the Community Method, post-crisis decision-making in the context of the ES is insulated from judicial review and eschews parliamentary involvement in rule-

[3] See <https://www.ecb.europa.eu/pub/pdf/other/5presidentsreport.en.pdf>.

making. Some even refer to the EU's post-crisis economic governance architecture as a "quasi-authoritarian emergency policy" in which "executive institutions (both intergovernmental and supranational)" have been empowered to exercise considerable discretion "at the expense of legislative and judicial institutions." (Joerges and Kreuder-Sonnen 2017: 4; see also Scharpf 2015) Looking at the ES "at work" these fears may seem overblown, since the Commission has thus far refrained from its sanctioning power and member states' record in implementing country-specific recommendations has been spotty – regularly hitting roadblocks in domestic political processes. As alluded to above, the fiscal firepower that comes with RFF and the Commission's elevated position in the decision-making process to assess member states' deservingness of funds, renders these fears salient yet again.

Even though one does not necessarily need to share the view of the evolving ES as an expression of an (enlightened) mode of quasi-authoritarian decision-making, it raises pressing questions about its democratic credentials: A governance system whereby the Commission and the Council exercise considerable political authority over member states' economic and fiscal policies, but which falls short of providing adequate mechanisms for parliamentary or legal accountability, can be considered flawed. But how inadequate are the existing institutional checks and accountability mechanisms? What would adequate mechanisms look like?

3. ACCOUNTABILITY STANDARDS: THE DEMOCRATIC AND THE TECHNOCRATIC VIEW

3.1. Legitimacy and accountability

When we inquire about political legitimacy, we ask whether the exercise of such authority is "desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions.'' (Suchman 1995: 574) To be legitimate, the exercise of governing authority has to be acceptable and credible to those that it governs (see Black 2008: 144). Over the past decades, the EU has acquired an impressive scope of political authority that covers a vast range of policy areas. As described in section 2., the EU's system of economic governance in general and the ES in particular combines strong supranational surveillance of domestic policies with European policy decisions that condition domestic economic and financial policy-making. Legitimacy – the belief on the part of the governed that governing authorities wield their power appropriately – is essential for power wielders to govern successfully. Governing authorities that can draw on legitimacy are more likely to secure compliance of their decisions and are more likely to obtain the resources necessary to tackle the problems they are supposed to address (see Dellmuth et al. 2019: 627).

Two important sources of legitimacy which modern governments draw upon are democratic and technocratic legitimacy. *Democratic legitimacy* rests on the belief that citizens can exercise due voice over political decisions and hold power wielders to account. Representative institutions – parliaments – are critical to ensure democratic legitimacy, since one of their main tasks is to ensure that governing authorities are responsive to citizens' preferences. One way to ensure responsiveness is through mechanisms of *political accountability*, the obligation for governing authorities to explain their conduct to the account holders and the latter's ability to pass judgement (see Bovens 2007). Political accountability "provides a democratic means to monitor and control government conduct" (Bovens et al. 2008: 230) with the goal to keep governing authorities responsive. Political accountability is thus important for democratic legitimacy. Whereas beliefs in democratic legitimacy emphasize *responsive government*, beliefs in technocratic legitimacy *stress responsible government* and are grounded in distrust of the democratic process (Caramani 2017). *Technocratic legitimacy* stresses that governing authority should be granted to trustees who possess the necessary expertise and capacity to solve complex policy problems on behalf of citizens. Democratic participation and accountability potentially undermine technocratic legitimacy, because majoritarianism can stand in the way of independent, rational, expertise-based decisions (Zürn 2017). The main function of technocratic accountability is not to be responsive to citizens' preferences, but to generate efficient policy and prevent that that those wielding power are not abusing their discretionary powers. Both normative principles, the democratic and the technocratic, feature prominently in debates about the EU's (democratic) legitimacy deficit. The ensuing sections will present the two perspectives in more detail and derive criteria, which subsequently be applied to evaluate accountability gaps in the context of the ES. How can these two normative principles of democratic and technocratic rule be translated to assess the legitimacy and accountability of EU governance in general and the EU's evolving system of economic governance in particular? The ensuing sections discuss how these normative principles can be applied as benchmarks to the EU before applying them to assess the EU's system of economic governance.

3.2. The democratic view: parliamentary accountability

One of the basic normative premises of parliamentary democracy is that democratic oversight has to occur at the level where decisions are taken. What does this imply for a multi-level polity, such as the EU? Policy coordination through the intergovernmental method, whereby the member states in the

Council take policy decisions by unanimity, is – in principle – unproblematic from the purview of democratic accountability, because national parliaments can engage in democratic scrutiny of their governments (whether they can effectively do so is another matter). If, however, member states expand the EU's executive power, for instance by entrusting the Commission with supervisory or decision-making prerogatives, or if member states pool decision-making authority through qualified majority voting in the Council, they undermine the principle of representative democracy at the domestic level. This creates an accountability gap or deficit: The delegation of political authority to third parties or accepting to be outvoted interrupts the accountability chain linking executives (governments), (national) parliaments and voters (see Rittberger 2012). Throughout the history of the EU, further steps of EU integration have regularly produced such democratic legitimacy gaps, which proponents of supranational parliamentarism have sought to exploit in order to enhance the EP's prerogatives (Rittberger 2005; Rittberger and Schimmelfennig 2006). With great regularity, deeper integration has thus been accompanied with an expansion of the EP's powers, which can be summarized in the (not merely normative, but also empirical) claim: 'No integration without representation.' (Rittberger 2006)

As the EU's political system has assumed key tenets of a parliamentary democracy, parliamentary accountability – the notion that citizens and their representatives at the national and EU-level hold executive actors answerable for their conduct – has become a central normative pillar to ensure the EU's democratic legitimacy. The main purpose of parliamentary accountability is to ascertain that "the executive remains aligned with the preferences of the electorate." (Crum 2018: 270) Effective parliamentary accountability presupposes that representatives are adequately informed about the conduct of executive actors, that their conduct and the consequences thereof are publicly discussed, and that they can be ultimately sanctioned if their deeds veer off from the preferences of the electorate (Bovens et al 2008: 230-231). As highlighted above, as long as governments retain ultimate authority of EU policy-making, as in the intergovernmental decision-making mode, parliamentary accountability remains the domain of national parliaments. The predominant Community Method renders the question of parliamentary accountability more protracted. With the proliferation of (qualified) majority voting in the Council, the direct accountability chain linking decisions taken at the EU-level with domestic electorates is interrupted: Even though each government "retains its own voice" it is also "bound and constrained by the collective will of all the governments together" (Crum 2018: 270), which finds its starkest expression in the possibility of a government being outvoted. As a result, parliamentary accountability in the EU follows a two-pronged approach (see Rittberger 2005): Directly through the EP representing the citizens of the EU and indirectly through national parliaments controlling their respective governments.

At the most basic level, then, parliamentary accountability should occur at the same level where political decisions are taken (Crum 2018: 269).

- If member state governments retain ultimate authority over EU decision-making, the accountability chain to national parliaments remains intact and national parliaments are consequently the main accountability forum.
- If political authority is centralized at the supranational level, the chain of accountability to national parliaments is interrupted. Democratic accountability should then rest with an accountability forum at the supranational level, the EP.
- If political authority is pooled, such as in the Community Method, parliamentary accountability should be two-pronged and thus exercised by accountability forums at the domestic level (national parliaments) and the supranational level (the EP).

Moreover, for parliamentary accountability to be effective, the relevant accountability forums – national parliaments and the EP in the case of the ES – need to be provided with sufficient and politically relevant *information* by executive actors; they need to have the opportunity and capacity for *debate*, asking questions and demanding explanations; and such debates need to have 'real' *consequences* that those held to account cannot simply ignore or brush-over i.e. representatives should be able to pass judgement and have sanctioning capacity vis-à-vis executive power wielders (see Bovens 2007; Bovens et al. 2008; Akbik 2022).

3.3. The technocratic view: accountability by rules and results

As a consequence of the financial and sovereign-debt crisis, the EU's system of economic governance has seen an expansion of technocratic rule-making, while – at the same time – the EU's economic policies have become more contentious domestically, eroding the so-called permissive consensus that used to underpin integration and policy-making in then EU (Hooghe and Marks 2009). The intensification of the EU's politicization against the backdrop of the sovereign debt crisis and the intrusiveness of European conditionality, which has reduced the scope of national democracy (Sánchez-Cuenca 2017: 353), has – paradoxically – not led to more supranational democracy or parliamentarism, but to the reinforcement of technocratic rule-making. To better understand this tension and its implications for the legitimacy of the EU's post-crisis governance, a discussion of the normative rationale for technocratic rule-making and the legitimacy that derives form it is in order.

Proponents of technocratic rule argue that democratic politics suffers from a credibility problem, since politically expedient policies are often myopic and short-term oriented rather than geared towards the long-term or the common good. The legitimacy of technocratic order derives from a belief in epistemic authority: Experts in possession of certain specialist skills and knowledge have a superior ability to solve policy problems. By implication, "the technocratic solution consists in keeping large parts of the decision-making process away from democratic contamination." (Sánchez-Cuenca 2017: 362) This can be achieved in different ways. One characteristic of technocratic orders is the removal of policy decisions from democratic politics by delegating public authority to *non-majoritarian institutions* (NMI), such as independent regulatory agencies, standard-setting bodies, or central banks. NMIs "exercise some grant of specialised public authority, separate from that of other institutions" and they "are neither directly elected by the people, nor directly managed by elected officials." (Thatcher and Stone Sweet 2002: 2) Another characteristic is that technocratic orders seek to replace policy-makers discretionary authority with rule-following, which compels policy-makers "to make choices similar to those that experts would have made had they been in power." (Sánchez-Cuenca 2017: 362) Note that technocratic authority is not undemocratic: Its authorization depends on a democratically legitimated conferral of powers, which can also be rescinded through democratic means.

The relevance of rule-based and delegated authority for EU policy-making can hardly be overstated. Absent the resources and legitimacy that underpin the "positive" (national) state with its expansive capacity to tax and redistribute wealth, the EU is a fiscal dwarf: Its annual budget is comparable to the national budget of Denmark. Even though the post-Covid *Next Generation EU* fiscal recovery instrument provides the EU with additional fiscal capacities, it is a temporary instrument and does not change the fact that the EU's possession of "core state powers" (Genschel and Jachtenfuchs 2014) continues to be limited when it comes to capacity and more expansive in the domain of rule-making and regulation, hence the depiction of the EU as a "regulatory state" (Majone 1994). Regulatory policies, such as competition policy, the removal of trade barriers or monetary policy, are designed to address and redress market failures, which should be to the benefit of all citizens. For regulatory policies to be effective, they should be depoliticized, removed from democratic politics, and hence either carried out by NMIs or through strict rule-following and rule-implementation. Undue politicization of regulatory policies, e.g. decisions on state aids, the regulation of foodstuffs, or health and safety standards at the workplace, would undermine their effectiveness and credibility. Organisations like the Commission, the dozens of regulatory EU agencies flanking the Commission's regulatory work, but also the ECB are essentially NMIs, whose mandate has a strong regulatory dimension and who produce and implement regulatory policy based on technical considerations and parameters. The legitimacy of technocratic policy-making relies on non-democratic forms of accountability. To assess the technocratic accountability of a policy domain, the following four criteria will be surveyed:

- A commitment to *rules*: To ensure that those with governing authority do not abuse their discretionary power and act within their mandate, it is important that they are bound by rules. For accountability purposes, the rules guiding regulatory decisions should be enforced in an objective, impartial manner and regulatory decisions should be open to legal challenge and judicial review (Majone 1997: 160, 164; Dawson and Maricut-Akbik 2021: 1717).
- A commitment to a *problem-solving mode*: To arrive at the 'right' and hence most efficient policy solution regulators should commit to a deliberative, evidence-based problem-solving decision-making style that privileges reflexive learning processes. For accountability purposes, this implies that policy-makers are in an 'open search' for the best solution to a policy-problem, which can be best discovered through non-hierarchical forms of debate (see Dunlop and Radaelli 2016).
- A focus on *results*: Since the rationale for technocratic rule is that policy-makers get technical policies 'right', results matter as accountability standard. For accountability purposes, it is important that policy objectives and performance criteria are clearly defined, i.e. they should be neither too broad nor too vague (Majone 1997: 161).
- A focus on *efficient policies*: Technocratic decision-making can eschew democratic accountability because its underlying rationale is that the promulgated rules are efficiency-enhancing and have no (or only limited) redistributional implications: They are "positive-sum games where everyone can gain." (Majone 1997: 162) Conversely, policies that carry redistributive implications require democratic (input) legitimacy: "[D]ecisions involving significant redistribution of resources from one social group to another cannot be legitimately taken by independent experts, but only by elected officials or by administrators directly responsible to elected officials" (Majone 1997: 162). Expert authority does not suffice.

Table 1 summarizes the criteria for democratic and technocratic accountability, which will be applied to assess the EU's evolving system of economic governance in the ensuing sections.

Table 1: Overview of democratic and technocratic accountability criteria

Parliamentary accountability	Technocratic accountability
Uninterrupted chain of delegation	Commitment to rules
Provision of relevant information	Commitment to problem-solving mode
Meaningful debate	Focus on results
Relevant consequences	Focus on efficiency

4. ACCOUNTABILITY GAPS IN THE EUROPEAN SEMESTER

4.1. The European Semester and democratic accountability

According to the democratic perspective, accountability arrangements seek to ensure that executive authorities are responsive to the preferences of their political principals – citizens and their democratically elected representatives. The answerability of elected officials to citizens' representatives – parliamentary accountability – is integral for democratic legitimacy. To assess the parliamentary accountability of the ES, the first line of inquiry pertains to the locus of parliamentary accountability: What is the appropriate parliamentary accountability forum? The second line of enquiry probes if accountability as an activity meets the requirements of information provision, meaningful debate and political consequences.

For parliamentary accountability to be meaningful, it has to occur at the same level where decisions are taken, that is, political power has to align with political responsibility (Crum 2018: 269). It is thus important to determine, where the centre(s) of political authority are in the ES and to whom those wielding political authority are responsible. As has been explained in section 3.2., if governments monopolize decision-making authority in the Council and decide by unanimity, the chain of delegation remains intact and national parliaments can, at least in theory, hold their governments to account. With regard to the Community Method parliamentary accountability should assume a two-pronged trajectory: As the domestic parliamentary accountability link is weakened, it should be compensated by strengthening the supranational parliamentary accountability link.

Prior to the financial and sovereign-debt crisis economic governance left the accountability channel from governments to national parliaments largely intact. Even though the SGP circumscribed member states' room for manoeuvre in pursuing their preferred economic and fiscal policies, member states proved unwilling "to hand […] over significant political control to supra-national actors" (Dawson 2015: 978) and thus remained "the main centres of authority" (Crum 2018: 271). Post-crisis economic governance, in turn, is neither intergovernmental – the exclusive domain of member state governments – nor has it evolved towards the Community Method and its associated mechanisms of two-pronged parliamentary accountability and legal accountability through judicial review. The EU's post-crisis economic governance architecture combines intergovernmental decision-making with far supranational surveillance and supranational implementation, reinforcing the Commission's role in monitoring compliance with a reformed SGP (see Dawson 2015; Crum 2018). Moreover, in the context of the MIP and the EDP, the Commission adopts detailed policy prescriptions to assist states in redressing their budget deficits or macro-economic imbalances, effectively touching upon a wide range of domestic socio-economic welfare policies. At the same time, the new governance architecture renders it more difficult for those member states to block warnings and sanctions directed at them as these "have become semi-automatic" (Fasone 2014: 173) because of the transition to reverse qualified majority voting (RQMV). The shift towards RQMV places the onus for enforcement even more forcefully on the Commission, a deliberate strategy pursued by the member states, which allows them to eschew the 'dirty work' of engaging in protracted discussions with their peers about domestic policy reforms and it renders the Commission an easy target for attributing blame: "Member States have been all too happy to place the burden on the shoulders of the Commission and relegate themselves into the role of a rubber stamper. The key result of the change was to turn much of the Semester into a bilateral exercise. Key policy discussions now take place solely between the Commission and individual Member States, while at the Eurogroup and the Council there is very little substantive discussion. Any kind of peer pressure among the Member States is more or less absent." (Leino-Sandberg and Losada Fraga 2020: 28) Following the adoption of the RFF and the post-pandemic changes to the ES, the

Commission's role in the Semester process has even been reinforced, further strengthening its monitoring and enforcement powers (see Bokhorst 2021, Nguyen and Redeker 2022, Vanhercke and Verdun 2022). To explore how the power shifts associated with the EU's new economic governance have impacted democratic accountability, the ensuing sections will discuss the role accorded to national parliaments and the EP in the accountability regime of the ES.

4.1.1. The weakness of supranational parliamentary accountability

Compared to the pre-crisis decision-making mode of economic governance, the post-crisis mode reflects a move towards "supra-nationalization" (Dawson 2015: 979). This trajectory has, however, not been accompanied with an expansion of the EP's powers similar to its stance as a co-legislator in the post-Lisbon Treaty application of the Community Method, i.e. the Ordinary Legislative Procedure. Instead, the EP's main role "appears to be weak: it has to be informed and consulted on specific occasions, it can organize hearings and cooperates with national parliaments, but it is not entitled to take any decision in the framework of European economic governance." (Fasone 2014: 174) Dawson posits that despite the EU's economic governance having taken a more "prescriptive and politicized" (Dawson 2015: 988) turn, the EP's powers have not been expanded. Its role is consultative, largely confined to holding Economic Dialogues and inter-parliamentary consultations. By and large, this description also holds for the EP's role in the context of post-pandemic governance, whereby the EP plays only a marginal role in the implementation of the RFF. Even though the EP played an active and important role in the production of the relevant legal norms, its empowerment in post-pandemic governance remains limited: The scope of the information the EP receives is expanded, the possibility for more frequent dialogues with the Commission is enhanced, and the EP can voice opinions and pass resolutions which the Commission is asked to take into account. Yet, the EP's prerogatives in implementing the RFF remain of an advisory kind and hence "limited in the sense that it does not have any decision-making power over the plans submitted by the Member States or the disbursement of funds." (Fromage and Markakis 2022: 392) The Commission and the Council remain the predominant actors, even though "close to half of the RFF's budget is to be given to the Member States in the form of grants financed by EU debt." (Fromage and Markakis 2022: 392)

What do these developments imply for parliamentary accountability? In the period preceding the RFF, the character of the ES as a "soft" mode of governance helps to accounts for the limited role played by the EP. As argued in section 2, the elusiveness of the locus of authority in the ES complicates democratic accountability. The ES "mixes general decisions with country-specific ones", which "relate to different audiences." (Crum 2018: 276) Thus, "while the governments, who are formally responsible, cannot be held accountable as a collective, the Commission that calls most shots in practice operates under the pretence that these are merely administrative decisions." (Crum 2018: 276) Crum thus concludes that "no one is accountable" (Crum 2018: 276) or at least democratically accountable, one should add. Moreover, the lacklustre domestic compliance with the recommendations adopted in the context of the ES indicates that member states are effectively resisting to cede too much authority to the Commission, thereby rendering supranational parliamentary accountability less salient.

With the coupling of the RFF to the ES, the objective of the ES is no longer simply to coordinate and mainstream member states' socio-economic and budgetary policies, but to decide on the disbursement of EU money. The Commission is thus in the powerful position to withhold financial contributions if member states' NRRPs do not meet the Commission's assessment of the criteria laid down in the RFF Regulation. This calls for effective parliamentary accountability, since the Commission's assessments of NRRPs – even though they are based on criteria defined in the RFF Regulation – are not mere administrative decisions, but provide the Commission with political latitude.

The RFF thus changes the orientation of the ES in a fundamental way: It comes an instrument for the distribution of EU funds and thus turns from an instrument of "soft" governance to one of "hard" governance, since funds can not only be approved but also withheld. This implies that the political priorities and guidelines adopted under the RFF at the European level are more consequential for the formulation of domestic reform plans than those regularly taken in the context of the ES. Since allocative decisions are ultimately taken at the EU level "they warrant EU-level parliamentary authorization and oversight by the EP" (Crum 2020: 145), especially when it comes to the definition of political priorities in the RFF and oversight of the implementation of these priorities in the context of NRRPs. In short, since the funds distributed through the RFF is EU money "the EP is more justified than ever to have a say on the use of common resources." (Fromage and Markakis 2022: 387)

Against this backdrop it is rather sobering that the EP's role in post-pandemic governance remains that of an advisory body that holds no real decision-making power over how RFF funds are allocated (Fromage and Markakis 2022). The Commission pre-eminence is further accentuated since only has to take the EP's views and opinions into account. Some argue that the EP's lack of influence over the operationalization of the RFF should not downplay the EP's role in the design of the RFF, where it secured "important policy concessions" on spending priorities (Closa et al. 2021). In sum, it can be argued – at least with a view to the RFF – that the EP's role is not commensurate with the authority exercised by the EU-level in the context of the RFF.

How effective is the EP as a democratic accountability forum? The most thorough and extensive study of the EP as an accountability forum in the EU's economic governance is presented by Akbik (2022) and explores supranational parliamentary accountability of EMU, covering a wide range of executive actors, the Council, the ECB and the Commission as account givers and the EP as accountability forum. Has the Commission's heightened influence in the ES coincided with the EP assuming a more assertive oversight role? Based on a comprehensive data set of written questions by Members of the European Parliament (MEPs) and answers provided by the Commission, Akbik (2022) analyses all Economic Dialogues between the EP and Commission between 2012 and 2019. She finds that the EP is generally well informed about the ES and the Commission's conduct and that the bulk of the EP's scrutiny activity relates to demanding explanations and justifications for the Commission's conduct. One of the accountability challenges, which were identified above – the complexity of decision-making in the ES – features strongly in the way the Commission reacts to parliamentary questions. The Commission seeks to evade blame, it "explains away" (Akbik 2022: 131) criticism, often arguing that the lack of effectiveness, which is often attributed to the ES, is the member states' fault, since they are responsible for the implementation of supranational policy recommendations. While the Commission tends to engage with the EP's questions fully, it "rarely changes its decisions – by promising to rectify previous conduct." (Akbik 2022: 132) and MEPs rarely follow up on their questions. In sum, the EP holds the Commission to account in the ES, but only in a "lighter" version, i.e. when it comes to the provision of information and debate. In terms of consequences, "the Commission rarely changes its decisions – by promising to rectify previous conduct – in response to demands made by MEPs." (Akbik 2022: 132) In sum, the EP has proven partially successful in making the EU's executive institutions in the EU's economic governance "answerable but not responsive … to the EP as an accountability forum." (Akbik 2022: 190) Systematic research on post-pandemic accountability is scare, especially when it comes to the EP's use of its accountability instruments. Fromage and Markakis (2022) draw on interviews with MEPs, which suggest that the initial Recovery and Resilience Dialogues have been used intensively to address a wide range of issues. Future research should assess whether or not the effectiveness of the EP as an accountability forum has improved as a result of the introduction of the RFF.

4.1.2. The limits of domestic parliamentary accountability

With supranational parliamentary accountability displaying deficiencies, what can be said about the ability of national parliaments to scrutinize their governments over supranational policy prescriptions? While the ES potentially constrains member states' fiscal policies, we have seen that the effectiveness of the Semester is wanting, since member states prove reluctant to faithfully transpose CSR into national priorities (see Akbik 2022: 107 for an overview): Moreover, national authorities continue to be legally responsible to adopt their domestic budgets and hence national parliaments remain the key locus for domestic parliamentary accountability. The structure and timetable of the ES, however, renders national parliamentary accountability cumbersome. One reason is that the EU-level is in the lead. The Commission sets policy priorities and defines member states' scope for fiscal discretion, e.g. through the AGS and analyses of member states' economic situation: "As governments find their economic policies conditioned by supranational targets and recommendations, their ability to respond to any wishes from their national parliament has become constrained." (Crum 2018: 274) Moreover, national parliaments have only a very limited timescale to scrutinize and contest the content and scope of supranational recommendations (Dawson 2015: 989). As a response to the introduction of the ES, national parliaments have generally revamped their internal procedures and institutions to enhance parliamentary scrutiny, but they did so very unevenly across member states (see Winzen 2021). The same holds for the extent to which national parliaments make active use of instruments for domestic scrutiny of their governments' budgetary plans. There is an extensive literature addressing the wide variation of scrutiny activities that can be observed across national parliaments. When assessing these activities from a democratic accountability perspective, recent scholarship paints a rather bleak picture: "Despite numerous institutional innovations, such as the rise of independent fiscal institutions, inter parliamentary cooperation, reformed internal rules and procedures, and hearings with the European Commissioners, NPs [national parliaments, B.R.] remain rather weak actors in EU economic governance—and this legitimacy vacuum is not compensated for by the EP." (Woźniakowski et al. 2021: 98) Admittedly the picture is more nuanced since there is strong variation among national parliaments with regard to how they responded to the challenge posed by the ES as well as how it affected parliamentary accountability (see, for example, Hagelstam 2018). In a study covering the scrutiny activities of 35 parliaments and chambers in the EU, Skazlic (2021) finds that the main predictors for parliamentary involvement in the context of the ES – measured by the number of statements and votes on domestic reform programmes to achieve domestic budgetary and socio-economic objectives – refer to a parliament's formal power in EU affairs as well as the level of government debt. Institutional opportunities for scrutiny thus lead to more scrutiny activity. Similarly, parliaments in countries with high government debt engage in more intensive scrutiny, since a country's financial stability is at the core of the ES. This must not overshadow the "low political salience of the ES in national parliaments more generally." (Skazlic 2021: 120) Parliamentary accountability of the ES extends to the "lower ranges of accountability mechanisms (information, consultation and debate)" (Crum 2018: 275). More demanding forms of accountability that are characteristic of the consequences-phase of accountability, involving contestation or even sanctions, remain an exception (Woźniakowski et al. 2021). Thus, "[w]hen it comes to the substance of the budget, national parliaments tend to cave in as they recognize the Semester … beyond their span of control." (Crum 2018: 275) Future research on the involvement of national parliaments in the context of the RFF, e.g. in formulation of NRRPs, will have to show if the possibility to influence the formulation of domestic reform priorities in return for EU funds will increase the willingness of national parliamentarians to increase their involvement and scrutiny activities (see Bekker 2021).

Irrespective of the "performance" of national parliaments as accountability forums, there are structural reasons why national parliaments are reluctant to press for more demanding forms of accountability.

Most importantly, in parliamentary systems the main dualism is not between parliaments and governments, but between parties in government and parties in opposition. While parties in opposition have strong incentives to hold the governments accountable, governing parties have a limited incentive to weaken their own governments through extensive scrutiny.

How, then, does the ES fare from the purview of democratic accountability? As demonstrated in this section, the literature offers a rather sobering picture. Both, the design of accountability mechanisms as well as their use suggest the existence of democratic accountability gaps, in particular when it comes to supranational parliamentary accountability: "The old EU economic governance was not successful in preventing the euro crisis while having limited accountability and hence legitimacy. The new governance has not yet proved capable of preventing a new crisis and scores even worse on accountability." (Naert 2016: 652) What complicates matters further is the observation that minimally invasive reforms, for example, to change the quality, scope of and the responsiveness to parliamentary questions (as proposed by Akbik 2022: 190ff) are unlikely to rectify the main structural problem that underpins the parliamentary accountability gap: The elusiveness of political authority in the ES renders answers to the question "who is ultimately accountable?" problematic since it invites responsibility evasion and blame shifting (Heinkelmann-Wild et al. 2023). The coupling of the RFF to the ES, albeit temporary, bears the potential to alleviate accountability gaps, not least it clarifies the locus of political authority by making EU-level decisions more consequential for the member states. It is lamentable then that the EP remains, by and large, on the peripheries of the updated ES.

4.2. The European Semester and technocratic accountability

According to the technocratic perspective, accountability has two main purposes: to prevent the abuse of discretionary decision-making power on the part of governing authority and to ensure that power wielders employ their authority to obtain the best possible results against the backdrop of available knowledge. This section applies the four criteria developed in section 3.3. to probe the extent to which the ES meets technocratic accountability standards.

4.2.1. Political discretion in the guise of rule-following

To delimit political discretion of the Commission against the backdrop of its heightened role in policy surveillance, the ES defines clear rules and benchmarks, which are laid down legislation. The Commission's supervisory and monitoring tasks in the context of the ES (i.e. detecting budget deficits, macro-economic imbalances) are chiefly conceived of as exercises in (apolitical) rule application. Yet, there is widespread agreement that the Commission exercises political judgement when implementing the rules and benchmarks, since it possesses considerable flexibility in their application (Schmidt 2016). Thus, the ES is more political than its rule-based aspirations purport to be (Naert 2016; Akbik 2022: 106). This is the case because the ES "relies to a certain extent for its application on discretionary elements. This applies to the Commission and Council and, as regards actual implementation … The deeper and wider scope of the EU surveillance framework that emerged from the euro crisis has, in parallel, required more room for interpretation in its day-to-day application." (Hagelstam et al 2020: 17) One problem from the perspective of technocratic accountability is the apparent flexibility the Commission has in the application of the existing rules. In the context of the MIP, the Commission has not followed up with an EIP "not even for governments failing to correct imbalances in consecutive years" and hence, the "Commission has leeway to decide when an imbalance exists and if it is excessive." (Akbik 2022: 107) Schmidt concludes that the Commission engages in "a discretionary evaluation of member-states' macroeconomic balances" and recommends measures "without reference to any agreed rules or even a shared economic paradigm." (Schmidt 2015: 29) Even when the scope for flexibility is (more) limited, because the rules are clear, the Commission has – on several occasions – deviated from the application of the rules in the EDP when it decided against imposing sanctions or fines even where the rules had prescribed such actions (see Akbik 2022: 106). When Jean-Claude Juncker was asked why the Commission did not follow up with sanctioning France for failing to correct its excessive deficit he quipped "because it is France" (see Akbik 2022: 106). The coupling of the RFF to the ES has led to similar concerns among observers. Analysing the interactions between the Commission and national authorities in the implementation of CSRs in Italy and Ireland, Bokhorst (2022: 114) projects that "the setup of the RFF strengthens discretionary decision-making" because it is the Commission, which eventually assesses and accepts NRRPs (subject to approval by member state representatives) (see Crum 2020: 20). If domestic politics 'interferes', because governments change, and a member state plans to alter the domestic reform trajectory, the decision to decide if the "reform plan is still sufficiently in line with the initially agreed plans" falls with the Commission (Bokhorst 2022: 113). This will inevitably politicize what should be – from the purview of technocratic accountability – an exercise in apolitical rule application (see Vanhercke and Verdun 2022: 218-219.

Overall, the Commission thus exercises considerable political discretion in the application of the rules laid down in the ES, what Schmidt (2016) aptly refers to a reinterpretation of the rules "by stealth." The Commission's use of discretionary behaviour is problematic from the purview of technocratic legitimacy not only because it carries the potential to politicize what should be an apolitical process, but also because it lends itself to charges of arbitrariness. Bias and partiality on the part of the Commission undermine the credibility of the supposedly rule-based system that underpins technocratic legitimacy. One possibility to avoid discretionary overreach by the Commission is through judicial review of its decisions. In the ES, however, judicial review is complicated because the legal effect of the Commission's "recommendations … and therefore their capacity to override limits prescribed in EU/national constitutional orders, is limited." (Dawson 2015: 986) One characteristic of the EU's post-crisis economic governance is that it does not operate on the basis of binding rules, but policy recommendations that are based on rather abstract economic principles (Chalmers 2012; Dawson 2015).[4] But how can economic concepts be judicially reviewed if rules that clearly 'operationalize' these concepts are amiss? For example, the definition of what an "excessive deficit" is and how a "structural deficit" can be assessed are elusive and "a clear/objective method by which judges could evaluate and apply such rules" (Dawson 2015: 987) is not only lacking, it is also hard to conceive. The Commission's recommendations are not applications of a politically endorsed macro-economic consensus, they are essentially political decisions that are immune to judicial review. Thus, by "embedding legislation in indeterminate economic concepts, judges are likely to have little choice other than to defer to executive decision-making" (Dawson 2015: 988), which raises the spectre of arbitrary decision-making. In turn, the Commission's own credibility as technocratic, impartial actor is undermined. As it disguises political decisions in technocratic clothes it makes itself susceptible to charges of hypocrisy (see Schmidt 2016).

4.2.2. Bargaining rather than problem-solving

Can technocratic accountability deficits be smoothened over by the actual workings of the ES? Does the ES encourage a problem-solving decision mode, whereby Commission together with national authorities tries to find the best solution for a member states' fiscal and economic woes? In short: Is the ES an institutional context that encourages or even incentivizes policy learning? While the literature on this question is scant, some argue that the flexibility of the rules and policy instruments of the ES induce

[4] The RFF, by contrast, is firmly enshrined in the EU's legal order, which makes it subject to judicial review and political oversight on the part of the EU's institutions (see Fromage and Markakis 2022: 397).

a bargaining rather than a problem-solving approach to decision-making. Dunlop and Radaelli (2016) show that the Commission has shied away from a strict application of rule by not opening an EDP against Italy and France, because it caved to pressure from the Italian and French governments who publicly emphasized that they were not the Commission's students (Dunlop and Radaelli 2016: 119). In instances where a government's bargaining leverage is more limited, as it was in the case of Greece, the Commission may even act in a hierarchical, teacher-like manner (Dunlop and Radaelli 2016: 121). This suggests that the flexibility with which the Commission applies the rules of the ES has to do with its anticipation of coalitional politics and thus political pressure exercised by member states in the Council (Carstensen and Schmidt 2018). Both the hierarchical and bargaining-modes are decidedly driven by actors seeking to maximize pre-defined interest, which complicates the search for a "best solution" to a particular problem. "Genuine" learning, by contrast, implies open debate and a willingness on the part of the involved actors to become convinced by each other's viewpoints or by the lessons they draw from past experiences (Papadopoulos and Piattoni 2019: 62). Dunlop and Radaelli (2016) find only few indications that such genuine learning is taking place in the ES context. One important caveat, though, is that their study covers only two countries – France and Italy – and one cycle of the ES.

While obviously more research on "learning" in the ES is needed, also when it comes to the changes brought about with the integration of the RFF, several features of the ES privilege a bargaining-mode over a reflexive problem-solving mode: First, the Commission's interactions with member states occur against the backdrop of the Council's approval of the Commission's recommendations. Hence, the conflict lines in the Council and the balance of power amongst different coalitions in the Council are not only likely to affect the Commission's approach towards individual member states in the ES, but also affect the predominant decision-making mode: bargaining is likely to trump problem-solving when power imbalances loom. With the RFF, power imbalances – and hence a bargaining mode – are likely to be reinforced because money, which can only be unlocked upon a positive assessment of member states' reform achievements by the Commission, becomes a primary concern. Second, some argue that in the absence of an alternative "post-austerity model" the Commission is likely to stick to the austerity model as policy guidance (Dunlop and Radaelli 2016: 120). This is all the more likely since the austerity model enjoys quasi-constitutional status: Its principles are "taken for granted, so that the scope for debate and choice is reduced, out-of-the-box thinking tends to be limited, and there is not much space for a recursive feedback that might challenge the policy goals." (Papadopoulos and Piattoni 2019: 67) Others challenge this outlook and claim that the Commission has learned in the course of past Semester cycles by responding to social and political discontent. Not only has it sought to put a stronger emphasis on social objectives in the AGS and the CSR, thereby responding mounting criticism from stakeholders, e.g. social partners in the member states, whose role in reviewing and amending CSR was subsequently enhanced (Zeitlin and Vanhercke 2018; Vanhercke and Verdun 2022). As a result, the Semester has become "less hierarchical and more interactive." (Zeitlin and Vanhercke 2018: 168) Yet, to conclusively answer the question if the Semester induces a bargaining or problem-solving mode, much more research is necessary.

4.2.3. Effectiveness in question

Is the ES effective in obtaining the results it has set out to achieve? One criterion to assess the performance of the ES is to look at the extent to which the member states implement its recommendations. According to Akbik (2022: 107), the "poor transposition record of CSRs into national priorities is well known." Efstathiou and Wolff (2018) show that the implementation of CSR, despite stark variation across countries, has worsened since 2013 and it has declined most among member states with excessive imbalances. Their analysis also suggests that the criteria used by the Commission to assess macro-economic imbalances in the context of the MIP are potentially ill-suited to achieve the desired objectives: "although MIP recommendations emphasise policy areas linked to imbalances (such as financial reforms, the competitiveness of labour and the housing market), the original intent of the MIP is diluted when CSRs relate to, for example, education or childcare. Such recommendations are hardly relevant for macroeconomic and financial imbalances and could further erode the importance national policymakers attach to recommendations from Brussels." (Efstathiou and Wolff 2018: 14) Regarding other putative causes about the Semester's limited effects on domestic policies, the literature mentions the Commission's "one-size-fits-all" approach, which does not sufficiently take into consideration differences in member states' political economies (see Akbik 2022: 107; see Zeitlin and Vanhercke 2018). Yet, some argue that inclusion of the social dimension in the Semester went in sync with domestic actors and social partners "push[ing] back what they perceived as 'over-prescriptive, 'one-size-fits-all' recommendations from the Commission." (Zeitlin and Vanhercke 2018: 167) In line with the argument in section 4.2.3. that the inclusion of the social dimension in the ES has resulted from reflexive learning processes on the part of the Commission, Zeitlin and Vanhercke (2018: 168) argue that the Commission willingness to "engage more deliberatively with member states" also made it more susceptible to engage in "'evidence-based-negotiations", which indicates that the Commission's willingness to revise what some consider overly rigid policy prescriptions. Whether or not the more intensive engagement between the Commission and domestic stakeholders in the Semester processes improves domestic compliance is an important matter for future research to address. There is a strong expectation among policymakers though that the Commission's intensified engagement with national authorities will enhance domestic *ownership* of the policy reforms proposed in the context of the ES, which should positively bear on the Semester's effectiveness (see section 5.1.).

4.2.4. Distributive implications rather than efficient policies

Technocratic legitimacy reaches its limits when a technocratic approach to policy-making fails to produce optimal policy results, but creates winners and losers instead. There is a widespread concern that the EU's post-crisis economic governance architecture has the potential to be highly intrusive by curtailing the fiscal and economic manoeuvring capacities of national polities – even more than the pre-crisis architecture (see Majone 2014; Scharpf 2015; Sánchez-Cuenca 2017). For example, Scharpf argues that the Commission's authority as an impartial trustee of the European interest "has been undermined by its exercise of intrusive, discretionary, and divisive governing powers … Its policies cut deeply into the economic and social structures and policy legacies of member polities." (Scharpf 2015: 38-39) Evidence about the redistributive implications of the Semester is too patchy to either underwrite or dismiss these concerns. For instance, the lack of compliance with the Semester's recommendations points to the existence of an 'escape route' that member states can use should they fear an electoral backlash. Moreover, as highlighted in sections 4.2.2. and 4.2.3., some claim that the Semester's economic policy recommendations no longer eschew their social implications and have found ways to integrate social policy objectives in the formulation of the Semester's recommendations, which can be seen as a means to moderate possible redistributive implications. Yet, others argue that social objectives continue to be subordinated to fiscal and economic objectives, and that the Semester has done little to change this state of affairs (see, for example, Dawson 2018; Graziano and Hartlapp 2018).

How, then, does the ES fare from the purview of technocratic accountability? Overall, the jury on the EU economic governance architecture looked at from a technocratic perspective comes to sobering assessment. Treating the ES as a purely technocratic exercise is a category mistake: Pretending that the ES is an apolitical exercise of rule-application, which delimits potentially arbitrary political discretion, renders a frank discussion about the system's democratic accountability deficit a moot point. Acknowledging the power asymmetries that have given rise to post-crisis economic governance, the political biases and that post-crisis EU economic governance generates, and the political discretion exercised by the Commission would be a starting point to begin a more honest reflection on the necessity of reforming accountability regimes in the EU's economic governance.

5. CONCLUSION: ACCOUNTABILITY GAPS OR ACCOUNTABILITY TRAPS?

The preceding review of the literature highlights that the ES is marred by accountability deficits. The distinction in democratic and technocratic accountability (deficits) allows us to see more clearly that *responsive* as well as *responsible* governing authority is wanting in the context of the ES. Table 2 provides a summary of the findings.

Table 2: Assessment of democratic and technocratic accountability criteria

Parliamentary accountability	*Evaluation of the ES*	**Technocratic accountability**	*Evaluation of the ES*
Uninterrupted chain of delegation	-/+	Commitment to rules	-
Provision of relevant information	+	Commitment to problem-solving mode	-/+
Meaningful debate	+	Focus on results	-/+
Relevant consequences	-	Focus on efficiency	-/+

From this backdrop it appears somewhat surprising that the ES is included as "a foundational piece of the Covid-19 plan … in the heart of the Recovery and Resilience Facility (RRF)." (D'Erman and Verdun 2022: 6) This observation is less surprising when we take into account that the Council and also the Commission, who are the chief protagonists in the ES, have strongly pushed for embedding the RFF in the ES, thus reinforcing their influence over member states' economic policies and reform programmes. In addition, the RFF adds an important ingredient to decision-making in the ES, since it comes with ample financial "carrots", which might boost member states' reform enthusiasm and putative willingness to implement reform programmes. It was argued that the linking of the RFF to the ES is likely to have a mixed effect on the democratic and technocratic accountability of the ES. From a purview of technocratic accountability, the 'upgraded' Semester is poised to enhance the prospects for effectiveness and for achieving results, given the financial incentives attached to it. Moreover, since the RFF is firmly wedded to the EU's legal framework, judicial review can limit the potential for discretionary excesses by the Commission. From the purview of democratic accountability, it was shown that the RFF accentuates the shortcomings of parliamentary accountability, especially with regard to the EP. While the EP was successful in enhancing the substantive policy scope of the RFF, it fell short of securing procedural rights. Its role remains that of an advisory body. With the adoption of the RFF and its integration in the ES, the notion of ownership has received renewed attention and eclipsed – at least partially – recurring concerns about the Semester's legitimacy and accountability gaps.

5.1. Ownership: a new label for an old problem?

Developments of this kind have raised hopes among policy-makers, policy experts and scholars alike that domestic ownership of the measures adopted in the ES process would be reinforced. Ownership has been a buzz word in Brussels circles for some time, expressing the aspiration that the targets of external policy interventions are not mere passive or disgruntled recipients, but take an active part in their formulation and implementation to ensure that these external interventions are perceived as legitimate (see Vanheuverzwijn and Crespy 2018: 3). To address criticisms about the widely documented domestic compliance deficit that has marred the ES from its beginning, the Commission has reinforced calls to improve domestic ownership. In its recent communication "orientations for a reform of the EU economic governance framework" from November 2022, the Commission makes mention of the term no less than 15 times, emphasizing that national ownership is a key condition for improving the effectiveness of the ES.

But what exactly is ownership? How does it work? A clear definition of what ownership entails is missing in the Commission's communication. Instead, the Commission highlights its purported functional benefits and how it could be obtained: "Greater ownership by Member States would be achieved by reaching a common understanding between Members States and the Commission of the challenges identified under the MIP and the policies needed to address them." (Commission 2022: 10) Ownership, then, is simply another term for the *legitimacy* of the decisions adopted in the ES: A belief amongst the targets of a policy intervention that public authority is rightfully and appropriately exercised. Legitimacy, however, is not mentioned once in the Commission's communication on reforming the EU's economic governance framework. One likely reason is that legitimacy is often (wrongfully) associated with *democratic* legitimacy, which demands responsiveness to citizens and their representatives, a heuristic the Commission was obviously aware of and sought to avoid. Consequently, neither national parliaments nor the EP feature in the process through which ownership is being created.

By eschewing the question of democratic legitimacy as well as parliamentary accountability, the Commission puts emphasis on repairing the technocratic accountability gaps, which were identified in section 4.2. The Commission's communication is unrelenting in emphasizing that a reform of the EU's economic governance architecture has to produce better *results*: The system has to be more "effective" in enhancing surveillance, monitoring, enforcement, implementation, sanctioning to influence states' fiscal behaviour. The Commission also emphasizes its commitment to delimit its own discretionary behaviour by reinforcing the credibility of the *rule-boundedness* of the ES. To this end, the Commission pledges to base its decisions in the context of the MIP on "clear criteria" (Commission 2022: 19). Moreover, "clear conditions" for revoking EDPs would need to be met (Commission 2022: 17). The Commission's emphasis on ownership also responds to allegations that policy decisions in the ES are externally imposed and unnecessarily intrusive. It stresses the importance of *problem-solving* in the context of the ES. References to "enhanced dialogue", "policy dialogue" and "common understanding" with the member states suggest that the Commission aspires to put argument before power and signals a commitment to genuine, reflexive learning. Overall, then, the Commission's communication presents a pledge to close various technocratic accountability gaps. Clearer rules, a focus on results and problem-solving should result in better ownership a.k.a. technocratic legitimacy.

What is evident from the Commission's communication is that it portrays the ES as a technocratic exercise, in which experts from national authorities and the Commission seek to find the best solutions for commonly identified problems. One study has shown that the ES is, indeed, chiefly a technocratic and bureaucratic process and supports the "idea of ownership is mainly an instrument used to address the output and throughput legitimacy issues of EU socioeconomic governance, namely the efficacy of its daily functioning and its efficiency in terms of implementation of the CSRs." (Vanheuverzwijn and Crespy 2018: 14) The ES, then, should work best as a depoliticized process. Whether or not these expectations are borne out will be the task for future research. Based on the existing experience with the ES (see section 4.2.) a dose of scepticism is in order.

Those concerned primarily with the democratic legitimacy of the ES and its parliamentary accountability deficits draw a somewhat different picture of what ought to be done to close prevailing accountability gaps. In its own resolution on the "review of the macroeconomic legislative framework" from July 2021 (European Parliament 2021), the EP echoes the importance of ownership, but rather than conceiving of the process of ownership-creation as a bureaucratic and technocratic process (as done by the Commission), the EP emphasizes the need for *democratic accountability* to improve ownership and compliance. Like the Commission the EP bemoans the lack of domestic compliance with the measures adopted under the ES. Unlike the Commission, in the EP's conception of ownership, democratic oversight through national parliaments and the EP plays a central role. The EP suggests a direct causal link between reinforcing accountability and better compliance. Hence, calls to expand dialogue, scrutiny, oversight or transparency abound.

What about concrete measures to narrow parliamentary accountability gaps? The literature provides ample suggestions that range from the EP asking questions that carry actual consequences, i.e. that require the Commission to re-assess or revise recommendations (Akbik 2022: 190-196); the EP exploiting key "political moments" (Crum 2020) whereby the EP should be able to influence how the RFF is integrated in the ES, e.g. in the definition of political priorities and in the adoption of the NRRPs; suggestions for national parliaments to step up their scrutiny activities in the budgetary process (which appears to show some fruition; see Csehi and Schulz 2022); an intensification of "multilevel parliamentary scrutiny" through inter-parliamentary cooperation (Fasone 2014; Fasone and Markakis 2022). Some of these measures are geared towards clarifying the locus of authority, which is a precondition for effective parliamentary accountability; others would fuel the politicization of the ES and expand the debate about the political priorities that should be pursued, another precondition for effective parliamentary accountability.

5.2. Accountability traps: the limits of proceduralism

There are thus some reasons to be cautiously optimistic that existing technocratic or democratic accountability gaps in the EU's evolving economic governance architecture can be narrowed. But this would be a too optimistic reading (or ending), since it overlooks that accountability gaps could turn out to be accountability traps: A discussion of closing accountability gaps builds on the premise that effective accountability is possible if only the proper *procedural* reforms were enacted. The belief in proceduralism – "in the value of explicit, formalized procedures that need to be followed closely" (Steffek 2019: 784) – eclipses substantial questions, such as who benefits from a decision or if a policy is actually responsive to citizens' preferences. Accountability gaps can turn out to be accountability traps when the system's legitimacy rests on all too brittle foundations.

Technocratic legitimacy – the belief that public authorities possess superior problem-solving capacity and act in the public interest – is compromised when policies do not yield "optimal" outcomes, but have significant distributive consequences: when there is no "efficient" solution but if a policy creates winners and losers. Improving technocratic accountability by pledging to govern by (clearer) rules and improving problem-solving does not magically render distributive policies more efficient. It might create an illusion of efficiency or "good" policy (see Schmidt 2016, Kreuder-Sonnen and Rittberger 2022). The results of EU policy interventions are, however, hardly "efficient" and, even national authorities implemented all supranational policy recommendations faithfully, no degree of technocratic proceduralism would make these policies less distributive in their consequences. Technocratic accountability, reduced to its procedural aspects, is thus an accountability illusion – a trap.

Distributive decisions require democratic legitimacy. Democratic accountability exercised by representative institutions contributes to democratic legitimacy, but it is surely not sufficient. As much as it is to be welcomed if national parliaments and the EP are stepping up their scrutiny of political authorities at the national and EU level, these procedural improvements are no guarantees that these procedures actually help translate what citizens want into policy. What value does parliamentary scrutiny have if those affected by policy interventions have no prospect of being heard and of actively influencing such policies? Even if the EP's influence over the formulation of the EU's economic priorities was to be enhanced, the notorious weakness of the "electoral connection" between EU citizens and their European legislators compounds the problem of responsiveness (Hix and Hoyland 2013). This will not go away simply by enhancing the EP's powers in the ES.

Improving the democratic legitimacy of the EU's economic governance would thus have to reach beyond discussions of parliamentary accountability. To put it bluntly: How can it be ensured that the EU's system of economic governance becomes a more *responsive* form of governance that ceases to hide behind a technocratic cloak, while it reflects the interests of fiscally and economically powerful member states and the Commission's interpretation of what the rules mean. Addressing these questions inevitably leads to a politicization of the edifice and of its normative foundations, that have hitherto been predominantly monetarist and neo-liberal. The Covid-19 pandemic has now added a dose of fiscal expansionism to the discussion, yet the focus on the ES in the implementation of the RFF suggests that the main protagonists prefer politics as usual and hence a continuation "policy without politics." (Schmidt 2006) and a focus on proceduralism rather than substance.

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The European Semester (ES) is a centrepiece of the EU's evolving economic governance architecture and its democratic legitimacy and accountability has been contested in pre- and post-pandemic times. This paper introduces two perspectives —a democratic and a technocratic perspective —to evaluate the accountability of the ES, based on a survey of existing literature. Whereas there is broad agreement that the ES has deficiencies according to both perspectives, procedural reforms have only a limited potential to narrow accountability gaps. A focus on proceduralism overlooks the more fundamental democratic deficits that plague the EU's economic governance system.
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