

***No democracy without bureaucracy?***  
The role of unelected officials in EU affairs

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## **Introduction: Setting the scene**

It is well-known, both within political and academic circles, that the EU has been diagnosed as suffering from a *malaise*: the much proclaimed and debated democratic deficit. (Bellamy and Kröger 2013; Tsakatika 2005). But whatever the roots of this democratic deficit are, most scholars posit that it indeed exists. Some scholars find that the roots for this deficit can be traced back to the fact that decision-making powers were transferred to the European level but that national representative institutions lost out in the process (e.g. Maurer and Wessels 2001).

Others link this deficit also to deficiencies arising as a result of the way legislatures work - in the wider sense of the term - but this time this malaise is attributed to the European Parliament (EP). While crucial decisions are taken at the European level the processes of electing members of the European Parliament (MEPs) are not contests about the "content or direction of EU policy" (Follesdal and Hix 2006, 552). EP elections are thus not in fact about Europe, but are described as "second-order national contests" (Reif and Schmidt 1980, 536, in: Follesdal and Hix 2006). The EU thus falls short on premises that are "shared by a broad range of democratic theorists". Most importantly there is no clear electoral mechanism where expressed preferences over alternative candidates determines the outcome in such a way that the government is responsive to the majority of voters (Follesdal and Hix 2006, 547).

The basic foundations of European democracy are lacking as the EU consists of peoples rather than one set of people. Europe is thus consisting of *demoi*, rather than a *demos*; but as Weiler posits without a *demos*, there can in fact be no democracy (Weiler 1995). This opens the question of how these "citizens" can actually impact on decision-making in the European Union. Or to put it differently, how the organization of interests affects democracy in the European Union. Here one comes to a somewhat sobering conclusion (e.g. Kohler-Koch 2007, Lord and Pollak 2010). On the one hand the fact that the EU is open to a plethora of different actors can be seen to allow for a rather high degree of participation. On the other hand, the very same system is also seen prone to fragmentation (Lord and Pollak 2010, 131).

A rather minor but very influential group in the debate, the "titans" (Follesdal and Hix 2006); Majone (1998 and 1996) and Moravcsik (2008), somewhat swim against the (main)stream and do not come up with the diagnosis that the EU is suffering from a democratic deficit.<sup>1</sup>

The aim of this contribution, is to look at the issue of the EU's democratic base from a slightly different angle. There is a far-reaching debate on the role of bureaucracy and the

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<sup>1</sup> For an overview of the debate on the democratic deficit more in general and "representation deficits and surpluses" in EU policy-making, see for example Bellamy and Kröger (2013).

politics thereof (e.g. Peters 2001, Vanhoonacker 2009; Neuhold *et. al.* 2013) and an expanding literature on the role of legislatures in the EU<sup>2</sup>. So far the issue of “Policy Bureaucracy” (Page and Jenkins 2005) and the role of representative institutions in the EU have, however, been treated by very different canons in the literature.

The question of the role that unelected officials play within legislatures and to what extent this relates to the democratic ‘malaise’ that the EU seems to suffer from, has somewhat surprisingly been eclipsed from the debate.

The main question at stake is thus to clarify the conditions under which political - administrative relations create “democratic deficits” (Winzen, forthcoming). We do this by first probing into the role of officials within the European Parliament and then within national parliaments. The period of study is after the Lisbon Treaty came into force, i.e. 1<sup>st</sup> December 2009, which extended the powers of both the EP and national parliaments.

In this context this paper proceeds as follows: first we set the scene by giving a cursory overview of the debate on how to apply the concept of democratic legitimacy to the EU and how the EU has attempted to address questions of democratic legitimacy by way of Treaty reform. Then we put the role of EP officials and officials working within national parliaments into context by focusing on the academic debate and then shed light on some empirical research. After having focused on the EP, we then examine the role of officials in national parliaments after the Lisbon Treaty. In conclusion we sketch a research agenda.

## **1. The application of the concept of democratic legitimacy to the EU context**

It might come as no surprise that there is not single definition of democratic legitimacy and not even a definition as such, but most scholars attribute the democratic nature of the EU to the fulfilment of different criteria, standards, premises or vectors.

And of course the debate is too vast to do justice here and so we will also rely on a few ‘highlights’ by way of bullet points.

Thus, as Lord and Magnette (2004) point out, the literature builds on the assumption that a legitimate EU is defined by four “vectors”:

- *Indirect legitimacy*: This departs from the assumption that the legitimacy of the EU and its institutions can at best be indirect; it thus depends on the legitimacy of the Union’s component states are pivotal in that they authorize and carry Treaty reform (e.g. Moravcsik 1998, 2008).
- *Parliamentary legitimacy*: Here the EU is based on a “dual legitimacy”; legitimated by governments represented in the Council and in the European Parliament that is

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<sup>2</sup> See for example Hix and Høyland 2013, Rasmussen *et. al.* 2013 on the role of the EP and see: for example Kiiver 2012; Heftler *et. al.* 2014 on the growing role of national parliaments in EU affairs.

directly elected (Lord and Magnette 2004, 185). What one could factor into this, is the increasing role of national parliaments play after the Lisbon Treaty (Kiiver 2012; Heftler *et. al.* 2014).

- *Technocratic legitimacy*: According to the perspective of *technocratic legitimacy*, EU institutions are best legitimated through their ability to solve regulatory problems and as such increase the welfare of citizens (Majone, 1996).
- and *procedural legitimacy*: According to the view of *procedural legitimacy*, legitimacy may be enhanced as long as certain procedures – such as transparency, balance of interests, proportionality, legal certainty and consultation of stakeholders – are adhered to and as such public accountability increases (De Schutter, 2000; Meijer *et. al.* 2009).

By way of summary, Lord and Magnette (2004: 187) go on to show how these vectors cut across another distinction, that between legitimacy stemming from the *input* and *output* stages of policy-making (Scharpf, 1999). In the case of parliamentary legitimacy, elections are for example seen to provide input legitimacy and output legitimacy is in turn secured by full-filling voter preferences (Lord and Magnette 2004, 187).

## **2. An attempt of a cure? How the EU tried to ‘redress’ its democratic deficit**

If we look at the attempts of the EU to redress its alleged democratic deficit, we see that the emphasis is put on one vector of legitimacy flagged up above: Parliamentary democracy, which is a cornerstone of democratic representation (Groen and Christiansen 2014). It is also in this vein that the Lisbon Treaty has been referred to by some as the “Treaty of Parliaments” as it upgrades both the European Parliament in EU decision-making and foresees provisions by way of which national parliaments can influence the EU policy process (e.g. Lammert 2009; Höing and Neuhold 2013).

The role of the EP is upgraded insofar as its competences have been extended. The Ordinary Legislative Procedure (OLP), whereby the EP has a veto right together with the Council, has been extended to cover 85 Treaty articles, reaching from Common Agricultural Policy to migration (Dobbels and Neuhold 2013; Hix, and Høyland 2013).

The Lisbon Treaty additionally strengthens the role of the EP in the process of selecting the next Commission President. Accordingly, “taking into account the elections to the European Parliament and after having held the appropriate consultations”, the European Council, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by an absolute majority of MEPs.<sup>3</sup> For the first time in the electoral history of the EP, Europe’s political parties thus

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<sup>3</sup> According to article 17 of the Treaty of Lisbon. An absolute majority means that a majority of the component members of the EP have to support the candidate. If he/she does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure.

announced their candidates for the Commission President *before* the citizens' went to the elections and before the Heads of State and Government actually put forward their proposed candidate.<sup>4</sup>

But not only the role of the EP was strengthened, the role of national parliaments is also upgraded in the quest of curbing the democratic deficit. National legislatures are thus seen to contribute to the "good functioning of the European Union".<sup>5</sup> In its protocols, the Treaty of Lisbon then sets out to strengthen the information rights of national parliaments and provides for new channels of action of national legislatures.<sup>6</sup>

Most importantly, under the new "Early Warning system" (EWS), any chamber of a national parliament may review the compliance of a legislative proposal with the principle of subsidiarity. To put it simply, national parliaments have to examine - for each proposal coming out of the EU's machinery - whether a decision should be taken 'at home' or at the European level. If national parliaments find that the subsidiarity principle is violated, they can flag this up by passing a reasoned opinion.

What is very important to note, is that it does not suffice for *one* national parliament to raise the yellow card but that there are certain thresholds foreseen, which have to be met in order for the institution that has put forward the draft (normally the Commission) to have to review its proposal. Even if national parliaments raise subsidiarity concerns collectively, the proposal can still be maintained but the institution that issued the draft has to explain why it has not taken the view by national parliaments into account (Kiiver 2012, Cooper 2012; Fabbrini and Granat 2013). Parliaments only have eight weeks to raise the multi-coloured cards and the clock ticks even during recess such as over the Christmas holidays.<sup>7</sup>

So far only two yellow cards have been issued. The first yellow card was issued against a draft EU law governing the right to strike (Monti II) in May 2012 and the second one against the European Commission's proposal on the establishment of the European Public Prosecutor's Office in October 2013. Whereas the Commission withdrew its proposal in the first case, it retained its draft in the second case, which leads the role of national parliaments somewhat "ad absurdum".

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<sup>4</sup> See: <https://www.ucl.ac.uk/european-institute/events/2013-14/EP2014>

<sup>5</sup> According to article 8c of the Treaty of Lisbon.

<sup>6</sup> The protocol on the role of national parliaments guarantees parliaments wide-ranging information rights with regard to Commission consultation documents, instruments of legislative planning and draft legislative acts as well as the agendas and minutes of Council meetings (Articles 1 and 2). Secondly, the control and participation rights of national parliaments are improved. Thus, each national parliament can veto the move from unanimity to qualified majority voting or from a special legislative procedure to the ordinary legislative procedure (under the so-called passerelle clauses). National parliaments are to be involved in the revision procedures of the Treaties and to take part in the monitoring of Europol and Eurojust.

<sup>7</sup> The so-called 'yellow' card procedure consists of the following: where reasoned opinions on violation of subsidiarity represent at least one third of all the votes allocated to national parliaments, the draft must be reviewed. After such review, the institution that has put forward the proposal may decide to maintain, amend or withdraw the draft and justify its decision.

The 'orange' card procedure states that under the ordinary legislative procedure, if the reasoned opinions regarding subsidiarity represent at least a simple majority of the votes allocated to national parliaments, the proposal must be reviewed. After this review, the institution that has put forward its proposal may decide to again overrule parliaments by deciding to maintain, amend or withdraw the proposal but must give a reasoned opinion if it maintains the draft. This opinion, together with the reasoned opinions from national parliaments, shall be submitted to the legislators (COSAC 2008). The legislators (Council and the EP) can overrule the decision by taken by the institution that has put forward the proposal. This might lead to some degree of coordination of national legislatures and the EP.

After having established that the Treaty of Lisbon has upgraded the role of legislatures - both on the international and domestic level - we will focus on the other dimension of this contribution: the role of administrators in parliaments within the system of EU governance.

### **3. More bureaucracy or more democracy? The role of administrators in legislatures**

#### *3.1. Putting the role of officials in legislatures into context*

It is well known that elected representatives cannot take all policy decisions on their own and have to delegate some of their decision-making authority to administrative officials and then seek some ways to control what administrators do with that authority (Arnold 1987). The factors behind this process of delegation and their implications on policy-making both within national parliaments and the EP have been thus far eclipsed by the academic debate.

This might be surprising for two reasons, when it comes to the EP. First, a vast body of literature focuses on the delegation of authority and bureaucratic control by the US Congress (e.g. Hammond and Knott 1996; Huber 2000; McCubbins and Schwartz 1984). At the heart of this debate is the so-called principal "agent problem", which originates from economic analysis and considers how to minimise risks in the presence of moral hazard (Grossman and Hart 1983). This model has been applied to Congress, which, put simply is seen as the principal and the bureaucracy is acting as the agent (eg. McCubbins and Page 1987; Moe 1987). Here principals are confronted with the tendency of bureaucratic agencies coming up with policy that deviates from the original mandate, a trend has been coined as "bureaucratic drift". Drift is a principal-agent problem that probes into the extent to which political actors can make sure that their policy intentions will indeed be carried out (McCubbins, Noll and Weingast 1987) Bureaucratic drift can be kept in check in a number of ways, for example by way of congressional oversight and procedural controls (eg. McCubbins and Schwartz 1984).

Second, within the EP itself, officials working in the EP committee secretariats operate at the “heart of the legislative process” (Marshall 2012, 5). EP committee officials traditionally assist the key members in their committee: the committee chair and the rapporteur(s) of the files under negotiation. As such officials participate in a stage of policy-making, which makes up the cornerstone of the leading committee’s and (very often) also the EP’s negotiation position (Marshall 2012, 3; Dobbels and Neuhold 2013).

A recent but flourishing scholarly discourse has focused on the emerging executive system within the European arena, which has been coined as the “European Administrative Space” (e.g. Trondal and Peters 2013; Curtin and Egeberg 2008). Compared to the attention that the Commission has received (e.g. Bauer 2008; Kassim *et al.* 2013) research on the EP’s administration however has until recently received little attention within the scholarly debate. Neunreither (2006) was the first to shed light on the nuts and bolts of the EP’s administration. The historical legacy of the EP, from unelected assembly to directly elected parliament, ensured that EP officials had a high degree of manoeuvre during MEPs absence prior to the direct elections (Neunreither 2006).

Scholars have used this work as a stepping-stone to be able to examine the role of officials working for EP committees. Winzen (2011, 41) zooms in on the question whether the work of EP officials is fundamentally technical or has a concrete impact on the policy-making process. Political principals make the distinction between “technical” and “political” issues when attributing tasks to officials. As such officials, who have limited administrative autonomy can be reduced to mere paper-keepers (Winzen 2011, 28). Egeberg, Gornitzka, Trondal and Johannessen (2013) who have examined the activities of EP staff by way of an online survey, find that the activities of these actors mainly centre around expert and sectoral concerns, with European issues being given the priority (Egeberg *et al.* 2013).

The academic debate on officials within the EP only provides limited answers to the question under which conditions such actors have an impact on policy-making. We thus have to build on the more general debate on bureaucratic delegation processes to civil servants and work on ministerial bureaucracies.

Any study on bureaucracy is inspired by Max Weber. The Weberian ideal type of a bureaucracy is characterized by hierarchical structures and the rule of law. Personnel of this ideal type are career officials recruited by way of “objective criteria and educational qualifications” (Barberis 2011, 15). These professionals adhere to principles of neutrality “free from all personal considerations” (Weber 1978, in: Barberis 2011, 962).

From the debate on delegation in the US Congress we learn that competences are delegated to officials, given that clear administrative procedures and rules prevail. Administrative procedures lower the costs of monitoring and sharpen sanctions and

thus contribute to greater compliance (McCubbins, Noll and Weingast. 1987, 246). Gailmard and Patty (2007) show that the risks of delegation can be minimized if issues are delegated to bureaucratic experts that have “some measure of control over policy issues they care about” and as such develop “politicized competence” (Gailmard and Patty 2007, 886). A merit system based on job tenure protections combined with discretion setting by the legislature, creates a main incentive for officials to invest in their career. These two factors provide a “payment” for expertise development (Gailmard and Patty 2007, 874- 875). Politicized competence thus can be defined as the readiness to invest in “expertise development” and is not to be confused with politicization and partisanship (Peters and Pierre 2004).

When trying to conceptualise the role officials play within policy-making, the work by Page and Jenkins (2005) is particularly instructive. Building on sociological theories of bureaucracy and drawing on 140 interviews, three types of policy roles of middle-level administrators working for UK ministries are identified (Page and Jenkins 2005, 60-71):

- These range from a *production role*, which consists mainly of drawing up policy drafts and documents,
- to a *maintenance role* of trying to ensure that policies run according to agreed principles within ministerial bureaucracies,
- to a *service role*, which consists of offering knowledge, advice and skills to those involved in policy-making (Page and Jenkins 2005, 71).

Despite the fact that these insights do not relate to officials working within parliaments *per se*, they are an indication of the different tasks performed by officials within administrative systems. This categorization is also very helpful in order to be able to capture the rather vague and possibly also normatively laden term of “empowerment” of officials.

### 3.2. The role of officials in the EP

The historical development of the EP facilitated the development of a three-level structure of administrative machinery:<sup>8</sup>

- at the level of political groups we find political group staff: Political group staff is recruited to work for the Political Groups directly and as such political convictions can play a role.
- at the level of MEPs accredited assistants: Moreover, every MEP has a number of assistants at his or her disposal. MEPs are entirely free in the selection of candidates they want to work for them. Normally between one and three accredited assistants work for one MEP.
- at the level of the EP itself, the General Secretariat: These officials are recruited by

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<sup>8</sup> Before 1979 MEPs were delegated by national parliaments and were not directly elected. They thus had to travel back and forth between their national legislatures and the EP.



way of general competition, the so-called CONCOURS. The number of officials working in the Secretariat in 2010 was 5,273 (Corbett *et al.* 2011, 226). Yet, it is important to note that 1,350 officials are employed as translators and interpreters, while less than a fourth, or 1,150 are administrators (Corbett *et al.* 2011: 220). Most officials hold tenured posts but rotate every three to seven years. Tenure is awarded after nine months of recruitment (Corbett *et al.* 2011: 228).

We focused on the latter category of officials, namely those working in the EP General Secretariat. Based on a most different research design, we covered vast ground. The cases studied ranged from fisheries, to the system of implementing and delegated acts (formerly known as comitology) to migration, to novel foods and to the annual budget of 2011<sup>9</sup> (Neuhold and Dobbels 2014). Here it becomes apparent that officials can exert more influence over the policy-process than flagged up within the scholarly debate thus far.

This might come as no surprise in a very legal and technical field such as the system of implementing and delegated acts, where we could observe that the Secretariat played a role that transcends that of production and service. Officials steered the file, without however going beyond the instructions and mandate given by the rapporteur. The informal meetings between Council, EP and the Commission, the so-called trialogues were extensively prepared by the Secretariat. This implied that not only complete agendas for the meetings but even scenarios which (potential) compromises would be tabled when were prepared. The reason why the Secretariat had such a considerable impact on the dossier was mainly due to its expertise in the file making this a classic case of “politicized competence”. Officials invest into developing their expertise when it comes to issues they care about.

Yet, even in cases that were attributed high political importance<sup>10</sup> such as the regulation of novel foods, which touched upon the issue of cloning, EP officials still played an important role by determining key organisational aspects, such as the organisation of informal negotiations or drawing up compromise amendments. As such they were able to determine the substance of the dossier, at least to some extent. The Secretariat thus assumed a role that can be placed between that of service and steering. Our initial

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<sup>9</sup> The cases under study included two cases in the field of fisheries, the GFCM Regulation and the Long-term management plan for horse mackerel, two cases in the field of Migration; the single permit directive and the long-term residents directive. Moreover we studied one case in the field of consumer protection, the case of novel foods. We also examined one dossier of a more procedural nature which concerned the conferral of implementing and delegating powers to the Commission based on article 290 and 291 of the Treaty on the Functioning of the European Union (i.e. formerly known as comitology). The last case concerned negotiations on the annual budget of 2011, which was part of the multi-annual financial frameworks (MFF) for 2007-2013.

<sup>10</sup> Here we build on Wlezien (2005) who defines political importance as follows: Accordingly a distinction should be made between an issue and a problem; an issue is not salient or important *per se*, but it depends on the degree to which it is *perceived* as a political problem.

assumption that administrators play a minor role when it comes to files that are attributed great political importance thus does not hold. Not only did the officials possess politicised competence but the file was characterised by a highly unified position on part of the EP, mainly on the issue of cloning. It was virtually impossible for an MEP to argue in favour of placing food on the market that has any link to cloned animals. This made it easier for EP officials to fend for the EP's position as the latter was crystal clear.

Our analysis reflects that a combination of three factors – a high degree of politicized competence; a high degree of political importance attributed to the file within the EP and a high degree of consensus – can create the conditions under which officials can play a steering role and as such shape policy.

These empirical observations feed into the conceptual debate on parliamentary administrative systems insofar as the roles developed for administrative players within ministerial bureaucracies can only be applied to a limited extent. Whereas we find that the maintenance role - of managing particular policies - is more prevalent within ministerial administrations, we can also observe that, under certain conditions, EP officials assume a role that goes beyond the respective conceptualizations and adopt a steering role. This steering role that EP officials adopt is linked to that of guardian of the institutional prerogatives of the EP. The politicized competence that EP officials gain within the EP is thus indeed not “neutral” in the Weberian sense of the term but expertise that is linked to preserving the EP's position in inter-institutional negotiations and bargaining.

### *3.3. The role of officials in national parliaments in EU affairs*

When we then turn to the role that officials play in **national parliaments** we find that the specific requirements of carrying out scrutiny of EU affairs, impose a certain framework on administrators that leads to an even greater diversification of roles.

The introduction of the very novel Early Warning System (EWS) lead to a vibrant debate about the level of influence that parliaments can have in practice, the coordination mechanisms between national parliaments and the new procedures put in place by parliaments as a reaction to the Lisbon provisions (e.g. Kiiver 2012, Cooper 2012, Raunio 2010). However, a question that was largely eclipsed within the academic debate is how this affects the role of parliamentary administrations (Christiansen *et. al.* 2013).

One could expect the role of parliamentary administrations to increase for two reasons. Firstly, the Early Warning System and new information rights not only present opportunities but also put pressure on the **organization** of parliamentary business. The Lisbon changes require parliaments to filter and digest an increased amount of information, identify priorities and problems and react within a very narrow time span. As the EWS is limited to objections on grounds of subsidiarity, the reasoned opinions

need to be carefully worded and be based on (legal) justifications. Moreover, as a certain number of reasoned opinions are necessary to trigger a card, coordination with other parliaments is not only desirable but a necessity (e.g. Christiansen *et. al.* 2013).

Secondly, the high **complexity** of European legislation and perceived low salience of most regulatory European issues are two features that make a delegation of tasks to administrators more likely (Manley, 1968). The delegation of administrative and technical tasks to administrators would leave Members of Parliament (MPs) more time to focus on electorally salient issues (Högenauer and Neuhold 2013).

In this context, Winzen proposes a so-called “delegation approach” as an appropriate angle to study legislative-administrative relations. Accordingly, he argues that “parliamentarians successfully delegate to bureaucrats, making bureaucratic growth a successful strategy to strengthen the parliament” (Winzen, forthcoming, p. 15). Although bureaucrats have preferences and agendas of their own, it is unclear whether political and administrative agendas overlap or, whether they are in fact even different (Winzen, forthcoming, p. 6)

The core questions at stake, similarly to the ones raised for the EP, are thus about the extent to which national parliamentary administrations actually *do* play an active part in the scrutiny of EU politics and what types of roles they fulfill. These empirical insights should then enable us to answer the more conceptual question of to what extent the ‘empowerment’ of officials creates democratic deficits.

Table 1: Roles and tasks of national parliamentary administrators in EU Affairs

Roles	Administrative Assistant	Analyst	Advisor	Coordinator
Tasks	<ul style="list-style-type: none"> <li>• Gathers and forwards information</li> <li>• Summarizes information</li> <li>• Organises committee meetings</li> </ul>	<ul style="list-style-type: none"> <li>• Provides choice of balanced arguments</li> <li>• Provides drafts after debates</li> <li>• Provides procedural and legal advice</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-selection of documents</li> <li>• Provision of concrete solutions</li> <li>• Drafts also prior to debates</li> </ul>	<ul style="list-style-type: none"> <li>• Coordination with executive</li> <li>• other chambers/ parliaments</li> <li>• EU institutions</li> </ul>
Extent of involvement in scrutiny	Low	Low- medium	Medium-high	Low-medium

We distinguish between three different types of staff roles: that of an administrative assistant, an analyst and an advisor. We also identify a fourth one that we see as a rather distinct category, which is that of a coordinator *across* national parliaments.<sup>11</sup>

According to our insights, if administrators adopt the first type of role, i.e. that of an *assistant*, they are seen to be involved in the actual process of scrutiny only in the margins. They are mere ‘paper-keepers’ and forward information without discriminating between issues, summarize the information provided and focus on the organization of parliamentary business. Interestingly, empirically *none* of the parliamentary administrations falls exclusively into that category.

The second ‘ideal type’ of administrator, the *analyst*, is more active in the process of scrutiny, but without exercising too much influence on the content of the discussions. Thus, that type of administrator provides a choice of arguments before a debate, that allows MPs to choose between different alternatives but the official does not recommend a specific course of action. Only the administration of the Dutch Upper House is seen to be limited to those tasks.

Administrators that take on the role of *advisors* engage in the pre-selection of relevant documents or issues and can thus play an agenda-setting role. They do not only present

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<sup>11</sup> The research comprised semi-structured interviews with committee clerks and MPs from eleven member states between September 2010 and June 2013. In addition, the authors have received written replies to a questionnaire from 21 chambers that allow for a broader overview. By way of this data collection a large majority of EU Member States are covered.

MPs with arguments, but recommend certain solutions and course of action, also prior to debates. A majority of those administrations under scrutiny played such an advisory role and provided content-related advice and/or drafts prior to debates in addition to the more technical tasks. In addition, a great number of parliaments allow their administrations to exert further influence; by pre-selecting documents for parliamentary scrutiny. This in turn gives administrators a certain influence over the agenda and as such officials can be seen as agenda-setters (at least to some degree) (Högenauer and Neuhold 2013).<sup>12</sup>

Finally, administrators can fulfil a **coordinating function** vis-à-vis other national parliaments, European institutions or their own government. Coordination can mean information gathering, but it could also imply a representational function vis-à-vis other actors in Brussels or at home and can also imply that issues are 'pre'-cooked across national boundaries. Coordination between national parliaments, is after all a crucial ingredient if one wants the Early Warning System to work. It is interesting to point out that a network of officials has been established at the European Union level. Here we allude to the permanent representatives of national parliaments or national parliamentary representatives (NPRs) in Brussels, which have grown into an informal network.

This 'network' of NPRs started in the early 1990s but was initially slow to grow from one representative to include representatives from all 28 parliaments. The Danish parliament was the forerunner, having already sent a parliamentary representative to Brussels since 1991. The fact that all Member States parliaments and a non-EU Members State (Norway) currently send a parliamentary representative to the European arena, is a clear indication that legislatures see it as vital to be part of this network, even in times of financial crisis and budget restrictions. Several bi-cameral parliaments such as the UK and Belgium send two representatives, one per chamber.

A majority of these officials actually work within their respective national legislature and are delegated to Brussels for a certain period of time and then return to "their" parliament thereafter. They thus have ample insights into the way their respective legislature works and have built up a web of contacts.

These officials work within the same physical space, along one corridor within the European Parliament and come together for regular weekly meetings with the view to exchanging information and let each other know when their respective parliament will come up with a reasoned opinion in the framework of the EWS, sometimes even before the Commission *formally* comes up with a proposal.

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<sup>12</sup> Five of those administrations under scrutiny also played an advisory role and provided content-related advice and/or drafts prior to debates in addition to the more technical tasks. On top of that, twenty parliaments allowed their administrations even further influence in the form of the *pre-selection* of documents for parliamentary scrutiny.

In our research we have attempted to capture the **nature** of the network, as we felt that by shedding light on the actual role that NPRs play in implementing the Lisbon Treaty provisions, we could contribute to greater conceptual clarity. We ‘tested’ several concepts advocated in the literature, that of an epistemic community, that of a third chamber and one we have developed on our own: an information network.

When it comes to the concept of epistemic communities, they have been described as a “network of professionals with recognized expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge within that domain” (Haas 1992, 3). What is crucial is the fact that the professionals making up epistemic communities have a shared set of normative and principled beliefs, shared notions of validity and a set of common practices associated with a set of problems and policy issues (Haas 1992, 5; Clemens and Cook 1999, 446).

The idea of a virtual third chamber has first been advanced by Cooper (2012) and referred to parliaments (as a whole) constituting collectively a virtual third chamber that would deliberate European issues and exert influence. Accordingly, Coopers main argument is that the EWS and associated developments have a deliberative ‘value-added’ in that they have created a new public forum for the debate of salient EU policy questions. This forum is virtual “in that interaction is by correspondence rather than face-to-face” (...) but as “such it is seen to enable a deliberative exchange that is both horizontal (among NPs) and vertical (between NPs and EU institutions)” (Cooper 2012, 444).

We would posit that the permanent representatives fit none of these categories but rather form an information network. This is a network that does not share common beliefs or seek to take collective decisions in a (virtual) third chamber, but that collects and exchanges information with a view to optimizing the collective knowledge of national parliaments. The role of information is salient with regard to a bureaucratic network, as it is the traditional resource of influence for bureaucracies (Peters 2001, 234). This conceptualization departs from the assumption that current societies have shifted away from a command and control style of government towards increased deliberation and bargaining where information and knowledge are a key resource (e.g. Blom 2014).

Especially now that national parliaments are meant to play an active role within the EU policy-making process via the Early Warning System, information processing plays an important enabling function. In this case the Permanent Representatives of the national parliaments in the European Parliament are best placed to engage in information exchange on a regular basis and alert each other to important proposals.

### *3.4. Where to go from here? Avenues for future research*

We still have to add one important caveat. While the Treaty of Lisbon with its document-heavy procedures has thus certainly led to a certain degree of bureaucratization of parliamentary business in an attempt to increase parliamentary capacity, this should not disguise the fact that the final decisions are taken by MPs in the (European Affairs or sectoral) committees and plenary. At least this was the case for the parliaments we studied, i.e. the respective insights we gained in that regard.

One of the tasks for future research will be to explore further the differences between national systems of parliamentary administrative support as well as the factors explaining the variation in administrative organization and tasks.

For the EP one would equally need to extend the comparative study of policy domains. We thus have to see whether our insights that transcend the concept of Weberian dichotomy - according to which politicians take decisions and officials merely implement - also hold true for different contexts.

The normative implications that arise from the increasing delegation of tasks from elected members of parliaments to officials also merit further clarification (Högenauer and Christiansen 2014).

### **4. No democracy without bureaucracy?**

So where do we go from here, what does this tell us when trying to answer the question of whether political administrative relations lead to a “bureaucratic drift” (McCubbins and Page 1987).

If we look both at the EP and at national parliaments officials play a crucial role.

For the EP it became apparent that administrators can assume a steering role, even in fields that are attributed high political importance. From a comparative perspective, i.e. when compared to our insights on officials in national parliaments in EU affairs, we would thus posit that the EP is the most prone to bureaucratic drift.

In national parliaments we see that in a majority of the cases officials play an advisory role in EU affairs and as such come up with concrete solutions. We also observed that officials delegated by national parliaments to Brussels, have started to form something we coined as an information network and as such are important cogs in the wheel of Early Warning. Due to the fact that NPRs are reluctant to ‘pre-cook’ arguments and only push for a certain course of action in response to a prior decision of their parliament, the risk of bureaucratic activity replacing political scrutiny is low. Instead, the extensive

information-gathering and -processing activities of the network are designed to facilitate political scrutiny. Especially for parliaments with weaker administrative capacity, being informed about the dossiers that other legislatures find problematic, can facilitate and sharpen parliamentary scrutiny by allowing the parliament to focus on important dossiers. In addition, the fact that most NPRs see their future within their parliament and have closely knit ties facilitates political control and minimizes the risks of a 'bureaucratic drift'.

Simply put: 'no democracy without bureaucracy' or no 'representation without bureaucratization.'

What is very crucial, for questions of representation, is that we could not observe a case where directly members of parliament did not have the last call, did not take the final decision. More research is however needed to clarify whether this observation holds true for other cases.



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