Linking the Bottom-Up and the Top-Down Dimension of Europeanization: the Influence of Parliamentary Scrutiny on (Non-) Compliance with European Law

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With the rise of the so-called ‘Future of Europe Debate’ and the intensified deliberations about the democratic legitimacy of the (enlarged) European Union, national parliamentary scrutiny has become a prominent topic in both European Studies and in political practice. As a result, several mechanisms for improving and strengthening parliamentary ex ante participation have been introduced throughout the 1990s in the EU-15. At the same time, both scholars and EU officials point to the continued compliance deficit of member states with EU law. This is particularly true with regard to the implementation of EC directives, in which national parliaments are often directly or indirectly involved. However, only little attempts have been made so far to link the ex ante and the ex post role of national parliaments and to specify the conditions under which the presumed “input”-legitimacy provided by parliamentary participation in the decision-making stage is translated into “output”-legitimacy resulting in compliance with policy outputs and effective implementation of legal measures.

This paper aims at analysing the impact of national parliamentary participation ex ante on the effective implementation of EC directives by drawing on the literature on Europeanization. I argue that national parliamentary participation in EU policy processes can be conceptualized as an example of how domestic institutions may impact on Europe and vice versa, and can therefore be used to explain interaction effects and feedback loops between “top-down” and “bottom-up” processes. The empirical study of the role the French Assemblée Nationale in EU affairs will show that ex ante parliamentary participation per se does not necessarily have a positive impact on implementation, but that it is the specific nature of ex ante involvement, i.e. the level and scope of ex ante participation, which determines the impact on effective implementation. Moreover, the capacity and willingness of MPs to contribute to correct and timely implementation of directives depends on whether the same parliamentary actors- both with regard to the type of parliamentary body and the party affiliation of MPs participate throughout the whole EU legislative procedure. On the basis of these empirical findings, the paper concludes with some considerations on how this complex of variables can be fruitfully combined in linking the “bottom-up” and the “top-down” dimension of Europeanization.

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I. Introduction

Whereas the so-called “democratic deficit” of the European Union (EU) has been only of academic interest for a long time, the ratification process of the Maastricht Treaty initiated a public debate about the legitimacy of European politics. As a result, we can observe increased efforts of both the European Commission (see White Paper on Governance) and the governments of the Member States in the 1990s to respond to the perceived lack of legitimacy by opening the EU policy-making process to parliaments and to civil society. The underlying assumption is that an early and equal involvement of actors potentially affected by EU decision-making increases the acceptance of policy outputs contributing to voluntary compliance with European rules. In this perspective, parliamentary and societal actors were given a say in the process of constitutionalisation via their participation in the European Convention, and national parliamentary participation in EU policy-making **ex ante** has been facilitated (e.g. by strengthening scrutiny rights) throughout the 1990s in the EU-15.

At the same time however, both scholars and EU officials point to the continued compliance deficit of member states with EU law (e.g. Börzel 2003; Knill and Lenschow 1999; Mastenbroek 2003; Mendrinou 1996). This is particularly true with regard to the transposition of EC directives, in which national parliaments are often directly or indirectly involved: the overwhelming majority of all infringements proceedings opened against Member states for violation of European law refer to problems in transposing directives in an effective way into national law (Börzel et al. 2003a; 2003b). Moreover, the transposition deficit is rising again in the last years (European Commission 2003). Thus, at first glance, this ongoing – and even partly increasing - number of violations of European law despite the recent “democratization strategies” seems to challenge the assumptions of both democracy theory and research on implementation about a positive effect of **ex ante** participation of relevant actors on their willingness to comply with binding decisions.

How can the continual implementation deficit be explained? What role does parliamentary involvement **ex ante** play? To what extent does it have a positive impact on compliance? While there is a rich literature by now on the participation of national parliaments in EU policy-making **ex ante** (e.g. Maurer and Wessels 2001; Norton 1996; Smith 1996) on the one hand and on variables which can account for the ineffective implementation of these EU policies **ex post** (Börzel 2003; Knill 2001; Tallberg 1999) on the other hand, only little attempts have been made so far to link these levels of analysis and to specify the conditions under which the presumed “input”-legitimacy (Scharpf 1999) provided by parliamentary participation in the decision-making stage is translated into “output”-legitimacy (ibid.) resulting in compli-
ance with policy outputs and effective implementation of legal measures.¹ This is the aim of this paper, which focuses on analysing and explaining the impact of national parliamentary participation ex ante on the effective transposition of EC directives.

In order to conceptualise possible interaction effects and feedback loops between the ex ante and the ex post-dimension of the European legislation process, I draw on the literature on Europeanization and implementation. Whereas European studies have focused for a long time on how Members States shape the process of European integration (bottom-up perspective), scholars have started to analyse the effects of Europe on its Member states (top-down perspective) in the last decade (Börzel 1999; Börzel and Risse 2003; Cowles et al. 2001; Featherstone and Radaelli 2003). Implementation of European law in the Member states like the transposition of directives, on the one hand, can be conceived as a feature of the top-down dimension of Europeanization which refers to processes of domestic institutional adaptation to pressures of Europeanization (Börzel 1999; Börzel and Risse 2003; Cowles et al. 2001; Featherstone and Radaelli 2003). National parliamentary involvement in EU policy-making ex ante, on the other hand, -itself being a result of Europe’s effect on the member states in the 1990s - can be conceptualised as a feature of the bottom-up dimension. I argue that parliamentary participation ex ante does not necessarily have a positive impact on transposition per se, but that it is the specific nature and the scope of involvement ex ante, which determines both the capacity and the willingness of MPs to contribute to effective transposition. The empirical study of the French case will show that under conditions of a “personal union” of parliamentary actors involved in the subsequent stages of decision-making and transposition (necessary condition) and the interest of participating in EU affairs despite low issue salience (sufficient condition), parliamentary involvement ex ante can contribute to effective transposition.

In order to analyse to what extent the quality of bottom-up processes affects the way in which Member States respond to Europeanization pressures, I proceed in the following steps. In the first section, I will provide a conceptual framework for analysing feedback loops between the top-down and bottom-up dimension of Europeanization (I). The second section briefly introduces the scope of my dependent variable “effective transposition of directives” in the EU (II) by using the number of infringement proceedings opened by the European Commission for incorrect or non-transposition of EC directives between 1978 and 2002 as a proxy. In the following, I briefly describe the independent variable “role of national parliaments in European policy-making since 1993” (III). The different hypotheses will then be tested in the case of France in order to know to which extent they can explain the poor implementation record (IV). The paper concludes with a discussion of the theoretical and empirical implica-

¹ However, compliance with policy outputs is only a necessary, but not sufficient condition for the “output-legitimacy” of policies.
tions of the findings and with some considerations the extent to which the lessons of the French case can account for level of non-compliance with European law in other Member States (V).

II. Parliamentary participation and compliance: a conceptual framework

Compliance and legitimacy

An important strand of the emerging IR-literature on compliance deals with questions on how to generate voluntary compliance with law beyond the nation-state (Franck 1988; 1990; Hurd 1999; Koh 1997), which is particularly crucial in the absence of effective enforcement mechanisms on the international level. The underlying assumption is that voluntary compliance results from a general acceptance of the rule. This acceptance is finally generated if the rule is perceived as being legitimate. The extent to which a rule is considered to be legitimate inevitably refers to the ex ante stage, i.e. the stage of rule-making.² According to Franck (1988, 1990), it is the perceived legitimacy of the decision-making procedure which finally pulls rule addressees towards compliance.

The assumption that the acceptance of rules (generating voluntary compliance) can be affected by features of the decision-making procedure has been first made in the early research on implementation processes (Pressmann and Wildavsky 1973; Mayntz 1980; Sabatier 1986).³ The successful implementation of a political program was explained by the involvement of those actors to whom the rules are formally addressed and of those who are targeted by the rule. Two causal mechanisms can be at work according to this literature. On the one hand, rules are effectively implemented because they reflect the actors’ interest which they could defend thanks to their participation in the decision-making procedure. A more constructivist approach on the other hand explains effective implementation less with the agreement to the contents of the rule than with the acceptance of the procedure by which the rule was made (and the actors’ role in it). In this perspective, actors perceive the procedure as fair when it offers every actor affected by the rule an equal right to participate in the formulation and preparation stage. In sum, the involvement of potentially affected actors in the preparation stage enhances the likelihood of acceptance of the policy output, resulting in effective implementation. From the late 1980s on, this approach has then been taken up by International Relations (IR) literature for explaining compliance with international law despite the “shadow of anarchy” (Franck 1988; 1990; Hurd 1999; Koh 1997). As mentioned above, ² In this perspective, the “chain of causality” starts with the nature of the decision-making procedure which produces acceptance with the policy “output” in the first place, which then triggers compliance with the decision. However, we should be aware that there might be intervening variables like e.g. the capacity of rule addressees to comply which might explain non-compliance despite acceptance of the rule. ³ Moreover, the notions of “bottom-up” vs. “top-down”-processes used in the literature on Europeanization were also developed for the first time in implementation research (Sabatier 1986).
these studies refer explicitly to the notion of the perceived “legitimacy” (defined as procedural justice) as the mechanism pulling states to comply and to implement international agreements in the absence of a hegemon.

With regard to the European level, the idea that the way in which EU policy-making takes place can have a positive impact on the effective implementation of European rules has also become an important topic in the light of the negative transposition record of EC directives. First, the European Commission regularly reminds in its annual scoreboards that the association of actors potentially concerned at an early stage of the decision-making procedure might prevent Member States of running into problems of ineffective implementation (see e.g. European Commission 2003). The importance of the nature of the decision-making procedure for the effectiveness of implementation \textit{ex post} has also been recognized by national political actors like the French government, which explicitly opts for a better integration of both stages as a means for anticipating problems which might occur in the implementation stage.\footnote{See the so-called “circular” of Prime Minister Raffarin on September 27th, 2004.} Secondly, the link between the subsequent stages of EU decision-making has also been taken up by the literature on Europeanization.\footnote{Europeanization as a process by which domestic policy areas become increasingly subject to European policy-making.} Whereas European studies have for a long time focused on how Members States shape the process of European integration (bottom-up perspective), scholars have started to analyse the effects of Europe on its Member States (top-down perspective) in the last decade. The “top-down”-approach of Europeanization suggests that the emergence of distinct structures of governance on the European level exerts a pressure on Member States to adapt to European rules and procedures and thereby causes policy and institutional changes on the domestic level (Börzel 1999; Börzel and Risse 2003; Cowles et al. 2001; Featherstone and Radaelli 2003). Since the literature has largely identified the conditions, causal mechanisms and outcomes of these adaptational processes, recent studies claim for “bringing the bottom-up perspective back in” in order to analyse interaction effects between both dimensions (Börzel 2002; Radelli and Featherstone 2003). Attempts to analyse feedback loops have been made so far with regard to the \textit{capacity} of EU Member States in “shaping” and “taking” EU policies, arguing that the capacity to influence policy-making in the negotiation stage is positively related to the “taking” capacity (Börzel 2002). However, interaction effects have not yet been explained via the mechanism of legitimacy. But how and under which conditions can the legitimacy of the process of shaping EU policies \textit{ex ante} contribute to a better acceptance of these policies as the mechanism generating a more effective “taking” \textit{ex post}? 
Parliaments as a source of legitimacy

The debate about the decline of parliaments is almost as old as political science research on parliaments is. Actually, Jean Blondel already asked in 1973: “Why should political scientists bother to study it?” (Blondel 1973), given the dominant role of the executive in policy—and decision-making processes. In the last decade, this debate has been supported, on the one hand, by the observation that there is a “crisis of representative democracy” on the national level, resulting from a significant erosion of the citizens’ trust in representative institutions (Norris 1999; Putnam and Pharr 2000). With regard to international and supranational policy processes, on the other hand, we witness an emerging literature in both EU studies and IR literature on “new modes of governance” (Héritier 2003, Kohler-Koch and Eising 1999) and more specifically, on forms of “post-parliamentary governance” (Andersen and Burns 1996, see also Benz 1998). It is argued that international and supranational policy processes can no longer be dealt with in an effective and legitimate way by using traditional modes of governance like parliamentary democracy, since these derive from nation-state based concepts of governance.

At the same time however, the idea of associating national parliaments in the decision-making stage as a way of providing legitimacy to politics has not lost of its importance (Benz 1998). This is particularly visible at the EU level, where national parliamentary scrutiny has become a prominent topic throughout the last decade. With regard to the composition and the working procedures of the recent European Convention as well as the contents of the Constitutional Treaty, one could even argue that features of parliamentary democracy prevail upon other “sources” of legitimacy like the association of civil society or NGOs. Do parliaments thus matter (again)? And if yes, in which way and under which conditions? How can we “measure” the impact of parliamentary participation? To which extent is national parliamentary involvement in EU policy-making *ex ante* likely to generate an increased acceptance of EU policies, likely to contribute to a more effective implementation?

There is a rich literature about how to classify legislatures and to assess parliamentary “power” (Döring 1995, Mezey 1979, Patzelt 2003), which uses a variety of indicators. Even though one of the main problems in evaluating the power of the parliament is the fact that in modern parliamentary democracies, it can no longer be conceptualized as a power vis-à-vis the government (Andeweg and Nijzink 1995; Gallagher et al. 2001), “power” is often measured as the extent to which parliaments have a say on the agenda-setting, on policy-making processes and the contents of national legislation, i.e. a substantial legislative impact. The normative reasoning underlying this way of analysing parliamentary “power” is the idea that

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6 This has therefore partly triggered the debate on the decline of parliament.

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the parliament as the representation of the citizens should be included in the making of binding decisions in order to express the interests of the rule addressees. In this perspective, parliamentary participation *ex ante* provides legitimacy to binding decisions, eventually resulting in the acceptance of the rule.

However, neither studies on domestic implementation nor IR-research on compliance explicitly refer to the impact of parliamentary participation *ex ante* as a “compliance pull” (Finnemore and Sikkink 1998), i.e. as a means for pushing rule addressees towards compliance. Implementation studies stress the participation of local actors or domestic interest groups (Mayntz 1980, 1983; Windhoff-Héritier 1987), while IR-literature essentially focuses on national governments as the central actors in international decision-making procedures and the formal addressees of international rules (Franck 1990; Koh 1997) and on transnational actors influencing these governments (Risse and Sikkink 1999). This is surprising since parliaments are especially capable of contributing to the acceptance of policy outputs via the described mechanisms thanks to their representative function. On the one hand, actors might accept the output and for example implement a rule when parliaments have participated in the formulation stage because they can safely assume that their interests have been expressed. On the other hand, the representative nature of parliaments is likely to result in compliance via the diffuse acceptance of the procedure which guarantees a *permanent* involvement of *all* actors potentially affected by a decision.7 This is particularly crucial in cases in which decision-making procedures are relatively closed or difficult to access like in international politics.

With regard to EU politics, both scholars and politicians actually claim for a stronger participation of national parliaments in the policy-making stage as a means to increase the acceptance of policy outputs and to counteract the perceived “legitimacy deficit”.8 However, the “pathway of legitimacy” as presumed by the literature on implementation and compliance is unlikely to work in the same way for national parliamentary participation in EU policy-making and the effective implementation of these policies for several reasons.

**The specific role of national parliaments in EU policy-making**

With the ongoing transfer of competencies from the domestic to the European level, national parliaments are often considered as the „losers“ of the European integration process (Maurer and Wessels 2001) for two reasons. First, domestic legislatures lost competencies in policy

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7 In this paper, I cannot refer to the question to which extent does actually represent the people (see low turnout in elections etc.).

8 Several studies analyse the impact of parliamentary scrutiny *ex ante* on the implementation of directives in this perspective (Bergman 2000; Martin 1995, 2000; Szukala 1998). Though they come to different results, suggesting a positive impact (Martin 1995, 2000), no impact at all (Bergman 2000) or a sufficient, but not necessary condition for effective implementation (Szukala 1998), they do not explain why and in which way the participation of parliaments can have an effect on "output-legitimacy".
areas formerly subject to domestic legislation. Second, they were not compensated for these constraints by “getting a say” in the EU policy-making process. While the disempowerment of national parliaments has for a long time been only of academic concern, it became subject to a public debate about the so-called “democratic deficit” of EU politics in the ratification process of the Maastricht Treaty. Both scholars and political actors argue that the legitimacy of EU politics is challenged by the severe loss of competencies of national parliaments. In this perspective, national parliamentary participation in the policy-making process of the evolving system of European governance is crucial for its legitimacy, since the European Parliament (EP) cannot and will not—even in the long run—provide this effect (Grimm 1993).

As a result, several mechanisms for improving and strengthening parliamentary *ex ante* participation have been introduced in the 1990s on the national and the European level. On the one hand, most EU parliaments have been given specific rights for information about the EU legislation process and for scrutinizing European politics, and all parliaments have adapted their institutional structures to their new European role e.g. with the creation of specific European Affairs Committees (EAC). On the other hand, the interparliamentary *Comité des organes spécialisés en affaires communautaires* (COSAC) has been institutionalised, the European Convention has established a special working group on the future role of national parliaments in the EU, and the draft treaty establishing a constitution for Europe now provides further participation rights for national parliaments in the European policy-making process. The annexed *Protocol on the Role of National Parliaments in the European Union* states that all EU documents dealing with legislation shall be transmitted to the national parliaments in a way that allows them to express their point of view—particularly with regard to the respect of the principle of subsidiarity—before adoption in the Council of Ministers. In sum, all the mechanisms aim at enabling national parliaments to influence EU legislation *ex ante* via better access to information or via improving their capacity to deal with and react on these information. They thus focus on strengthening the parliamentary function of controlling the executive branch of government as a means to counteract the (partial) loss of legislative power *ex ante*.

Regarding the legislative power of national parliaments in EU politics *ex post*, the role of domestic legislatures mainly consists of ratifying treaty changes or transposing directives (for details, see Raunio 1999: 189). Concerning primary law like treaties, national parliaments are mainly empowered to simply confirm or reject the European legal act, but not to amend it.

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9 These institutions are not always referred to as “committees”. I use the term for reasons of simplicity.
11 In contrast to other parliamentary functions, the function of controlling the politics of the government explicitly requires precise information about these politics, the capacity to deal with and to evaluate it and the competence to react on this information by articulation, co-operation or sanction (Schüttemeyer 1978: 270).
Regarding secondary law, on the other hand, domestic legislatures are only involved in the transposition of directives. In contrast to other types of legal acts like regulations or decisions, directives are framework legislation and have to be transposed into the domestic legal systems of the member states through national law before they can be applied and enforced (Art. 249 ECT). Member states are left the choice as to the form and methods of transposition. The adaptation can take the form of a national law, thereby directly involving national parliaments, or the directive can be incorporated through executive action, requiring parliamentary delegation of authority (Martin 1995). In both cases however, national parliaments do neither have the opportunity to reject the legislation nor to amend it substantially.

In terms of the literature on Europeanization, transposition of European directives can be conceived as a feature of the top-down-dimension of Europeanization, since it consists in a process of domestic adaptation to Europe by issuing legal measures, resulting in a change of domestic policies and/or institutional structures (Börzel and Risse 2003). The actors inducing these changes are the national government (on which the adaptational pressure is exerted, since it can be sanctioned for the lack of adaptation by opening an infringement procedure), national parliaments or the administrative bureaucracy. In most cases, directives are incorporated through executive action like regulations or decrees (Szukala 1998; Treib 2003b). National parliaments have the main responsibility for effective adaptation when directives are implemented through a national law. 12

While transposition of directives refers to the top-down-dimension of Europeanization, the participation of national parliaments in EU policy-making ex ante constitutes a feature of the “bottom-up”-dimension: a domestic actor tries to shape the process of European integration by “uploading” his or her preferences (Börzel and Risse 2003). But the fact that parliaments have a (varying) shaping capacity is itself a result of a process of adaptation to Europeanization pressures on the domestic level. As mentioned above, the severe loss of competencies in the context of the Maastricht Treaty has triggered a change within the national parliaments (accompanied by several mechanisms of compensation), explicitly aiming at re-gaining a say in policy areas formerly subject to domestic legislation and resulting in a stronger involvement in the preparation stage of the EU legislation process. In this perspective, the scope and level of parliamentary participation in the EU legislation process is the result of a previous adaptation on the domestic level to top-down pressures from Europe. Fig. 1 illustrates the complex role of national parliaments in the process of Europeanization.

12 Theoretically, the tasks of national parliaments in the ex post stage of EU legislation consist of the legal incorporation as well as the subsequent control of proper application and impacts on the domestic system (Kretschmer 1994). But the actual activity of parliaments is not only difficult to detect, it is also more likely that regional administrations, local actors, interest groups (and last not least the EU Commission) are the main actors once a directive is transposed.
Fig. 1: National parliaments in bottom-up and top-down processes of Europeanization

<table>
<thead>
<tr>
<th>EU-level</th>
<th>„Democratic deficit“ (disempowerment of national parliaments)</th>
<th>Decision-making/Legislation processes</th>
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<tr>
<td>Effects of Europeanization/Adaptational pressure</td>
<td>„Compensation“ ↓</td>
<td>↓ Compliance</td>
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<tr>
<td>Domestic level</td>
<td>National Parliaments</td>
<td>Transposition of Directives</td>
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Since with regard to European directives, national parliaments are the main “rule address-ees” in terms of direct or indirect responsibility for their transposition into national law, we would expect a positive relationship between the way in which national parliaments “shape” EU policies (i.e. participate in the preparation of directives) and the way in which they “take” EU policies (i.e. transpose directives or contribute to it) according to the legitimacy hypothesis. In this perspective, national parliamentary power in EU politics is measured as the extent to which participation in the preparation of directives positively affects the effectiveness of transposition (as a proxy for the acceptance of decision).

As mentioned above, there is a broad consensus in the literature that the legislative power of parliaments in the decision-making stage is rather limited vis-à-vis the executive (Norton 1996). But in national politics, the insufficient substantial impact ex ante can still be partly compensated ex post, i.e. in the stage of adapting the decision, since parliaments generally have the final say for putting legislation into force on the domestic level. In this perspective, the participation of parliaments at an early stage of the decision-making procedure has mainly the function of guaranteeing the coherence of the procedure and of anticipating problems which might occur in the stage of adoption and implementation. In EU policy-making however, parliamentary power in terms of substantial impact on EU legislation is even more constrained both in the stage of decision-making and in the stage of adoption of the decision. Compared to domestic politics, the ex ante stage of the legislative procedure is no longer a “two-body game” between parliament and government (Andeweg and Nijzink 1995), but includes multiple actors on different levels of governance. National parliaments may only actively contribute to this process via one of those actors, namely the respective minister in the Council. But on the one hand, members of government are less obliged\(^\text{13}\) to consider the parliament’s position during Council meetings.\(^\text{14}\) On the other hand, even if a Council member represents the national parliament’s position, it might not be considered in the legislation

\(^{13}\) An exception constitutes the case of Denmark, where the ministers get legally binding mandates of the “marketing”-committee of the Danish parliament.

\(^{14}\) However, its point of view might have an impact – and thus a legitimating effect - if ministers argue that they are politically bound by the decision of their parliament (Putnam 1988). But, as “executives who can tie their hands can just easily untie them” (Phare 1997: 147), the parliament’s contribution to the European legislation process fully depends on the cooperation of the government.
in the case of majority voting, “package dealing” or amendments made by the EP. As mentioned above, the failure of substantially affecting EU legislation ex ante cannot even be compensated ex post, since domestic legislatures can neither amend nor reject it in the stage of adoption. Adding the fact that most directives are not even directly transposed by national parliaments, the overall possibility of an impact on the effective transposition of directives as a result of participation during their preparation is rather constrained. Hence, what is the impact of a stronger association of national parliaments in the policy-making stage? Under which conditions can the participation of parliaments ex ante as a means to provide “input-legitimacy” accordingly deploy “output-legitimacy” resulting in effective transposition of directives?

**Conditions for a positive impact of parliamentary participation ex ante on its participation ex post**

In order to specify conditions of effective transposition of EC directives, it is crucial to know when transposition can be considered as being effective. While there is an emerging literature about the transposition problems within the EU (Börzel 2003; Ciavarini Azzi 1999; Knill 2001; Mastenbroek 2003; Mendrinou 1996; Szukala 1998), it uses various understandings of what constitutes the perceived transposition deficit. For practical reasons, I use a rather narrow definition in this paper and define cases of ineffective transposition as the cases in which the European Commission has opened an infringement procedure against a Member State for violation of a directive in the transposition stage.16

In its infringement proceedings, the European Commission distinguishes several forms of non-compliance according to the nature of violation as well as the nature of the legal act which is violated (see Börzel et al. 2003a). Three out of five types of violation refer to directives, reflecting the fact that the discretion granted to Member States with the act of transposition also offers more opportunities for violation. Out of these three types of violation, one refers to the proper application of directives after they have been legally transposed, while two refer explicitly to the stage of legal transposition:

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15 In addition, institutionalist approaches (Sandholtz and Zysman 1989; Pierson 1996) stress that EU policy processes have their own dynamics and can no longer be under the full control of executives.

16 Consequently cases which might constitute a violation but are not detected or revealed by the Commission cannot be considered.

17 The most important types are treaty provisions, regulations, directives and decisions with vary according to their specificity and their binding effect for the Member States. Moreover, another possible type of non-compliance is the violation of judgments of the European Court of Justice (ECJ) by Member States. For a more detailed analysis of the different forms of non-compliance, see Börzel et al. 2003a.
1) **Non-transposition of Directives (‘no measures notified’)**

Directives are not directly applicable, as a result of which they have to be incorporated into national law. The directive specifies a deadline up to which it has to be transposed by the Member States (18 months in average) which then have to notify the measures taken to the European Commission. Non-compliance relates to the failure to issue the required national legislation assumed by the non-communication of measures.

2) **Incorrect legal transposition of Directives (‘not properly incorporated’)**

The transposition of Directives may be wrongful. Non-compliance takes the form of either incomplete or incorrect incorporation of Directives into national law. Parts of the obligations of the Directive are not enacted or national regulations deviate from European obligations because they are not amended and repealed, respectively.

In sum, transposition of directives is considered as **effective** when

(a) transposition is timely (directive is transposed in the designated amount of time and legal measures are notified to the Commission) or

(b) transposition is complete (all parts of the obligations are transposed) or

(c) transposition is correct (it does not deviate from the initial objectives) or

(d) transposition occurs with the most effective means (produces the intended results).

To which extent can parliamentary participation in the preparation stage of directives contribute to timely and correct transposition? As mentioned above, according to the legitimacy hypothesis, two different mechanisms can explain the acceptance of the rule resulting from the nature of the rule-making procedure.

**Effective transposition as a result of specific support**

First, the “rational choice approach” of the legitimacy hypothesis explains voluntary compliance as a function of specific support of the contents of the rule. As a result of the participation of the rule addresssees (or their representatives) in the decision-making stage, the contents of the rule reflects the interests of those who have to implement it. With regard to the role of national parliaments in EU politics, effective transposition is then likely to occur if the directive which the parliament has to transpose or for which it has to delegate the authority for transposition reflects the interests the parliamentary majority has expressed in the formulation stage. Otherwise the parliamentary majority can use its “veto power” and delay the transposition into national law. Moreover, if it is mainly responsible for transposition, it can even transpose the directive according to its interests, thereby running into problems of incorrect transposition.\(^{18}\)

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\(^{18}\) EU officials continually point to the importance of a good co-operation between national governments and parliaments in the process of implementation (European Commission 1997, 1999, 2001, 2003), which suggests that problems in the transposition stage are related to parliamentary opposition.
However, it is rather unlikely that national MPs delay or oppose effective transposition because their interests are not reflected in the directive. Given the specific character of EU policy-making (QMV, package dealing, involvement of EP), the parliamentary majority can usually not expect that the national minister is able to consider the parliament’s point of view during the negotiation stage. What is more important, national MPs are aware that they do not have an effective veto power and cannot reject the directive as such or substantially amend in case of delay. Opposing the effective transposition of a directive might thus be “useless”, especially if these have a low issue salience.

In this perspective, the failure of having had a substantial impact during the preparation of a directive might only incite MPs to not effectively transpose a directive in two cases. First, the directive to be transposed has a high issue salience, and the corresponding parliamentary activity ex ante could not be considered because of QMV or the participation of the EP. Second, the parliamentary majority has changed between the preparation and the time of adopting the directive, and the rule addressees have thus changed.

H1: The higher the issue salience of the directive and the more it reflects the position of the parliamentary majority expressed in the preparation stage, the more likely will parliamentary involvement ex ante result in effective transposition.

H2: The higher the issue salience of the directive and the more stable the parliamentary majority is over time (throughout the legislative procedure), the more likely will parliamentary involvement ex ante result in effective transposition.

Effectively transposition as a result of diffuse support

The second mechanism specifies the constructivist variant of the legitimacy hypothesis which relates to the perceived fairness of the decision-making procedure affecting the level of compliance. In the case of national parliaments, the extent to which the parliamentary majority effectively transposes EC directives or delegates authority for transposition then depends on the extent to which it accepts the way in which EC directives are produced in general and their role (or the role of national parliaments) in this procedure in particular. Both timely and correct transposition through legislative action and timely delegation of authority is likely to occur when the parliamentary majority supports the fairness of the decision-making procedure.

Again, this reasoning does not fit to the specific character of transposition: opposing timely and correct transposition is not an effective means to express lack of diffuse support, since it

19 Moreover, it is difficult to seize the position of the parliament to a certain directive ex ante, since the number of cases in which a formal parliamentary resolution concerning a specific directive is voted on is usually very small. The position of the majority is usually expressed via informal contacts with the government.

20 Interview SGCI on March 18th, 2005.
does not necessarily lead to a (future) change of the decision-making procedure. However, we could argue that the opposition of timely or correct transposition of directives by the parliamentary majority does not necessarily occur with the aim of changing their role in EU politics. Problems of ineffective transposition might also be explained with a lack of interest in participating in the EU legislative procedure, given the procedural and substantial constraints on having a substantial impact on EU politics both \textit{ex ante} and \textit{ex post}.\footnote{Thus, it is not the perceived “fairness” of the decision-making procedure but rather the general character of the legislative process which might explain compliance problems.} Problems of effective transposition as a result of insufficient diffuse support might thus occur if either the commitment of the parliamentary majority towards European integration in general or its interest in participating in EU affairs in particular is low.

\textit{H3: The stronger the commitment of the parliamentary majority to national parliamentary participation in EU affairs and the more stable the parliamentary majority is over time (throughout the legislative procedure), the more likely will parliamentary involvement \textit{ex ante} result in effective transposition.}

\textit{Effective transposition as a result of “informational advantage”}

So far, both mechanisms linking the role of national parliaments \textit{ex ante} and \textit{ex post} referred to the \textit{willingness} of MPs to contribute to the effective transposition of directives after having participated in the preparation stage. Another mechanism establishing a positive relationship between the subsequent stages of the legislative procedure not explicitly mentioned by the legitimacy hypothesis is the “informational advantage” (Raunio and Hix 2000), which refers to the \textit{capacity} of MPs to effectively transpose directives as a result of former involvement.

In general, parliamentary participation \textit{ex ante} aims at counterbalancing the relationship with the executive which has been changed in favour to the latter one as a result of the transfer of competencies to the European level. This logic can also be pursued in the stage of transposition. Since the majority of EC directives are transposed through executive action, parliamentary participation can consist in the controlling the effective implementation in cases in which it is deprived from direct participation.\footnote{Moreover, following the logic of counterbalancing the relationship with the executive, this is also likely to be the case in areas which are usually regulated by executive action. The analysis of national parliamentary participation in EU affairs \textit{ex ante} has shown that some parliaments are even more active in EU politics than in domestic politics (Rozenberg 2002; Sprungk 2003).} Parliaments which actively use control rights and scrutinize EU affairs do have the necessary information (and incentive!) to follow-up EU-related executive action even after the decision-making. As a result of their \textit{ex ante} participation, the parliament disposes of the relevant information regarding the effective transposition (requirements, timetables, adequate means etc.) can therefore control the activity of the government e.g. by using interpellation or EU-specific information rights. In this perspective,
parliamentary scrutiny can have a positive impact on the effectiveness of transposition of directives even when they are not implemented by domestic law by having the function of a “watchdog” regarding timely and correct transposition. The same holds certainly true for cases in which directives are directly transposed by parliaments. Domestic legislatures which did (or could) not acquire sufficient information \textit{ex ante} have either to acquire it \textit{ex post} – thereby likely to delay transposition- or to transpose it without this information- thereby likely to result in problems of incorrect transposition.

The capacity of parliaments to effectively transpose EC directives as a result of the level of scrutiny \textit{ex ante} is largely determined by the scope of information they have acquired during the decision-making process. Domestic legislatures can get information about EU legislative proposals from their national government (Maurer 2001; Norton 1996; Raunio 1999; Smith 1996) and/or through own activities (Fuchs 2001; Sprungk 2003). Thus, on the one hand, parliamentary capacity is a result of the nature of the relationship with the executive (which will provide more information in case of a co-operative relationship) and of intra-parliamentary resources and the efficiency of intra-parliamentary organisation (which affects the ability of the parliament to get information on its own) on the other hand. In this perspective, cases of ineffective implementation are likely to occur when the executive benefits from its position as a gate-keeper and does not transmit all relevant information to the parliament and/or when the procedure within the parliament is not efficient.

\textit{H4: The more information about the directive the parliamentary majority acquires \textit{ex ante} and the more efficient it scrutinizes this information within the parliament, the more likely will parliamentary involvement \textit{ex ante} result in effective transposition.}

In sum, theoretically speaking, there are various possibilities for the way in which parliamentary participation in the formulation stage of EC directives can impact on their effective implementation. In the following, I will empirically analyse the extent to which the strengthening of national parliamentary participation in EU policy-making \textit{ex ante} has deployed a positive effect on the transposition record of directives.

\textbf{III. The level of effective transposition of directives in the European Union}

In the annual reports of the European Commission on monitoring the application of Community law, problems in legally transposing a directive represent the overwhelming majority of all possible infringements. Actually, more than 2/3 of the infringements of EC directives refer to the late or non-transposition of directives or their incorrect transposition (Börzel et al. 2003b; Treib 2003a, 2003b). These transposition deficits have for a long time been consid-
erred as a minor and only temporal compliance problem compared with application problems thanks to the general high transposition rates - the average level of transposition is usually higher than 90%- and the fact that even the remaining directives are finally transposed (Martin 1995; 2000). However, this view does firstly not take into account that even timely transposition can constitute a form of non-compliance. On the one hand, directives can be transposed in an incorrect way by incomplete incorporation or by deviating from the initial objectives. On the other hand, Member States might not have respected the doctrine of the \textit{effet utile}, which stipulates that the member states have to choose the most effective means\(^\text{23}\), thereby allowing a proper application of the directive. Secondly, delays and faults in transposing EU measures are considered to cause severe legal and political problems alike, since it leaves a void in the regulatory framework, which disrupts business, deprives citizens of their rights and undermines confidence in the EU (European Commission 2003: 5). Therefore the Oslo European Council in 1998 has set the target of 1,5% deficit of transposition in the internal market sector per maximum. The Barcelona European Council of March 2002 added a 'zero tolerance' target for directives whose transposition is two years or more overdue. Thirdly, in the context of EU enlargement, effective transposition has become a political priority in the "old" Member States in the last two years. The Prime Ministers of France, Germany, Ireland, Spain and Portugal respectively set national targets and emphasized the need to accelerate and improve transposition procedures in their countries.

For assessing the level of effective transposition of EC directives, I draw on a database containing all infringement proceedings opened by the European Commission against Member States from 1978-1999.\(^\text{24}\) The 6230 cases are classified by infringement number, member state, policy sector, legal basis (celex number), legal act, type of infringement, and stage reached in the proceedings (reasoned opinion, referral to the ECJ, ECJ ruling).\(^\text{25}\) Assuming that the level of effective transposition of directives depends on the respective number of infringements opened by the European Commission against the Member States, late transposition is operationalised with the number of cases of the first type of violation ("no measures notified"), incorrect transposition refer to cases of violation in the second type ("not properly incorporated").\(^\text{26}\) Figure 2 shows the level of effective transposition of directives in

\begin{small}
\begin{itemize}
\item \(^\text{23}\) ECJ Fédéchar v. High Authority, C-8/55; ECJ Van Gend en Loos, C-26/62.
\item \(^\text{24}\) The author participates in a research project funded by the German Research Council (DFG) on “Compliance with law beyond the nation-state”, directed by Prof. Dr. Tanja A. Börzel. The project aims at analysing the conditions under which Member States of the EU do not comply with EC law on the basis of a dataset provided by the Commission provided the projectgroup “compliance” drawn from its own database containing all the 6230 infringement cases, in which the Commission officially initiated proceedings between 1978 and 1999. For further information on the database, see www.fu-berlin.de/europa.
\item \(^\text{25}\) For the different stages of the infringement proceedings, see Börzel 2003.
\item \(^\text{26}\) However, by taking infringement proceedings as a proxy for ineffective transposition, we are not able to distinguish between direct and indirect involvement of national parliaments, since the character of the (future) national implementing measure is not specified. In general, it is hardly feasible to acquire all national implementing measures on a macro level (i.e. for all Member States and all policy sectors) and to deal with them in a way that allows
\end{itemize}
\end{small}
the EC-12\textsuperscript{27} over time by drawing on the absolute number of infringements corresponding to the first and the second type of violation per year.

Fig. 2: Number of infringement proceedings opened for incorrect or non-transposition of EC directives per year for the EC-12, 1978-2002 (absolute numbers)\textsuperscript{28}

![Infringement Proceedings Graph](image)

The figure points to the increasing number of infringement proceedings for transposition problems of directives which culminate in 1993 and 1994 with more than 350 infringements per year, suggesting that effective transposition of directives is continually increasing. However, this interpretation is problematic for methodological reasons. For assessing changes over time, the number of infringement proceedings opened has to be measured against the numbers of directives that can be potentially infringed as well as the number of member states that can potentially infringe them. Between 1978 and 2002, the number of directives in force has more than tripled, and five more member states have joined the Union. Moreover, the high number of infringements in the early 1990s could be explained by the more aggressive enforcement policy pursued by the Commission in order to ensure the effective transposition of the Internal Market Programme (Tallberg 1999).

to clearly distinguishing between “substantial” and “procedural” law. To which extent the character of the national parliament’s involvement in the transposition stage might impact on its effectiveness can thus only be analysed in qualitative case studies.

\textsuperscript{27} The three Member States joining the EU in 1995 (Austria, Finland and Sweden) are not included since it is expected that EU accession challenges the domestic legal system and is likely to result in a high number of infringements in the first years after accession which does not necessarily reflect the general level of transposition problems.

\textsuperscript{28} Since the database contains only data up to 1999, I have added up the numbers until 2002 by drawing on the aggregate numbers of reasoned opinions sent to the Member States according to the annual reports of the European Commission.
If we control for the annual number of directives in force and the number of Member States and count the number of “violative opportunities”\textsuperscript{29} (see also Börzel et al. 2003a, 2003b), the relative number of infringements remains relatively stable over time (Fig. 3).\textsuperscript{30} There is no general trend towards an increasing or decreasing number of infringements proceedings opened for incorrect or non-transposition of EC directives. But this finding also implies that the level of effective transposition of directives does not increase despite the “new” ex \textit{ante} empowerment of national parliaments in 1992/93! If we include a certain time lag until the strengthening of parliaments can deploy an effect and consider only cases from 1995 on, the level of infringements even increases, while it drops again in 1998.

Fig. 3: Number of infringement proceedings opened for incorrect or non-transposition of directives per year for EC-12 in relation to “violative opportunities” (x 100), 1978-2002

Figure 4 shows a member state ranking of the EC-12 with regard to the number of infringements proceedings for incorrect or non-transposition of EC directives from 1996-2002, i.e. taking the time period during which the ex \textit{ante} participation of national parliaments could have deployed an effect on the effective transposition of directives.

\textsuperscript{29} This means that the number of infringement proceedings opened is calculated as a percentage of the number of legal acts in force multiplied by member states for each year.

\textsuperscript{30} Unfortunately, the number of directives in force was not yet available. Therefore, the data on the number of legal acts in force refer to all legal acts. While this might affect the actual number of infringements per year, it does not affect the overall trend, since we can assume that the number of directives in force does not deviate significantly from the overall pattern of an increasing number of legal acts in force.
Fig. 4: Percentage of numbers infringement proceedings opened for incorrect or non-transposition of EC directives per member state and year in the EC-12 in relation to average number of legal acts in force, 1996-2002

The number refers to the total number of infringements of a member state as a percentage of the average number of directives in force from 1996-2002. In this perspective, Portugal has infringed about 14% of the average number of directives in this time period (according to the European Commission). With regard to the relative implementation record in relation to other Member States, Portugal, France, Greece and Italy belong to the “laggards”. Interestingly, Spain as another Southern European country is - together with Denmark and the Netherlands- part of the “leader group” which has relatively little problems in effectively transposing a European directive.

How do Member States perform with regard to the two types of violation distinguished by the European Commission? Are problems of effective transposition rather related to the quality of the national implementing measure than to the time needed for transposition, or do EU countries have a structural problem with the act of transposition? In general, the overall number of infringement proceedings opened for no or late transposition outweighs by far those opened for incorrect transposition, being around seven times higher. However, if we look at the records within the EC-12 for the time span 1996-2002 and juxtapose the numbers of late against the numbers of incorrect transposition, the picture is slightly different. Fig. 5 contains the respective ranking positions of the EC-12 Member States.

31 The opening of an infringement proceeding does not necessarily constitute a violation, since the assessment of the European Commission might be wrong.
A consistent number of infringements in the transposition stage regardless of the type violation can be observed for Denmark and the Netherlands (consistent leaders), Luxembourg (consistent middle-field) and Italy (consistent laggard). Interestingly, Greece as a consistent laggard - also with regard to other types of violations- seems to have far less problems with correct than with timely transposition in this time period, as do also Ireland and Portugal. On the other hand, Belgium, Germany, Spain, France and UK have a worse record when it comes to the correct transposition of directives than with regard to timely transposition. Thus, at least for the short time period analysed in this paper, most of the Member States do not have structural problems with transposing an EC directive into domestic law (except of Italy), but tend to either have problems with respecting the deadline in which the directive has to be transposed or with correctly transposing it. But what does this pattern mean for the relation between parliamentary involvement \textit{ex ante} and \textit{ex post}? Do countries which have a higher record of incorrect transposition not acquire sufficient information in the decision-making stage, but transpose it nevertheless as a result of diffuse support? How is the distribution of the parameter values of the dependent variable related to the level of parliamentary \textit{ex ante} involvement within the Member States?

\section*{IV. Democratizing Europe: the level of parliamentary scrutiny \textit{ex ante}}

This changing pattern of parliamentary participation in EU policy-making over time has been the trigger for an emerging literature on the European role of national parliaments (see e.g. Ágh 2002; Judge 1995; Maurer and Wessels 2001; Norton 1996; Raunio 1999). The literature has mainly focused on analysing the variation between Member States.\footnote{However, only little attempts have been made so far for explaining this variation.} As empirical studies suggest, all EU parliaments have reacted on the substantial loss of competences
caused by Europeanization processes, albeit in a very different way. First, adaptation processes vary according to the institutional structure established within the parliament for dealing with EU legislation. Thus, the British, French and Greek parliaments have institutionalised different scrutiny mechanisms similar to the logic of their domestic institutional culture (Dimitrakopoulos 2001). Second, parliamentary participation varies according to the actual "use" of these structures for scrutinizing EU politics (e.g. the voting on resolutions, the share of public debates about EU politics in the plenary). In this respect, the French Assemblée Nationale plays a more active role than the German Bundestag (Sprungk 2003, 2004).

There is a variety of indicators used for describing the level of ex ante participation of national parliaments in EU affairs (Maurer 2001; Raunio 2003; Rozenberg 2002). Some studies focus on the level of parliamentary capacity, i.e. the extent to which parliaments are able to participate effectively in EU policy-making, and suggest for example to include the quantity and quality of information the parliament receives from the national government about the preparation of EU legislation as well as their timeliness (Maurer 2001; Rozenberg 2002). Other indicators used refer to the subsequent stage and analyse the procedures of handling with this information within the parliament, including the number of parliamentary actors involved and their level of expertise in EU affairs (Fuchs 2001; Hourquebie 1999). Another type of measurement deals with the level of parliamentary activity, i.e. the actual use of these structures and rights, which is operationalised e.g. with the number of EAC meetings, the number of resolutions concerning the EU legislation process or the number of plenary debates about EU politics (Huber 2001; Saalfeld 2002). However, these studies tend to neglect the question of what constitutes the overall role and the purpose of national parliamentary participation in EU affairs.

I have argued elsewhere that the EU-specific role of national parliaments ex ante can be described as a functional change: the transfer of competencies to the European level leads to the restriction (control and communication function) or even the partial loss (elective and legislative function) of traditional parliamentary functions providing for input legitimacy on the domestic level. Thus, the role of domestic legislatures in EU policy-making processes can be characterized as the exertion of an EU-specific control and an EU-specific communication function (Sprungk 2003, 2004). In this perspective, indicators for measuring the level of parliamentary participation ex ante can be derived from the contents of these functions. The distinction between control function, on the one hand, and communication function, on the other, allows to distinguishing between indicators relating to the executive-legislative rela-

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33 However, the main problem of these studies consists in the fact that the indicators are rarely developed in a systematic way within a conceptual framework and that they do not specify the implications of their approaches. Thus, the frequent use of scrutiny rights can slow down the EU legislation process or even block it, which can result in unintended consequences like the decrease of legitimacy of EU politics (Auel 2003).
tionship and indicators referring to the representative function of parliaments, i.e. their relationship with the society/the voters. Tab. 1 in the annex shows a refined concept for evaluating parliamentary participation in EU affairs *ex ante* by combining the capacity/activity-dimension and the control/communication-dimension. The overall challenge is to classify all EU parliaments according to these criteria, which demands an in-depth study of each parliament. However, the “ranking” of national parliaments according to the level of their *ex ante* involvement in EU policy-making is crucial in order to assess its impact on the respective level of effective transposition of directives in the Member States.

There are several attempts to establish a member state ranking of national parliamentary participation in EU policy-making in the literature (Bergman 1997, 2000; Maurer and Wessels 2001; Maurer 2002; Rozenberg 2002). While these studies differ according the indicators used, the time span covered and the scope of the study, they do not (or only slightly) diverge with regard to the overall assessment of the parliaments’ participation and their relative position in the ranking. Thus, not surprisingly, the Danish, the German and the Dutch parliament are consistently ranked in the “leader group” (like the three “newcomers” in the EU-15), while the legislatures of Greece, Spain, Portugal and Luxembourg always figure as “laggards” with regard to their level of participation in EU policy-making. Drawing on Bergman’s study (Bergman 2000), the geographic variable can only partly account for the other EU parliaments, since both Italy and France are ranked in an intermediate position. The pattern is largely confirmed by the study of Rozenberg (Rozenberg 2000). But he assumes that the level of participation in the parliaments Germany, the United Kingdom, Ireland and Luxembourg has slightly decreased from 1996 up to 2000, whereas the French parliament could improve its position (see also Rozenberg 2002). Drawing on a four-point-scale for evaluating the level and scope of parliamentary participation (“1” for “very little”, “4” for “extensive”), I have collected data measuring the control function and classified the EC-12 parliaments e.g. according to the scope of information the governments transmits, the number of EAC meetings etc. (see Tab. 1 in the annex). As Fig. 6 shows, the results largely confirm the assessments of other rankings.

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34 In my PhD thesis, I have combined the control/communication-dimension and the capacity/activity-dimension in a 2-by-2-matrix and respectively listed several indicators. For reasons of scope, I will not go into detail and discuss the list of indicators and the respective possibilities of operationalizations in the framework of this paper.

35 Some studies also aim at analysing the development of parliamentary participation over time and include various indicators (see e.g. Maurer 2002), while other studies are less detailed.

36 Compared to the level of effective transposition, we can safely assume that the level and scope of parliamentary participation *ex ante* since the Maastricht Treaty is rather constant, i.e. does not extensively vary over time. Exceptions might be the period after the treaty of Amsterdam which has slightly enhanced the role of national parliaments and the future Treaty establishing a Constitution for Europe which provides for an even stronger association of parliaments in the EU policy-making process.

37 Data for the communication function were not yet available at this stage of the research project. Moreover, the gathering of complete and useful data for evaluating the exertion of the control function in all EC-12 has so far proven to be difficult, i.e. not all indicators could be included, and there are missing data for some years. The results do therefore only allow to draw an overall impression of the parliaments’ performance.
According to the hypothesis of a positive impact on parliamentary participation in EU politics *ex ante* on the effective implementation of EC directives, we would expect that a strong involvement correlates with a low number of infringement proceedings opened for that matter and vice versa. Fig. 7 juxtaposes the position each member states occupies in the ranking of national parliamentary involvement *ex ante* to its ranking according to the average number of infringement proceedings opened for both incorrect and late or non-transposition of EC directives between 1996 and 2002 (percentage of average number of directives in force). Fig. 8 further distinguishes between both types of violation.

Fig. 7: Ranking of national parliaments in the EC-12 Member States according to their level of participation *ex ante* in relation to their ranking in the average number of infringements opened for incorrect or non-transposition of EC directives 1996-2002 (own elaboration- only ranking position)
The diagram suggests that there is no evident relationship between the extent to which a national parliament participates *ex ante* in EU policy-making and the level of effective implementation of directives in that member state. While the assumption of a negative correlation fits well in the case of Denmark with extreme positions on both the *ex ante* and the *ex post*-dimension, Germany’s infringement record is much higher than in the Danish case, though its parliament is strongly involved in the decision-making stage. Moreover, if the poor implementation record of Greece could be explained by the weak *ex ante* participation of the parliament, infringements occur even more often in France, where the legislature scrutinizes EU politics far more actively. The same holds true for Member States like Italy or Spain, which both have nearly the same ranking according to the level of parliamentary participation and effective implementation of directives, suggesting that there are no interaction effects at all between both dimensions. Apart of Denmark, a positive impact of parliamentary scrutiny *ex ante* can only be observed in cases like the Netherlands (low number of infringements, relatively high level of *ex ante* parliamentary participation) and Portugal (high number of infringements, weak *ex ante* involvement of parliament).

Fig. 8: Ranking of national parliaments in the EC-12 Member States according to their level of participation *ex ante* in relation to their ranking in the average number of infringements opened for incorrect and for non-transposition of EC directives 1996-2002 (own elaboration –only ranking position, 12 = high, 1= low)

Fig. 8 juxtaposes the level of parliamentary participation *ex ante* to the dependent variable split up into the two parameter values “late transposition” and “incorrect transposition” between 1996 and 2002. On the one hand, it suggests that if there is a positive relationship between the level and scope of parliamentary involvement in EU decision-making procedures and the effective transposition of directives, it is related to the timeliness of transposi-
tion, i.e. strong *ex ante* participation might result in timely transposition and vice versa: with the exception of Spain, France, Italy and Luxembourg, the extent to which national parliaments are involved in the decision-making stage corresponds in a “negative” way (the more involvement, the less infringements and vice versa) to the Member States’ performance record with regard to timely transposition. Interestingly, on the other hand, France’s and Italy’s transposition problems are consistently worse than their level of participation in the *ex ante* stage, which would contradict the legitimacy hypothesis. Moreover, after having split up the dependent variable, the hypothesis of a positive relationship can only hold for two Member States, namely Denmark and the Netherlands. But the fact that both are also leaders in other types of compliance with EC law (like the application of directives, regulations and treaty provisions) in which legislatures are not involved might reduce the explanatory power of parliamentary participation hypothesis. Even more interestingly, the French parliament has continually been strengthened throughout the 1990s with regard to its participation rights *ex ante*, but France remains one of the states performing most badly with regard to effective transposition of directives between 1996 and 2002.38

Thus, regarding the data, the increased „input“-legitimacy associated with a stronger involvement of national parliaments in the EU policy-making stage does not necessarily result in a more effective transposition of directives as a proxy for “output”-legitimacy (see particularly Fig. 3 and 7). How can we account for these contraintuitive findings? Does the legitimacy hypothesis have to be rejected? When interpreting the figures, we should however bear in mind that there might be various reasons for explaining problems of transposition (Börzel et al. 2003; Chayes and Chayes-Handler 1998; Knill 2001; Mendrinou 1996). Thus, it is crucial to know whether the continual transposition problems can be traced back to the *ineffectiveness* of parliamentary involvement *ex ante*, or whether transposition problems prevail *despite* stronger involvement. This will be analysed in the next section by drawing on France as a critical case.

V. The impact of parliamentary participation *ex ante* on the effective transposition of directives in France

The level of effective transposition in France

Since the European Commission published its “Annual Report on monitoring the application of Community Law” for the first time in 1984, France continually figures as one of the so-

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38 However, France has recently improves its record: the current scoreboard (January 27th, 2005) for the deficit in transposition of internal market directives published by the European Commission however ranks France on the 13th position of EU-25 and on the 10th place of the EU-15.
called “laggards” ("en queue de classe") in compliance with European Law- together with Italy, Greece and Portugal. France and Italy account for 30% of all violations of European Law (Assemblée Nationale 2003). The poor compliance record is particularly important regarding the violation in the transposition of directives as a specific form of non-compliance (see Fig. 4). The French implementation record is particularly poor regarding the timely transposition of directives. In the biannual reports on the progress in notification of national measures implementing directives, France continually occupies one of the last positions (European Commission 2000b, 2002b, 2004). Furthermore, France is the country which needs the biggest amount of time for transposing directives (14 months in average) (Assemblée Nationale 2003). Moreover, implementation problems persist over time: France figures as the country with the second worst implementation record both in the phase between 1996 and 2002 (Fig. 3), while member states like Belgium and Portugal respectively change positions in the ranking. The persistence of implementation problems is also confirmed by the number of infringement proceedings. According to the database, the European Commission has initiated 367 infringement proceedings against France for incorrect or non-transposition of EC directives between 1978 and 1999, resulting in an average of 17 cases per year. If we add the 68 proceedings opened in 2000, 2001 and 2002 according to the annual reports on monitoring the application of Community Law (European Commission 2000, 2001, 2002), the average number slightly increases (16,7 to 17,4) but remains overall stable. However, Fig. 9 shows that the number of infringements in relation to the number of legal acts in force tends to increase since 2001, after it had significantly dropped from 1998-2000.

Fig. 9: Number of infringement proceedings opened for incorrect or non-transposition of EC directives per year in France in relation to number of legal acts in force, 1978-2002

40 The numbers taken from the Annual Reports relate to the number of Reasoned Opinions sent to France by the European Commission.
At first glance, even if we include a certain time lag until the 1992/93 strengthening of the French parliament can deploy an effect and consider only cases from 1995 on, there is no evidence of a **permanent** positive impact of the stronger parliamentary ex ante participation in France.  

Like in the overall pattern showed in Fig. 2, transposition problems of directives in France tend even to increase in 1997. But contrary to the general decrease in implementation problems since 2001, the number of infringements in France has raised in recent years (see also European Commission 2003). In sum, France has a structural implementation deficit which seems to be unaffected by parliamentary participation ex ante.

### The changing role of the Assemblée Nationale in EU affairs

Empirical studies analysing the role of the French parliament in EU politics agree that is has been significantly empowered in 1993 and that it is a rather active player in EU affairs (Dubois 1996; Hourquebie 1999; Laporte 1995 1995; Rizzuto 1996; Szukala and Rozenberg 2001; Sprungk 2003). Compared with other EU parliaments, the French legislature has a rather weak position in the national political system, since the Fifth Republic's Constitution has transferred power from Parliament to the Executive (Rizzuto 1996: 46). The government and even the Constitutional Court have several constitutional rights to intervene in the parliamentary's work (Wieber 1999: 14). In the context of the Maastricht debate, a new article 88-4 has been introduced in the French Constitution, which obliges the French government to transmit to the parliament all documents with legislative character immediately after their reception in the Council. In addition, the legislature gets the right to vote on resolutions concerning these documents. The so-called réserve d’examen parlementaire, provided by a “ministerial circular” in July 1994 obliges the government to enable the parliament to vote on resolution before the Council’s decisions. Finally, the status of the Délégation pour l’Union Européenne (DUE) as the specific parliamentary body dealing with European Affairs which has been established in 1979 has been improved.

Concerning the activities of the Assemblée Nationale, the DUE plays a central role in EU affairs. First, it analyses the political, legal and financial impact of all received documents by

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41 Moreover, the dramatic increase of infringements in 1992 should not be explained to the stronger involvement of the French parliament, but can be related to the more aggressive enforcement policy of the European Commission (see above).

42 I focus on the lower chamber of the Assemblée Nationale because it follows a functional logic of parliamentary representation, while the composition of the Sénat follows a territorial logic of representation.

43 In 1999, the article 88-4 has been slightly modified as a result of the ratification process of the Amsterdam Treaty.

44 Documents which would be subject to regulation by the executive if they were domestic legal acts are not transmitted according to this procedure, but can be provided in a facultative way.
EU experts before transmitting them to the specialised committees (Weber-Panariello 1995: 154). Second the DUE regularly publishes its analyses of specific EU documents as well as detailed reports on COSAC meetings and on current EU topics or on issues of specific interest (the so-called information reports). Third, members of the DUE make regular use of their right to deliver an opinion or to move an amendment on resolution proposals of a committee (Sprungk 2003). Fourth, the DUE aims at informing the public about EU topics and at making its work transparent and accessible by organising public hearings or providing information about meetings or current EU issues on the Internet or to interest groups. It publishes minutes of every meeting on the Internet and thereby offers the opportunity to be well informed about the European work of the French parliament.

Moreover, the Assemblée Nationale has also rather actively used its control rights. Thus, it makes a regular—but not excessive—use of its possibilities to state a parliamentary opinion by adopting a resolution one time per month in average (DUE 2000; 2001). Concerning the follow-up of resolutions, the government hardly informs the parliament, but DUE members have regularly asked to provide them with more systematic information (Hourquebie 1999). The relatively low number of interpellations for EU issues in the plenary46 and the fact that the Assemblée Nationale does not frequently hold public debates about EU issues (Sauron 2000) does not reveal an intensive “European” activity of French MPs.46 In general, the role of the French parliament in EU affairs has been characterised as being in a stage of “progressive assertion” since 1993 (Szukala and Rozenberg 2001). Some studies point to the paradox that it has even more powers in EU affairs than in domestic politics (Dubois 1996; Hourquebie 1999; Sprungk 2003).47 Moreover, the French parliament could improve its status throughout the 1990s and is thus in a better position in recent rankings than in 1996 (Rozenberg 2002).

In sum, we find a stronger parliamentary involvement ex ante in EU policy-making since 1993 thanks to new scrutiny rights, while the transposition deficit has persisted over time. Moreover, scholars even observe a recent trend towards a stronger parliamentary participa-

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45 In the XI electoral term (1997-2002), three of the one hour-lasting Questions au gouvernement were exclusively dedicated to European issues. In addition, 13 EU-specific questions were raised during other “question hours” in the same time period (see www.assemblee-nationale.fr/europe). Unfortunately, there are no data available for other time periods and for the percentage of written questions concerning EU affairs.

46 However, they seem to be more willing to put (formal) pressure on the government to get information about European issues and to initiate a public debate on their own than their German counterparts in the Bundestag (Sprungk 2003). Moreover, while both parliaments do not frequently hold public debates about EU issues in the plenary (Saalfeld 2002; Sauron 2000), most of the plenary debates in the Bundestag took place after a government’s information about European Council meetings or for debating the government’s regular report in European integration (EUA 1999-2001) and were thus not initiated by German MPs.

47 First, it receives information about EU legislation even if the proposals do not correspond to a policy area in which parliament would have a say if it was a domestic one. Second, thanks to Article 88-4 of the Constitution, the parliament has an exclusive right to articulate its position concerning European issues, which it does not have for domestic policy issues.
tion *ex ante* (Rozenberg 2002) while EU officials point to the increasing transposition problems of directives in recent years (European Commission 2003). This finding can also be observed with regard to other member states: France figures permanently as one of the implementation “laggards” (together with Belgium and Portugal), but has the highest level of parliamentary participation *ex ante* within this group (see Fig. 5). On the other hand, Spain has one of the best implementation records, but parliamentary participation *ex ante* is extremely weak. To which extent can the persisting transposition problems explained by a lack of impact of parliamentary participation *ex ante*?

**Effective transposition of directives: the role of the Assemblée Nationale**

According to Lisa Martin (1995; 2000), the fact that parliaments are either directly or indirectly involved in the transposition of directives means that they can impact on its effectiveness. In the case of France however, the parliament can be completely absent from the transposition of a directive due to the constitutional provisions of Art. 34 and 37 fixing the policy areas subject to parliamentary influence (Art. 34) and stipulating that all matters not mentioned can be regulated via regulations and thus fall into the sphere of influence of the executive. The opportunity of the national government to interfere in the legislative process and to issue binding decisions without the consent of the parliament is an important feature of the so-called “parlementarisme rationalisé” of the French 5th Republic. Since the form and methods of implementation of EC directives are chosen according to provisions of the domestic legal system, transposition can theoretically occur in certain areas without the involvement of the parliament. In this perspective, we would have to add a French-specific case of no parliamentary involvement *ex post* at all, neither in a direct nor an indirect way.

However, this is rather unlikely to happen, since directives often concern several policy areas or imply obligations affecting indirectly other policy issues (Fuchs 2001). Thus, transposition of directives in France usually takes place according to Art. 38 of the Constitution, that is via laws delegating the authority for incorporation to the national government. The executive then chooses the adequate measure between a variety of instruments. The direct incorporation through a national law requiring a broader involvement of the parliament occurs in about 30% of all cases in average (Assemblée Nationale 2003, 2004). In these cases, the government has to inscribe the transposition of the directive (or, usually, the law project for transposition initiated by the government) on the parliamentary agenda in the first place. In the following, the standing committees are responsible for issuing the national implementing measure within the deadline set out in the directive. However, for the vast majority of cases,

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48 For example, directives are transposed via *ordonnance, décret, arrêté, décision ou circulaires ministérielles.*
49 In the 1980s, the number was only about 6-7% of all directives (Szukala 1998).
50 The government has the priority of setting the parliamentary agenda, with MPs having the right to set the agenda only once per month.
parliamentary participation in the transposition of directives takes place through the decision whether (and to what extent) to delegate authority of transposition to the government.

The French government has recently initiated important reforms for improving its level of effective transposition which also partly affect the parliament.\textsuperscript{51} Actually, one of the main reasons given by the government for explaining problems of \textit{timely} transposition is the working load of parliaments, which does not allow for an inscription of corresponding law projects on the parliamentary agenda within the time span outlined in the directive.\textsuperscript{52} Consequently, two general laws delegating the authority to the government for transposing more than 20 directives by decree (the so-called \textit{lois d’habilitation}) have been voted on respectively in 2001 and in 2004 with the explicit aim to catch up the delay in transposition. Since the delegations have been respectively accompanied by a lively debate in the plenary about the prerogatives of the parliament, a new instrument has been introduced recently which allows for a acceleration of the transposition procedure while letting the parliament a say.\textsuperscript{53}

However, given the relatively low number of directives requiring a transposition through legislative action as a result of the \textit{parlementarisme rationalisé} and the fact that the government mainly decides on the parliamentary agenda, the working load of the parliament can only partly explain the delay in transposition in France. Comparative studies also show that the delay in transposition cannot systematically traced back to those directives requiring the direct involvement of the parliament (Assemblée Nationale 2003, 2004).\textsuperscript{54} According to a civil servant in the \textit{Assemblée Nationale}, late or non-inscription of implementing measures projects on the parliamentary agenda is rather a matter of political willingness than of capacity.\textsuperscript{55}

\textbf{Ineffective transposition as result of insufficient specific support?}

However, the lack of political willingness as a source of delay is hardly related to the contestation of the contents of a specific directive as a result of non-consideration of the parliamentary position expressed in the formulation stage. First, compared to the number of directives to be transposed, the \textit{Assemblée Nationale} officially expresses its point of view (e.g. via a parliamentary resolution) only for a very small number. Moreover, once a directive is adopted and transmitted to the parliament for transposition, there are hardly any political debates about the extent to which the directive reflects former parliamentary resolutions or posi-

\textsuperscript{51} See e.g. the circular of Prime Minister Raffarin of September 27th, 2004 as well as the press releases of the Cabinet of January 2005.
\textsuperscript{52} Interview Judicial Service of the Ministry for Environment on March, 22nd, 2005.
\textsuperscript{53} The so-called « diverses dispositions d’adaptation au droit communautaire » (DDAC), include several implementing measures referring to the same policy sector in a unique legislative proposal.
\textsuperscript{54} In 2002, only 20\% of the directives of which the deadline for transposition has expired involved the parliament, while it were 50\% in 2003.
\textsuperscript{55} Interview \textit{Assemblée Nationale} on March 17\textsuperscript{th}, 2005.
tions. However, according to civil servants in the French administration, there have been a few number of cases in which MPs have proposed amendments to an implementing measure for political reasons and thereby caused problems of incorrect transposition. Second, as mentioned above, the government usually decides on when the directive is inscribed on the parliamentary agenda and is therefore mainly responsible for this source of delay. In this perspective, non-inscription because of specific opposition has e.g. occurred in a case of high issue salience: in the case of directive 98/30 EEC regulating the internal market for natural gas, the government decided to not inscribe the transposition on the parliamentary agenda due to a lack of political consent with the majority (Assemblée Nationale 2002). In this case, the government has anticipated political opposition within the parliament for transposing the directive (though it has thereby caused a severe delay resulting in the opening of an infringement procedure). With regard to the parliament, this specific opposition can be explained by the “time variable”: the preparation and negotiation of the gas directive 98/30 took place between 1992 and 1998, i.e. mostly under the 10th legislature (1993-97) with the right-wing RPR (Rassemblement pour la République) majority in the parliament generally supporting the liberalisation of the market. When the majority changed in favour of the socialist party in 1997, the socialist government was not able anymore to consider the MPs opposition in the final negotiation stage (Assemblée Nationale 2002).

In sum, given the relatively low number of cases, parliamentary specific opposition as a result of insufficient consideration ex ante can hardly account for the persisting transposition problems.

**Ineffective transposition as result of insufficient diffuse support?**

In general, the lack of political willingness to transpose directives in a timely and correct way seems to be rather related to an insufficient amount of diffuse support, i.e. opposition to effective transposition, not with regard to specific contents. There is a broad consensus in the French administration that problems of timely transposition are related to the rather “technical” character of directives which does not favour either a fast inscription on the parliamentary agenda or a priority treatment in the parliamentary procedure. In this perspective, contrary to the “specific support” hypothesis, it is rather the low issue salience of directives which causes problems of effective transposition. The fact that directives can neither be rejected nor substantially amended makes engagement for effective transposition of MPs not profitable in electoral terms.

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56 Interview Assemblée Nationale on March 17th, 2005.
57 Interview SGCI (Secretariat pour la coordination interministérielle) on March 18th, 2005 and Judicial Service of the Ministry for Environment on March, 22nd, 2005.
58 Interview Assemblée Nationale, SGCI, Judicial Service of Ministry for Environment and Ministry delegated to the relations with the parliament between March 17th and March 22nd, 2005.
In the specific case of the French parliament, however, there is an important feature of the way in which the parliament participates *ex ante*, on the one hand, and *ex post*, on the other, which further reinforces the lack of interest in effective transposition. As mentioned above, it is the DUE which plays a rather active role in EU policy-making *ex ante*, while the standing committees do not show a particular interest in engaging in EU affairs. Moreover, while DUE members regularly submit proposals for voting on parliamentary resolutions, the standing committees which have to decide on the proposals tend to neglect their further treatment. Thus, it might occur that resolutions are simply not voted on.\(^5\) In this respect, the participation in EU legislation *ex post* reflects the problems already faced in the *ex ante* stage: the standing committees are exclusively responsible for the transposition of directives, while DUE members with a general interest in EU affairs have no say in this stage. This “division of competencies” resulting in a different level of involvement of parliamentary bodies between different stages of the legislative procedure might thus negatively affect the effectiveness of transposition. Given the high level of ineffective transposition in France, DUE members therefore regularly claim for parliamentary reforms with the aim of giving them a right to officially participate in the *ex post* stage as well (Assemblée Nationale 2003, 2004).

Moreover, as a means for compensating for the lack of legal association in the transposition stage, the DUE has used its right to issue information reports about current EU issues and decided on reporting annually on the state of transposition of directives. In this perspective, the DUE performs the already mentioned role of a “watchdog” regarding timely and correct transposition even for those directives which are implemented by executive action mentioned above. Actually, by publishing national “scoreboards” on the performance of the respective ministries in timely transposition and analysing the underlying reasons for delay for each directive being overdue, the DUE has contributed to triggering a debate about transposition problems on the political level and the subsequent initiation of important reforms. In this respect, the information acquired in the *ex ante* stage and the instruments available for scrutinizing EU affairs (information reports) has indirectly positively affected the *ex post* stage.

A positive impact on effective transposition of MPs showing interest in EU policy-making is also possible in yet another way. As mentioned in the ministerial circular of the Prime Minister in September 2004, the delay of transposition in France is mainly explained by the insufficient anticipation of problems possibly occurring in the transposition stage and the lack of fully seizing the interests of the rule addressees. The early involvement of MPs as representatives of local, social and economic interests and the specific demands of MPs to the ad-

\(^5\) Interview with Ministry delegated to the relations with the parliament on March 22\(^{nd}\), 2005, see also the annual reports on the activity of the parliament published by the *Assemblée Nationale*. 
ministration with regard to specific directives are perceived as being helpful and accelerating the procedure *ex post*. This is particularly demonstrated in the case of implementation of the so-called “Natura 2000” directive No. 92/43 aiming at the conservation of wild species via the establishment of protected areas. The French implementation procedure has been considerably delayed due to the insufficient anticipation of the interests of local actors (Pinton et al. 2003). The association of MPs, even though only occurred in the *ex post* stage, has finally contributed to decreasing compliance problems.

**Ineffective transposition as result of insufficient information acquired *ex ante*?**

As mentioned in the theoretical part of the paper, transposition problems can be related to the level of parliamentary capacity *ex ante*, i.e. the fact that it has not acquired enough or the relevant information for effective transposition before the directive has been adopted.

Actually, the French administration sometimes attributes a low quality of transposition (likely to provoke the opening of an infringement procedure for incorrect transposition) to amendments submitted by MPs who do not sufficiently know the finality, the impact and the context of the directive and therefore wrongly estimate the impact of amendments on the effectiveness of transposition. However, as mentioned above, this does not necessarily result from the lack of capacity to acquire the necessary information *ex ante*. Even though the French parliament may not vote a resolution to every directive which is negotiated on the EU level, the scope of information transmitted by the government is relatively large (Sauron 2000), and the DUE also actively tries to acquire additional information. Thus, this kind of ineffective transposition might be again the result of the unequal distribution of *ex ante* participation in EU affairs within the parliament and the inefficiency of the intra-parliamentary organisation.

**VI. Conclusion**

The aim of this paper was to analyse to which extent mechanisms of “input”-legitimacy (Scharpf 1999) can be translated into “output”-legitimacy (ibid.) resulting in compliance with policy outputs and effective implementation of legal measures by drawing on the impact of national parliamentary participation in EU policy-making on the transposition of EC directives.

The point of departure was the puzzling fact that despite national parliaments have become involved in the preparation of EU legislation in a more intensive way, the compliance deficit with European law has not decreased. In order to study the extent to which parliamentary involvement *ex ante* is likely contribute to the effective transposition of directives, I developed

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60 Interview with SGCI on March 18th, 2005.
61 Interview Ministry for Environment, March 17th, 2005.
62 Interview SGCI on March 18th, 2005.
a theoretical framework by drawing on the literature on implementation and Europeanization. The theoretical discussion has shown first that the likelihood of a direct positive effect between the participation of parliaments *ex ante* on the transposition of directives is rather limited due to procedural (number of directives not directly transposed by parliaments) and substantial (intervening variables not related to parliamentary involvement) reasons. Second, the conditions of a positive relationship are a) that parliaments are able acquire the necessary information for effective transposition *ex ante* and b) that parliamentary actors are identical in both stages of EU legislation and c) that the majority of MPs is interested in participating in the whole legislative procedure despite low salience in electoral terms.

The dependent variable has been defined as timely and correct transposition of EC directives and operationalized by the number of infringement proceedings opened against EU Member States by the European Commission for incorrect or non-transposition of directives between 1978 and 2002. The analysis has shown a stable level of ineffective implementation of directives, suggesting that there is at least no general and permanent positive impact of the stronger *ex ante* parliamentary participation.

In order to know if transposition problems persist *despite* parliamentary involvement (suggesting that other explanatory factors prevail) or if they result to a certain extent from the ineffective way in which parliaments participate, the study of France served as “critical case”. France is one of the countries constantly figuring as a “laggard” with regard to effective transposition while parliamentary participation in EU policy-making has been continually strengthened throughout the 1990s.

The empirical study suggests that the transposition problems can only be attributed to a limited extent to the way in which the parliament participates in EU policy-making. As outlined in the debate on administrative reforms for improving transposition records which has been triggered in France in the last years, problems mainly consist in the inefficiency of ministerial bureaucracy and the incapacity of anticipating problems occurring in the transposition stage. However, one explanatory factor is the fact that parliamentary participation is organised in an inefficient way: while the activity of the rather actively engaged DUE as the EU-specific parliamentary body is constrained to the stage of EU policy-making, the standing committees are the main actors in the stage of EU policy-“taking”. This “separation of powers” prevents the coherence of the legislative procedure and may result in uneven levels of *information* and *interest* in the subsequent stages of legislation.

This finding points to the importance of parliamentary actors being identical in both stages of the legislative procedure - not only with regard to the majority/opposition-dimension, but also
to the EU-specific committee/specialized committee-dimension- in order to positively link “bottom-up” and “top-down”- processes of Europeanization. In this perspective, a positive effect of parliamentary participation ex ante on the transposition of directives can be given if there is either a powerful EU-specific parliamentary body with exclusive rights in both stages of EU decision-making within the parliament of if the specialized committees which transpose directives also actively engage in the policy-making stage. Further research has to focus therefore on the conditions under which MPs are willing to participate in the whole EU decision-making procedure despite the limited impact vis-à-vis domestic politics.

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Annex
Tab. 1: Dimensions of national parliamentary participation in EU affairs *ex ante*

<table>
<thead>
<tr>
<th>Purpose of participation</th>
<th>Range/Condition of participation</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Control</strong></td>
<td>- transmission practice of the government: scope and timeliness of information about EU legislation</td>
<td></td>
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<tr>
<td></td>
<td>- Human resources in parliamentary administration: number and level of expertise</td>
<td></td>
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<tr>
<td></td>
<td>- number (and standing) of parliamentary bodies involved</td>
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<tr>
<td></td>
<td>- right to vote on a resolution/ degree of bindingness for government</td>
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<td></td>
<td>- own acquirement of information about EU policy-making</td>
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<tr>
<td></td>
<td>- reactive or proactive management: extent and quality of analysis of EU documents</td>
<td></td>
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<tr>
<td></td>
<td>- number of EAC meetings</td>
<td></td>
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<tr>
<td></td>
<td>- number of resolutions/intensity of other kind of reaction to information</td>
<td></td>
</tr>
<tr>
<td><strong>Communication</strong></td>
<td><strong>No restriction</strong></td>
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<tr>
<td></td>
<td>- number of oral questions in the plenary</td>
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<tr>
<td></td>
<td>- number of plenary debates about EU politics/ current topics</td>
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<tr>
<td></td>
<td>- scope of information provided to electorate</td>
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<td></td>
<td>- transparency of EAC meetings</td>
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