

Parliamentary scrutiny of European Union legislation

Lessons from other European countries



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Summary

Scrutiny of legislation is a core task for national parliaments. Given the impact that European Union (EU) activities have on national interests, legislatures also engage in scrutiny of EU legislation. But the fact that EU institutions are not directly accountable to national parliaments means that legislatures have evolved different ways of engaging with and influencing the EU legislative process.

Given the fundamental question of the UK's future membership of the EU, it may seem odd to publish research about the importance of parliamentary scrutiny of EU legislation. This paper does not seek to offer any views on the question of the UK's membership of the EU, but it does serve as a reminder that whether or not the UK remains a member of the EU, laws and regulations made in the EU will still have an impact on UK citizens and businesses. One of our seven case studies – Norway – is an example of how non-member states engage with EU institutions, showing how the UK Parliament could maintain a role in scrutinising EU legislation if it established a similar relationship to the EU. Following the referendum we will examine the UK's current process of scrutiny, and explore whether and how it could be improved in whatever context the UK then finds itself.

For this paper, we look at how seven national parliaments across Europe – from countries inside and outside of the EU – scrutinise EU legislation and how their governments engage with EU institutions. We identify what these parliaments – in **Germany, Sweden, Finland, Ireland, the Netherlands, Scotland** and **Norway** – are seeking to achieve and how they go about it.

The means by which national parliaments scrutinise EU legislation is decided by individual member states. **The practice of scrutiny therefore varies considerably, depending on national political and institutional factors.** However, across our case studies we have identified a high degree of commonality in the aims of EU scrutiny, although different legislatures choose to prioritise them differently.

This paper looks at how each case study country tries to meet four key aims of scrutiny:

- **Aim 1:** To identify issues of legal or political importance to the country
- **Aim 2:** To hold national ministers to account and influence the government's position on EU issues
- **Aim 3:** To influence EU policymaking directly
- **Aim 4:** To engage parliamentarians, expert stakeholders and the public in EU matters

“Politicians... were consistent in believing that the legislation [the EU] produces can have very significant consequences for their citizens”

Regardless of the extent to which the individual politicians we spoke to were signed up to the aims of the EU, they were consistent in believing that the legislation it produces can have very significant consequences for their citizens. So they saw scrutinising and influencing that legislation as an important role for national parliaments. Despite this, however, we heard again and again about the challenge for national politicians in engaging with EU

scrutiny processes. While the characteristics of each scrutiny system vary, the priorities of the politicians involved bear many similarities in that they want to: represent the interests of their constituents; demonstrate impact; and show voters that they are engaged in issues of national importance. All these motivations are difficult to fulfil through EU scrutiny, which tends to deal with issues that are complex and technical, tricky to connect with the concerns of the electorate, and hard to demonstrate impact upon.

Our work reveals four ways in which different scrutiny systems support parliamentarians to fulfil their motivations when engaging with EU matters:

- **Prioritisation of documents** – Prioritisation can reduce pressure on the scrutiny process and allow more time to be spent on important proposals. Documents can be prioritised on the basis of how relevant they are to national interests or on the stage of the legislative process to which they relate, and therefore whether it will be possible to engage with a given proposal at a later stage.
- **Providing access to expert support** – Dedicated policy advisers working closely with subject committees can help parliamentarians to understand the real-world impact of obscure or complex proposals. They can also highlight proposals that are likely to appeal to politicians because they touch on areas of their personal interest, or on high-profile national or constituency issues.
- **Facilitating contact with ministers** – Regular meetings allow exchange of views and debate. Providing regular and public opportunities to hold ministers to account allows parliamentarians to demonstrate some impact on the legislative process.
- **Investing resources in building networks in Brussels** – Having resources in Brussels can help flag new proposals, provide updates on their progress, facilitate contacts with EU institutions, help parliamentarians to navigate the EU processes and identify the best window for influence.

We will use the lessons we have drawn from international practice to inform our future analysis of the UK's system for scrutinising EU legislation.

Introduction

Scrutiny of EU matters is an important part of the work of the UK Parliament. At a time when the UK is having a national debate about the country's relationship with the EU, it is worth thinking about that scrutiny role. However the British people vote in the EU referendum on 23 June 2016, EU legislation will continue to have an impact on the UK. The nature of that impact will differ according to the exact relationship that the UK forges, but the UK Government will have to continue to engage with EU policy. And when it does so, the UK Parliament will want to scrutinise that engagement. Whatever the outcome of the referendum, it seems that the UK Parliament faces a changed relationship with EU institutions. Making the most of this new relationship may require changes in how the UK Parliament engages with and scrutinises EU legislation.

The referendum on UK membership of the EU is only the most recent factor to affect the relationship between the UK Parliament and the EU. Changes within the EU itself have affected the way that all member states, and their legislatures, interact with EU institutions. As the EU and its competences have grown, and the legislative process has changed, legislatures have adapted their systems to scrutinise EU legislation, which now covers a greater range of policy areas; and to work within a system that now requires earlier engagement to secure influence. At the same time, treaty changes have given national parliaments a formal role to play in the EU legislative process: under the Lisbon Treaty national parliaments were given the right to submit 'Reasoned Opinions' to the European Commission opposing legislative proposals. National legislatures now have the potential to be active players at an EU level, as well as being watchdogs of executive activity.

The UK House of Commons has recently argued for changes to its own scrutiny system: to involve subject committees more and to engage more effectively with EU institutions.¹ The upcoming referendum and the focus it places on how the UK should interact with the EU presents a valuable opportunity to consider how the UK–EU relationship has evolved, how the EU itself has changed, and whether the current scrutiny systems operating in the House of Commons and the House of Lords are fit for purpose.

“ However the British people vote in the EU referendum... EU legislation will continue to have an impact on the UK ”

In order to inform thinking about this, and as part of our broader work looking at parliamentary scrutiny, the Institute for Government has researched how a number of different legislatures – both those within the EU and those who, like Norway, have a different relationship – scrutinise the EU. This research involved 29 interviews with parliamentarians, parliamentary officials and academics from seven European legislatures. The case studies selected were chosen for a number of reasons. Some, such as Germany, Sweden and Finland, are widely acknowledged as having particularly strong and active EU scrutiny systems.² Others, such as Ireland, Scotland and the Netherlands, have previously been identified in reports from the UK Parliament as conducting scrutiny from which Westminster might learn.³ Our seven case studies exemplify a wide range of political contexts and parliamentary systems. Our aim was to identify views on what processes make for effective EU scrutiny, and also to understand how different political contexts shape the workings of each scrutiny system (see Table 1 on page 13).

In the first part of this paper we give a brief overview of the EU legislative process and outline the significant changes over the past two decades which have affected the ways in which member states and their legislatures engage in scrutiny of EU legislation.

In part two we explain some of the key terms used when describing parliamentary scrutiny systems and provide a brief overview of each case study legislature, including the key characteristics of each scrutiny system.

In part three we identify the four main aims of EU scrutiny systems and examine what approaches our case study legislatures use to achieve each of them.

In the final part of the paper we look at some of the barriers that discourage parliamentarians from engaging in EU issues, and what our interviewees told us was successful in overcoming these.

This paper complements a future Institute for Government report in which we look at how the UK Parliament currently scrutinises EU matters, what it is trying to achieve and what it could do differently. Drawing on evidence presented in this paper, we will identify the potential of alternative approaches to enhance the UK system, bearing in mind the incentives and constraints that operate within it.

Part 1: National parliaments and the EU legislative process

The aim of the EU, as set out in the Treaty on the European Union, is to 'promote peace, its values and the well-being of its peoples'.⁴ Over time, the EU has grown from being primarily an economic union, to covering a wide range of policy areas, including the environment, energy and international development. An increasing number of member states have 'pooled' their sovereignty over these policy areas to allow the EU to legislate at a supra-national level, in order to achieve policy aims which they believe cannot be accomplished by member states acting alone.⁵

Before we explore why and how national parliaments engage in scrutiny of EU activity, it is worth outlining the competences of the EU and how they interact with national sovereignty. Within its areas of competence, the EU's main lever for action is through legislation. It can issue regulations, which must be implemented by member states; or directives, that are binding in terms of the results member states must achieve but which allow them to decide on method and implementation. The EU can also issue recommendations and opinions, which are not binding and are not legislative documents.⁶

Whether the EU has the right to legislate on behalf of member states depends on whether it has been given the authority or 'competence' to do so. In some policy areas – such as common fisheries policy or competition law – the EU has 'exclusive competence', meaning that the EU alone has the power to pass legislation in these areas. In other policy areas the EU shares legislative competence with member states, meaning that both the European Commission (the EU's executive body) and national governments can propose legislation in that area.⁷ The EU treaties set out two principles with which EU legislation in areas of shared competence must comply:

- **Subsidiarity** – In areas where the EU does not have exclusive competence, the Commission has undertaken that it 'will propose action at EU level only if it considers that a problem cannot be solved more efficiently by national, regional or local action'.⁸ In other words, decisions should be taken as closely as possible to the citizen.
- **Proportionality** – That 'the action of the EU must be limited to what is necessary to achieve the objectives of the Treaties'.⁹

These principles are designed to protect the ability of member states to make decisions and to legislate at a national level where appropriate. Adherence to these principles is scrutinised by the European Parliament and the Council of the EU, and also by national legislatures who have a clear interest in ensuring their own role is not undermined.

The EU legislative process

The EU legislative process is centred on three institutions:

- **The European Commission:** the EU's executive power, it is the only institution with the authority to initiate legislation in most areas, though it draws on input from a variety of other bodies.
- **The European Parliament:** a directly elected legislature, its role in the legislative process is to scrutinise, amend and vote on legislation.

- **The Council of the EU:** an additional decision-making body comprising ministers and officials from each member state, who discuss proposals and also vote on legislation. The Council meets in various configurations with different national representatives (including Foreign Affairs, General Affairs, and Economic and Financial Affairs) depending on the policies under discussion.

Under the 'ordinary legislative procedure' (also known as co-decision), through which the majority of EU legislation is agreed, legislation must be approved by both the European Parliament and by a vote in the Council.¹⁰

As set out in our previous work on parliamentary scrutiny, scrutiny of the legislative process is important to 'safeguard the quality and legitimacy of [executive] decision making'.¹¹ The same is true of scrutinising legislation at the EU level: decisions taken by the executive – national governments or, in the EU case, the Commission – have an impact on the lives of citizens in both EU member states and in connected countries. Scrutiny of those proposals ensures that the interests of citizens are upheld, and that legislation achieves the best outcomes.¹²

The legislative scrutiny process in the European Parliament mirrors the scrutiny process carried out by many national legislatures. The European Commission sends legislative proposals to the European Parliament. The President of the Parliament refers the proposal to a parliamentary committee. The committee then appoints a member to act as 'Rapporteur' – this individual has responsibility for preparing a draft report on the proposal and any amendments to it, which must be approved by the committee before being considered by the Parliament as a whole. When scrutinising a legislative proposal, committees will consider:

- the legal basis of the proposals, i.e. whether it complies with proportionality and subsidiarity
- the financial and policy impact of the proposal.

During the scrutiny process the committee may hear evidence from external experts, interest groups, and Commission representatives, and may table amendments to the proposal.¹³

The role of national parliaments

When the EU legislative process was initially conceived, the role of national parliaments was quite restricted. It was seen as holding their own executives to account for their activities at the EU level, and influencing or directing how their ministers voted. The key point of influence for national legislatures has therefore been the Council meetings when national ministers vote on EU proposals. However, given that EU legislation must be implemented by member states – affecting their domestic policy areas and national citizens – national parliaments have increasingly felt that, in line with their core role of scrutinising domestic legislation, they should also play a role in scrutinising legislative proposals originating from the EU.

But national parliaments have a different relationship with EU institutions than they do with their own national governments. When scrutinising domestic legislation, the ultimate trump card of parliaments is to refuse to adopt the government's proposal. EU institutions are not directly accountable to national parliaments, so legislatures have developed different ways of engaging with and influencing the EU legislative process.

Changes at EU level

Over the period of the EU's existence, changes to the structure of the Union itself and to its legislative process have affected when and how national legislatures engage in the legislative process.

- **Growth in EU competences**

EU legislation used to be limited to the single market. Over time, member states have agreed to transfer competences from the nation state to the level of the EU in a number of policy areas, including environmental regulation, justice, migration, home affairs, security and defence. As the EU touches on more domestic policy matters, legislative scrutiny processes must identify those proposals that are of most relevance to national interests.

- **EU enlargement and 'Qualified Majority' voting**

Membership of the EU has grown from the six founding members of the EU's predecessor, the European Coal and Steel Community, to the current 28 member states. This expansion has led to changes in the way legislation is passed. While legislation in some policy areas (including defence and taxation) requires a unanimous vote in the Council, the majority of policy areas can be carried by a 'Qualified Majority' of Council members. A majority is reached when 55% of EU countries vote in favour (i.e. 16 out of 28) and the proposal is supported by countries representing at least 65% of the total EU population.¹⁴ This system of voting introduced the possibility that member states could be outvoted on legislative proposals. To secure influence on EU legislation, it is no longer sufficient for national parliaments to influence solely how their ministers vote in Council: national parliaments may need to engage in proposals at a much earlier stage and with a broader range of actors.

- **Increase in first-reading agreements**

In 1999 the Treaty of Amsterdam introduced the possibility of legislative proposals being agreed after their first reading in the European Parliament. The majority of co-decision dossiers are now concluded at the first reading stage.¹⁵ Early agreements are made possible through 'trilogues' – informal meetings between representatives of the European Parliament, the Council, and the Commission.¹⁶ In such cases, the vote in Council 'will generally simply approve what has been put in place a long time before'.¹⁷ The window of influence on EU proposals is therefore at the working group stage, or even earlier, when proposals are drawn up by the Commission.

- **The Lisbon Treaty and the 'early warning mechanism'**

These changes in the way EU legislation is agreed have been accompanied by changes in the formal powers that national parliaments have to influence the EU process. As noted above, for much of its history the EU treaties have envisaged an indirect role for national parliaments; being able to wield influence only through representatives in the Council. In 2009 the Lisbon Treaty gave national parliaments a direct role in the EU legislative process for the first time. Collectively they can invoke an 'early warning mechanism' – raising an objection to EU legislation on the grounds of subsidiarity. Legislatures have eight weeks from receiving a proposal to issue a 'Reasoned Opinion', stating why they believe the proposal breaches subsidiarity. If a third of legislatures issue a Reasoned Opinion, this triggers a 'Yellow Card' and the Commission (or whichever institution issued the proposal) must reconsider, amend or withdraw the proposal. Many national parliaments have incorporated a 'subsidiarity check' into their scrutiny processes.¹⁸

The aims of parliamentary scrutiny of EU legislation

Although the way in which national parliaments scrutinise EU legislation varies according to political context and institutional power, we were able to identify four common aims of scrutiny – that is, what national parliaments hope to achieve through engagement with EU legislation.

Aim 1: To identify issues of legal or political importance to the country

A key aim of parliamentary scrutiny is to identify those EU proposals that are of particular relevance to the national interest. The parliament's efforts to exert influence can then be focused on the proposals that are of greatest importance to the country.

Aim 2: To hold national ministers to account and influence the government's position on EU issues

The central role of any parliament is to hold the executive to account, and this is also true in the context of EU scrutiny. The EU institutions are not directly accountable to national parliaments – instead, national parliamentarians hold their ministers to account for their negotiations in Europe and seek to influence their negotiating position.

Aim 3: To influence EU policymaking directly

With changes in the way EU legislation is agreed, influencing the voting and negotiating position of national ministers is no longer guaranteed to influence EU legislation. Legislatures also try to influence the EU institutions and the content of EU proposals directly, by engaging in the early stages of the policymaking process – for example, by meeting with European Commission officials or members of the European Parliament (MEPs).

Aim 4: To engage parliamentarians, expert stakeholders and the public in EU matters

The main audiences for the products of EU scrutiny are national governments and the European institutions. However, parliamentarians and officials engaged in EU scrutiny also see themselves as having a role in facilitating a wider discussion about EU issues: drawing key proposals to the attention of parliamentary colleagues; gathering the views of other interest groups to inform the national government position; and raising awareness of how EU issues affect citizens. With EU competences now covering a range of policy areas, engaging as many voices as possible enables legislatures to identify proposals that affect domestic interests.

The UK Parliament and the EU

Like many national legislatures, the UK Parliament established a process for scrutinising EU legislation when it joined the EU in 1973.¹⁹ Unlike many legislatures – including those covered by our case studies – the UK’s scrutiny system has undergone only minor reforms in the intervening decades, despite the various changes to the EU and its legislative process described above.

“At a time when the UK is having a national debate about its relationship with the EU, it is also worth thinking about the scrutiny role played by its parliament”

The upcoming referendum on the UK’s membership of the EU has boosted interest in the nature of the UK’s relationship with the EU and the UK’s ability to pursue its own national interests within areas of EU competence. Protecting the sovereignty of the UK Parliament was one of Prime Minister David Cameron’s key aims in his EU renegotiation. At a time when the UK is having a national debate about its relationship with the EU, it is also worth thinking about the scrutiny role played by its parliament.

In the following sections we examine how other legislatures have gone about trying to achieve the aims of scrutiny within a changing EU context, and discuss which approaches they find useful in meeting these aims – all of which may inform the UK’s system of scrutiny.

Part 2: Case study legislatures

The way national parliaments scrutinise EU legislation owes much to the way they scrutinise domestic legislation. The term 'scrutiny of EU legislation' therefore means different things in different national contexts, and encompasses a wide range of EU and parliamentary activities across EU member states. 'Scrutiny' can involve scrutiny of a document, or of the negotiating position of a minister; 'EU legislation' refers to proposals emanating from the EU institutions at various stages of the legislative process, from formal drafts of proposed directives or regulations, to pre-legislative documents such as green papers and consultations on proposals.

“The drivers of reform vary across member states, but they all take place in the context of wider changes to the EU legislative process”

We briefly summarise the EU scrutiny process of each case study legislature in the table and text that follows, describing major changes that have taken place within each scrutiny system in the past two decades. The drivers of reform vary across member states, but they all take place in the context of wider changes to the EU legislative process, which necessitate earlier and more extensive engagement.

Common reforms of scrutiny systems include:

- **'mainstreaming'** scrutiny, whereby responsibility for scrutinising proposals is decentralised from a single EU affairs committee, to the subject committee that covers the relevant policy area
- **'upstreaming'**, where legislatures try to engage at an earlier stage of the EU legislative process
- **'streamlining'**, where documents are sifted and not all are given full scrutiny.

One aspect of several of the scrutiny systems we looked at was whether or not parliament had the ability to issue a mandate. In the context of EU scrutiny, a mandate is the authority conferred on ministers by parliament to negotiate or vote on parliament's behalf at the EU level. Different legislatures have different forms of mandate: some are 'legally binding'; others can be said to be 'politically binding' – for example, if a government does not have a parliamentary majority, and so needs the support of parliament to take decisions on EU matters. The outcome of both is the same – parliaments are able to instruct ministers on their negotiating and voting positions. Sometimes the ability to mandate ministers is held by a single committee, as in Finland; in other cases, such as the Netherlands, a mandate can only be given once the legislature has adopted a resolution in plenary (i.e. a vote of all parliamentarians).

TABLE 1 Key elements of case study legislatures

Legislature	Bicameral/ Unicameral	Evolution of the scrutiny system
Finnish Eduskunta	Unicameral	<p>Mainstreamed since the scrutiny system was established in 1990.</p> <p>Central European Affairs Committee ('Grand Committee') has the right to issue a mandate to the government.</p>
German Bundestag	Bicameral	<p>Streamlining of documents: in 2007 the Bundestag introduced a prioritisation procedure to filter EU proposals for scrutiny.</p> <p>Extensive information rights, beyond those stipulated in the Lisbon Treaty. In 2009, and again in 2013, the Constitutional Court extended the information rights of the Bundestag to include details of negotiations and all the German Government's 'unofficial' documents relating to those negotiations.</p> <p>The plenary can issue a resolution that binds the government – if the government deviates from these instructions, it must provide an explanation.</p>
Swedish Riksdag	Unicameral	<p>In 2007 the subject committees gained more power and it was decided that they would be responsible for carrying out subsidiarity checks once the Lisbon Treaty came into force.</p> <p>Mandates are issued by the European Affairs Committee.</p>
Dutch Tweede Kamer der Staten General	Bicameral	<p>Highly mainstreamed: subject committees have taken an active role in scrutiny since 2005.</p> <p>Some streamlining of proposals: in 2007 subject committees began to use the Commission's Work Programme to identify priority proposals in advance.</p> <p>Plenary resolutions act as binding mandates – it is 'unthinkable' that they would be broken.</p>
Irish Oireachtas	Bicameral	<p>Scrutiny system fully mainstreamed to subject committees in 2011.</p> <p>No mandate.</p>
Scottish Parliament	Unicameral	<p>Partial mainstreaming: EU Reporters on each subject committee were introduced in 2011.</p> <p>No mandate because Scottish ministers do not negotiate at EU level.</p>
Norwegian Storting	Unicameral	<p>Since 2007 the government has held biannual plenary sessions to inform the Storting about the latest developments at EU level.</p> <p>Partial mainstreaming: the subject committees have become more involved in scrutinising European Economic Area (EEA)/EU matters since 2007.</p>

Finnish Eduskunta

The Finnish Eduskunta is the national parliament of Finland. It has 200 members who are directly elected on the basis of proportional representation. Electorally, Finland is divided into 13 districts, with each district electing multiple members of parliament. An exception to this is the Åland Islands, an autonomous region, which always has one representative. Coalition governments are the norm.

The role of the Eduskunta in EU scrutiny is to scrutinise the government's position and issue a mandate to ministers on what position they should take in negotiations and Council votes. The Grand Committee, the Eduskunta's European Affairs Committee, is responsible for mandating the government on EU affairs.²⁰ The Grand Committee's 25 members may also be members of subject committees, usually as the Chair. The subject committees carry out scrutiny of individual EU documents, which are distributed by the Grand Committee. Their opinion on a document is sent to the Grand Committee to inform the mandate it issues to government.

These mandates are binding but often leave the ministers room for manoeuvre at the Council meetings. All ministers, including the Prime Minister, must appear both before and after Council meetings to agree the government's position with the Eduskunta.²¹

German Bundestag

The Bundestag is the lower chamber of the German Parliament. It has 630 members, half of whom are directly elected from constituencies. The other half are elected using proportional representation. Two-party coalition is the norm.

The Bundestag has a mainstreamed scrutiny system. The European Affairs Committee scrutinises documents which relate to EU-wide issues, such as enlargement or the EU budget. The Bundestag has extensive information rights when it comes to scrutinising EU legislation.²² This means parliamentarians have a right of access to documents and reports relating to 'the convening of dialogues [sic] and their proceedings and outcome', as well as to any documents received by the Federal Government relating to 'the institutions of the European Union, the informal ministerial meetings, the Committee of Permanent Representatives and other Council committees and working groups'.²³

The scrutiny process is supported by a large European Affairs Directorate within the Bundestag administration, which employs around 70 people.²⁴ Given the large volume of documents received by the Bundestag – around 25,000 a year – from EU institutions and the Federal Government, the European Affairs Directorate plays a vital role in filtering which proposals require further attention from members, prioritising on the basis of their likely impact on Germany. A suggested list of proposals requiring further scrutiny has to be agreed by political party groups before they are distributed to the relevant Bundestag committee for discussion.²⁵

Swedish Riksdag

The Swedish Riksdag is the national legislature of Sweden. It has 349 members who are proportionally elected, 310 through fixed constituency seats. The remaining 39 are adjustment seats used to correct any deviations that can arise from proportional national distribution. Coalition governments, both majority and minority, are common.

Similarly to the Finnish Eduskunta, the Riksdag has a Committee on EU Affairs that focuses on hearings with ministers before Council meetings. The government must consult the Committee before going to Council meetings and is expected to follow the Committee's instructions.

The process for scrutinising documents from the EU institutions is mainstreamed, and is carried out by the subject committees. The role of the subject committees has been strengthened over time, particularly after the Lisbon Treaty. In the Riksdag all draft legislative acts are scrutinised for breaching the subsidiarity principle. The Riksdag is the most active parliament in submitting Reasoned Opinions (see page 9), accounting for 29% of the total submitted Reasoned Opinions in 2012.²⁶

Dutch Tweede Kamer der Staten General

The Dutch Tweede Kamer is the lower chamber of the bicameral Dutch Parliament. Its 150 members are elected through proportional representation from nation-wide party lists – they are not elected by constituencies, but through their share of the national vote. Coalition government is the norm in the Netherlands.

The Tweede Kamer scrutiny system is mainstreamed with subject committees dealing with all proposals that fall within their area. The central European Affairs Committee has responsibility only for dossiers that relate to the workings of the EU itself. Subject committees plan their programme of scrutiny in advance using the Commission's Work Programme. The priorities identified by each committee are discussed by the European Affairs Committee and then approved by the plenary – additional areas can be added at a later date.

In advance of Council of the EU meetings, government ministers meet with relevant subject committees to discuss the government's position on matters on the agenda for discussion. For meetings of the Council, a plenary debate is held with the Prime Minister.²⁷

The Tweede Kamer has little legal power to control the government. However, debates in advance of Council of the EU meetings create 'de facto mandating' by the legislature of the government's position. Once a committee or the plenary has made clear its position on a particular proposal, it is 'unthinkable' that the government would take a different position in negotiations.²⁸

Irish Oireachtas

The Irish Parliament, or Oireachtas, is a bicameral institution made up of the Dáil Éireann (the lower house) and the Seanad Éireann (the Senate). The Dáil Éireann has 166 members who are elected through the single transferable vote system. Each constituency returns three to five deputies. The Seanad has 60 members, 43 of whom are elected by local authority councillors, six are elected by graduates of Irish universities, and the remaining 11 are appointed by the Taoiseach (the Prime Minister). Coalition governments are the norm.

The Oireachtas scrutiny system has been mainstreamed. Subject committees (usually joint committees with members drawn from both houses) receive proposals relevant to their area of policy expertise, distributed by the EU Unit, a team of parliamentary officials. The European Affairs Committee does not scrutinise individual proposals, but looks at cross-sectoral developments, such as the potential implications for Ireland of the UK leaving the EU, and monitors the scrutiny process.²⁹

The Taoiseach appears before the plenary in advance of Council meetings, and some ministers appear before committees in advance of other Council meetings. But the Oireachtas has no legal or political mandate over EU matters: the government is merely obliged to take the Oireachtas' opinion into account.

Scottish Parliament

The Scottish Parliament is the national legislature of Scotland. It is a devolved parliament, with powers to legislate in all areas that are not specifically reserved to the Westminster Parliament. The unicameral parliament comprises 129 members, who are elected through the 'additional member' form of proportional representation: 73 members are elected from constituencies on a 'first past the post' basis, and the remaining 56 seats are allocated based on the share of votes that each party receives. Since the 2011 election there has been a majority government, the first since elections began in 1999.

The Scottish Parliament stands out from our other case studies in that it is a devolved government within the UK. EU matters are reserved to the Westminster Parliament under the devolution settlement: Scottish Government ministers are very rarely present at Council meetings and do not negotiate or vote on behalf of the UK Government.

However, EU matters affect Scotland's devolved policy remit and its citizens, and so the parliament performs a scrutiny role. The Scottish Parliament has moved from a centralised scrutiny system, with work being undertaken by a single European and External Relations Committee, to a mainstreamed scrutiny system, with subject committees considering EU proposals relevant to their policy area, and the European and External Relations Committee only considering overarching proposals. Committees can hold evidence sessions or exchange letters with Scottish or UK Government ministers to discuss their position on proposals and make their views heard, but they do not have the power to mandate ministers.

Norwegian Storting

The Norwegian Storting is the national parliament of Norway. It has 169 members who are elected based on proportional representation across 19 constituencies. Coalition governments are the norm. The Storting's relationship with EU institutions differs from our other case study legislatures as Norway is not a member of the EU. Nevertheless, the Storting plays an active role in scrutinising and engaging with EU proposals.

As a member of the European Free Trade Association (EFTA), Norway is part of the EEA and is bound by the terms of the EEA Agreement. As part of this agreement, Norway has to implement a number of EU laws, both directives and regulations, to have access to the single market.

The terms of the EEA Agreement give the Norwegian Government some rights to participate in the EU's legislative process – not directly but through EFTA in agreement with the other EFTA members (Iceland, Liechtenstein and Switzerland). When the Commission begins the process of drafting new legislation, EFTA is consulted on the content of the proposals and is able to submit a response. Neither the Norwegian Government nor EFTA can take part in negotiations on the content of proposals.³⁰ Once the proposal is finalised and agreed by the European Parliament and Council, EFTA members can choose whether or not to incorporate that proposed legislation into the EEA Agreement. The formal ways in which the Storting can engage in EU legislation are therefore focused on influencing the Norwegian Government's response to EFTA consultations, and voting on whether to adopt EU legislation into the EEA Agreement.

The Storting has, like its Swedish and Finnish counterparts, a European Consultative Committee with similar functions. This committee meets with the government to discuss the implications of proposed EU legislation and to advise the government on whether or not to adopt EU legislation into the EEA Agreement.³¹ The subject committees in the Storting have gained a more important role in EU/EEA matters over the years. They can follow the development of relevant EU/EEA issues and express their opinion to the European Consultative Committee.³²

Part 3: How do legislatures go about achieving their aims?

Although our case study legislatures have similar views about the aims of their EU scrutiny, they go about achieving these in different ways. In this section we explore the different approaches used to achieve the four main aims of scrutiny that we have identified:

- to identify issues of legal or political importance to the country
- to hold national ministers to account and influence the government's position on EU issues
- to influence EU policymaking directly
- to engage parliamentarians, expert stakeholders and the public in EU matters.

We consider here how EU scrutiny systems are affected by their political and institutional context, and what processes and resources are required to meet their aims.

Aim 1: To identify issues of legal or political importance to the country

In order to carry out their scrutiny role, legislatures must first select those proposals that require further attention. There is variation in the criteria used to judge the relevance of proposals, and in the process by which they are identified. Some legislatures have a strong pre-sifting process, whereby only proposals deemed important or relevant are subjected to further scrutiny, with a large proportion of documents being passed over; others spend time considering all, or nearly all, of the documents sent to national parliaments. The actors involved in scrutiny also vary across legislatures, with some relying on a single, central EU affairs committee (or similar) to identify relevant proposals and scrutinise them; other legislatures have mainstreamed scrutiny and use the policy expertise of subject committees to identify proposals that will affect national interests.

Sifting for political, legal or national significance

One of the first things that parliaments do is to try and establish how significant a proposal is to the national interest. Under the Lisbon Treaty, legislatures are sent not only draft legislation, but also a number of documents relating to proposals at earlier stages – such as consultations and green papers. Recently this has amounted to around 1,000 documents a year. All legislatures struggle with the number of proposals they are charged with scrutinising. Some continue to give politicians the opportunity to examine all documents received, at least superficially, but many have focused their efforts by considering only the most strategically or politically important. The sifting of documents to facilitate this is usually done by officials, with input from politicians or political groups.

Interviewees from legislatures with comprehensive scrutiny systems recognised that some pre-sifting or prioritisation of proposals would be beneficial. A Finnish interviewee suggested that the Finnish scrutiny system would benefit from the prioritisation of issues particularly relevant to Finland:

I think one of the problems with the Finnish Parliament is there is not any kind of real selection of topics that would be salient from either Finland's perspective or from the EU perspective, and then perhaps looking at those issues in far more detail and maybe producing similar reports as the House of Lords does. But that is definitely a problem with the Finnish system: on the one hand it's highly comprehensive, but on the other they are not really doing any identification or selection of more salient agenda items.³³

The German Bundestag has developed a prioritisation system which has significantly reduced the number of documents which committees consider. The Bundestag has extensive information rights and receives over 25,000 documents a year. In addition to the documents covered by the Lisbon Treaty, the Bundestag also receives unofficial documents including notes provided by the Federal Government on the discussions held at Council committee meetings, inter-governmental summits and 'trilogues'. This workload was overwhelming for committees, who are also responsible for considering national legislation:

[It] was just too much and the committees – of course they are not only doing EU affairs but also national legislation, so it was decided to prioritise these papers.³⁴

The prioritisation system involves officials in the Bundestag's EU Unit and in the parliamentary groups. Officials in the EU Unit go through documents on a weekly or bi-weekly basis and select those which should be sent to committees for further scrutiny. Their proposed selection is then sent to political groups within the Bundestag for approval. This ensures that proposals of political significance are included, as well as those with policy impact. This system has consistently reduced the number of proposals that committees consider, while at the same time maintaining oversight of all documents coming to the Bundestag. Proposals that are not prioritised are still logged and stored in a central Bundestag database:

In the beginning only 50% of all the documents were sent to the committees, now we are at about 40%. So 60% are just written on a list and are not discussed. The list is also published, so nothing is hidden in our database. But now we save a lot of time for committees to really discuss the relevant issues. That was the idea behind this prioritisation. And it works very well.³⁵

The Bundestag prioritises documents not only according to their political and legal significance, but also based on the stage in the EU legislative process they are at. As one Bundestag official explained:

The question which is very important [is] – when should we talk about this document? Should we already stop and say we took notice of it, should we maybe wait another two months and then write a Reasoned Opinion? When's the best time? So that's the most important work of the advisers for their committee, because the committee secretariats do not always have the manpower or the experience to know what is going on in Brussels.³⁶

The Irish Oireachtas also prioritises documents on the basis of the stage they are at in the EU legislative process. All legislative proposals are brought to a committee, but some pre-legislative documents – for example Commission communications – may not be. Where pre-legislative documents are brought to a committee the purpose is normally to signpost them for the members well in advance of legislation being proposed, and facilitate the committee engaging early.³⁷

The EU Co-ordination Unit of the Irish Oireachtas receives all documents and works with policy advisers to try and identify any that relate to areas of national importance – such as agriculture or fisheries – and which should be brought to a committee’s attention at an early stage. Policy advisers then draft an advice note for the committee and propose different actions for the particular proposals, such as whether or not the proposal merits further scrutiny, or whether or not to request an evidence session with a minister or departmental official to discuss a particular proposal.³⁸

Mainstreaming scrutiny to subject committees

Several legislatures give subject committees a role in identifying and then scrutinising proposals that they believe will have an impact on domestic policy areas. Decentralising the scrutiny role partly or fully to subject committees is known as mainstreaming. For some legislatures – Sweden and Finland, for example – subject committees have always had a role in EU scrutiny. Other legislatures have moved from a centralised to a mainstreamed model in response to an increased volume of EU documentation and range of policy areas covered.

In Sweden the expertise of subject committee members in domestic policy is seen as beneficial because it helps them to identify breaches of subsidiarity; where the EU intrudes on work that could be done at a national level:

*It was decided that those who examined equivalent Swedish matters should also examine EU proposals. It was decided that since subsidiarity is so closely related to policy issues, to make a proper examination, to make the subject committees look at it, was thought to be the most appropriate solution.*³⁹

Another benefit to involving subject committees in the scrutiny of EU documents is that the burden of scrutiny is spread, reducing the pressure on the central EU affairs committee and allowing more documents to be looked at in more detail. A Swedish official told us:

*If you have a system where only the EU affairs committee is looking at subsidiarity, that EU affairs committee will not have the resources to look into all the 100 or so [legislative] proposals from the European Commission... But if you decentralise the system and use the subject committees, they can look into the proposals they get every year.*⁴⁰

Other parliaments have followed Sweden’s example and moved from a centralised scrutiny system to a mainstreamed model. In Ireland and Germany, EU scrutiny has been fully mainstreamed to subject committees – they receive EU proposals directly from a central unit, with only overarching proposals being retained by their European affairs committees.

The Irish Oireachtas mainstreamed scrutiny to subject committees in 2011. Interviewees told us that one of the benefits of engaging subject committees in scrutiny is that they have policy knowledge which means they understand the impact of proposals. We were also told that involving subject committees means that each proposal receives more attention and is given due diligence.⁴¹

Despite being outside the EU, the Norwegian Storting has also tried to engage their subject committees in scrutiny of EU proposals. A Norwegian official told us that:

*[Proposals] are all about domestic policy so the key is to try to get the standing committees engaged. So what we do [when these issues are discussed] in the European Consultative Committee, [is] we invite the relevant standing committees in... and a lot of them will come, so then you have the right MPs in the room so to speak.*⁴²

'Mainstreaming' scrutiny has resource implications in that committees must have access to expert advice to identify important proposals, track their progress, and provide policy advice. In the Oireachtas, each committee has a dedicated policy adviser who helps identify proposals which require further scrutiny, and over time develop expertise in policy areas covered by that committee. Not all legislatures assign EU specialists to each committee. In the Bundestag, information and support for all committees is provided by a single European directorate. This directorate is divided into a number of units with responsibility for preparing documents for scrutiny, monitoring EU developments, completing briefings and analysis for parliamentarians, and supporting the EU Affairs Committee.⁴³

Engaging subject committees using EU 'Reporters'

An alternative to full mainstreaming of scrutiny is for the central EU committee to retain oversight and coordination of scrutiny, but to give subject committees some responsibility for identifying and examining proposals that fit into their area of expertise. In 2011 the Scottish Parliament introduced an EU 'Reporter' system – electing a member of every subject committee to support their committee's involvement in EU issues. The Reporter's role is to act as a 'conduit' for the European and External Relations Committee, and to draw relevant EU proposals to the attention of their committee. A Member of the Scottish Parliament (MSP) explained:

*The job is principally to advise the Committee on relevant matters which are coming through from Europe... and to draw that to the Committee's attention and to have some kind of relevant input on what is on the Committee's agenda.*⁴⁴

However, our interviewees suggested that the success of the Reporter system has been mixed and depends very much on the individuals involved, including the committee staff. One official told us that the impetus for subject committees looking into EU proposals tended to come from their clerks, rather than Reporters.⁴⁵ Another agreed that the information specialists supporting the Reporters were critical in making the Reporter system work.⁴⁶

Aim 2: To hold national ministers to account and influence the government's position on EU issues

Once legislatures have identified the EU proposals that are politically or legally significant, they can then try to influence the government's position on that proposal and hold it to account for its activities at the EU level. Generally, influencing takes place in advance of Council meetings, where ministers vote on EU proposals. In some legislatures post-Council scrutiny also features, where ministers are questioned by parliamentarians on the outcome of Council meetings. Political context and institutional practice have a significant influence on how parliamentarians involved in EU scrutiny can exert influence on government and hold it to account. Moreover, changes to the way EU legislation is amended and decided mean that legislatures may wish to have an ongoing dialogue with ministers, rather than meeting them only before and after Council meetings.

Pre-Council – influencing the government's position

Many legislatures hold meetings with ministers in advance of EU Council meetings. The function of these meetings varies depending on the institutional context. If the legislature has the power to issue a mandate, the pre-Council meetings may focus on issuing voting instructions to ministers or instructing them to follow a particular negotiating strategy.

In the absence of the ability to issue a mandate, or in order to leave ministers more room to negotiate, parliamentarians may use the meeting to influence but not mandate the government's position. In either context these pre-Council meetings establish the parameters for accountability.

In Finland ministers must seek parliament's approval before voting or even deciding their negotiating position:

*It is in the constitution and the parliament's rules of procedure... it's anchored in the legal rules, and I think that is highly influential.*⁴⁷

However, the Eduskunta does not always use its mandating power to control the government's position. Instead, they use pre-Council meetings to make their preferred outcome clear, but allow ministers to negotiate as they see fit to achieve that. An official explained that when going into negotiations, it is easier for a minister to have an outcome to aim for within which they can negotiate the details:

*... in the official text we talk about a 'normative point of departure for the government's actions', from which the government may deviate, for instance because of the negotiating situation... In other words we just tell the government what we want them to achieve and they are supposed to go ahead and do the best they can with it, but ultimately in a negotiating situation, if they feel they need to make a compromise or something like that, they are free to do so, but they have to justify themselves afterwards.*⁴⁸

Other legislatures are empowered by the political context rather than a mandate. Dutch ministers also appear before committees or the plenary in advance of Council meetings to discuss agenda items and agree the government's position.⁴⁹ The Tweede Kamer uses these meetings to issue instructions to ministers on what the government's position should be:

*We receive the [Council meeting] agenda – late of course, always – then we receive the input from the government on the various topics on the agenda, and then we can debate with the government whether we think that's good input. And afterwards we receive a letter on what has been decided in the Council.*⁵⁰

The instructions issued by parliamentarians become a 'de-facto mandate' due to the political composition of the Tweede Kamer: in a 'nation of coalition', such as the Netherlands, the government needs the support of parliamentarians and may adjust its position on EU matters to secure this.⁵¹ If parliament's preferred outcome isn't achieved, ministers are called on to explain why a different outcome was reached.⁵² In the Netherlands, political context gives the legislature significant power to hold government ministers to account. Other interviewees highlighted the fact that where a government does not have a majority, it needs to pay particular attention to the views of its legislature. A Swedish interviewee told us:

*As in all parliamentary systems, the role of the parliament depends on the strength of the government. [In] 2006 to 2010, we had a majority government here in Sweden so the government, the four political parties in the government had agreed, they could do what they wanted. They weren't dependent on support from the opposition parties. Now we have a fairly weak minority government. They have 38% of the votes and they need support from other political parties. And sometimes they have to adjust in order to get a majority.*⁵³

As Norway is not a member of the EU, it does not participate in the Council of the EU and its meetings. Instead, the Storting meets with Norwegian government ministers in advance of EEA Joint Committee meetings, where decisions are made about whether to incorporate new EU legislation into the EEA Agreement. The relevant ministers appear before the European Consultative Committee, which advises the government on which stance it should take on each case:

*[Ministers] bring these things up in the European Consultative Committee and then it is up to the opposition especially to choose or not to choose to be active on that... [The government] has to send quite a thick file with all the legal acts, being 50 or 70 legal acts maybe in each meeting, and [a] thorough description of each legal act so the European Consultative Committee can, if they want to, take a position on those legal acts before they are incorporated into the EEA Agreement... constitutionally the government has to consult the parliament before going to Brussels.*⁵⁴

Although the Irish Oireachtas cannot mandate its ministers, pre-Council meetings are still an important part of the scrutiny process, and it is 'standard practice' for the Taoiseach to make a statement to the plenary before and after each Council meeting.⁵⁵ The Oireachtas has introduced a system of pre-Council meetings between individual ministers and the relevant subject committees. Ministers are obliged to take the parliament's views into account. In advance of every Council meeting the European Affairs Committee meets with the minister to outline its position and raise any relevant issues.⁵⁶

The pre-Council process also depends on the attitude of the government. It can be useful for the government to seek the view of parliament in advance of Council meetings to strengthen their position: if they can demonstrate that they can't guarantee parliament's support on an issue, it may boost their negotiating position.

Post-Council accountability

In advance of Council meetings parliamentarians have the opportunity to inform the government's position. After the meetings, it is the legislature's role to hold ministers to account for their actions at an EU level. This happens regardless of whether or not the legislature issued a mandate (although the consequences of breaching a mandate, for those who hold them, as opposed to simply disregarding the legislature's advice, are more serious). As with pre-Council scrutiny, post-Council accountability normally happens through meetings in committee or plenary. In the Netherlands, if there hasn't been a meeting with the relevant minister in advance of a Council meeting, the Tweede Kamer European Affairs Committee can request a written report and a meeting with the minister following the Council meeting:

*[Ministers] are required to send a written report of each Council meeting, which is tabled for the next EU committee debate. In the cases of the European Council, there are regular requests for a 'debate with hindsight' in the plenary.*⁵⁷

In Finland, where the Grand Committee issues a mandate for EU negotiations, committee members will have made their views on proposals clear long before Council votes on them. Post-Council meetings are used to hold ministers to account for how the negotiations went.

Ongoing dialogue with ministers

Changes to the EU legislative process have moved key decision-making points to much earlier in the process. With the introduction of Qualified Majority voting in Council, and the increase in first-reading agreements, the primary window of influence is at the working group

stage, where the details of proposals are negotiated. Several scrutiny systems include ways of monitoring the progress of proposals through the early stages of the legislative process.

In the Finnish scrutiny system, the Eduskunta requires ministers to keep it updated on changes to EU proposals. The Finnish Government has a 'constitutional duty' to keep committees informed of changes to draft legislation:

*... as the process goes on at the European level then they will start demanding more information, especially if the draft law undergoes changes at the European level.*⁵⁸

If the government's position shifts at any point in the EU legislative process, the parliament has the option of issuing a new mandate, as a Finnish official explained:

*If the government has to change its opinion it comes with a new communication to the parliament. But the final round is normally before the Council meeting... Yes, when it involves changes... the government gives us new information about it and we write and hear experts and if the parliament's point of view needs to change we give a new submission.*⁵⁹

For legislatures where ministers are not obliged to seek a mandate for each new negotiating position, keeping track of changes to proposals is more challenging. The German Bundestag has secured enhanced information rights which require the Federal Government to 'notify the Bundestag comprehensively, as early as possible and continuously of matters concerning the European Union'. These information rights allow the Bundestag to track the progress of EU proposals right through the EU legislative process, and to hold the Federal Government to account for negotiations, agreements and amendments to proposals.

Aim 3: To influence EU policymaking directly

As noted above, the traditional role of national parliaments has been to influence EU legislation indirectly, through national ministers. With changes in the way EU legislation is agreed, influence on the voting and negotiating position of national ministers is no longer guaranteed to translate into outcomes in relation to EU legislation. Proposals are often amended and agreed during 'trilogues' between key figures in the European Parliament, the Commission and the Council; with the Council ministers eventually voting to approve a pre-agreed decision.⁶⁰ This being the case, legislatures increasingly try to influence the content of EU proposals directly, by engaging in the early stages of the policymaking process. As we describe later in this section, such 'upstreaming' – for example by meeting with European commissioners or MEPs – has been a common reform across national parliaments in recent years.

For Norway, which is not part of the EU legislative process, the pressure is greater for focusing on the early stages of the policymaking process.⁶¹ We were told that in recent years the Norwegian Storting has become frustrated at a perceived failure to engage early enough in EU policy development, causing problems when the Storting comes to implement those policies. A Norwegian interviewee agreed that engaging early is the only way to have real influence on the substance of proposals:

*[In the drafting stage of a proposal], that's where... you really have a lot you can actually impose your view [on]. I guess when the proposal is out and goes to the Council and the [European] Parliament, I think well maybe 10–20% can be changed... So the more you can influence at an early stage of course, the better. When of course the proposal is out it's true that we have very little influence over what's going on in the Council.*⁶²

In this section we explore ways in which the Storting, and other legislatures, try to influence legislative proposals at an early stage.

Early engagement through pre-legislative documents

The Finnish Eduskunta tries to influence EU policymaking at an early stage through its ministers. A Finnish official explained that the Eduskunta has adapted its mandating procedure to ensure it makes clear its views on pre-legislative documents, such as green and white papers, to negotiating ministers at an early stage in the process: 'well in advance of a Council working group':

*So we have to have enough time to issue a parliamentary opinion before the Finnish negotiator is expected to say something in Brussels. Let's say within a few weeks of the Commission document.*⁶³

The Swedish Riksdag also scrutinises green and white papers in committees:

*What happens when the European Commission presents a green paper or a white paper is that the Speaker here in the Swedish Parliament sends the green paper or white paper to the subject committee, or standing committee, and the subject committee writes a report... The idea with this process is that the subject committees should be [engaged] more upstream or more early [sic] before the Commission presents its legal proposals.*⁶⁴

One Swedish official told us that parliaments should focus their scrutiny on pre-legislative documents where proposals are not yet concrete:

*If I were to give advice to any national parliaments... [it] would be to find out [at an early stage] in what way does the government participate in sending views on green and white papers to the Commission. Sometimes the Commission sends out green and white papers and other communications for views, asking for views from member states and interest groups and so on.*⁶⁵

The Dutch Tweede Kamer uses the Commission's annual Work Programme (a list of the Commission's priorities for the coming 12 months) to identify the proposals it will scrutinise. The EU Affairs Committee sends the Work Programme to all subject committees, which each identify the upcoming proposals of greatest interest. In 2014 around half of the proposals in the Work Programme were identified as requiring further scrutiny.⁶⁶ Committees are sent all documents relating to the proposals they have identified as requiring particular scrutiny, from as early as the consultation stage. This allows committees to begin their scrutiny work in time to influence the Commission as it works on a proposal. A Dutch parliamentarian told us:

*So once the Work Programme of the Commission is published, the Chair of the standing committee on European affairs sends a questionnaire to all standing committees on their priorities. And then we say 'this is our priority, we should appoint a Rapporteur', so we have a toolbox of different instruments then on the standing committee. It helps to focus on the priority. So once the European Commission is actually working on the programme we are in place and in time and anticipating their work.*⁶⁷

In Norway the Storting does not enjoy the same information rights as the EU member states' legislatures and cannot get documents relating to legislative proposals first-hand from the EU institutions. Nevertheless, there is an awareness of the value in engaging through pre-legislative documents. We were told by a Norwegian official that:

The parliament once actually asked the Commission 'When you submit proposals to the European Parliament and the Council, could a copy also be sent to us?'. And the Commission said 'No, we can't send it over to you. According the EEA Agreement, our only contact point is the EFTA Secretariat, so you have to ask them for a copy'.⁶⁸

The Storting is therefore reliant on the EFTA Secretariat for sight of pre-legislative documents:

Whenever the EU adopts a new legal act, the EFTA Secretariat will start a process with the EEA EFTA member states. So the desk officers will then prepare a form which is sent to the ministries concerned asking questions about 'Do you find this relevant? Do you need derogations?' and so on, with a deadline of a few weeks. In Norway, the ministries will then organise a committee meeting to clear the country's position on the act, be it a directive, a regulation or decision. They will also publish a detailed explanation of the act, including possible legal and economic consequences of it.⁶⁹

The Storting has also asked the government to supplement the details on EU affairs. Since 2007 the Norwegian Government has held biannual plenary sessions with the Storting to inform parliamentarians about developments in EU policy and legislation. Again, this change was driven by a demand from parliamentarians to have greater access to information about EU proposals at an early stage:

In 2007, the Norwegian Parliament unanimously voted in favour of a resolution on implementation of European policy. The parliament wanted, among others, to have the government coming twice [a year] to parliament to give an orientation on the latest developments in Norway's relationship with the EU, followed by a debate in plenary. The parliament hadn't had that before and now it has it twice a year.⁷⁰

EU member states do not have to wait for the European Commission to publish pre-legislative documents in order to engage in EU policymaking. Some use networks across their own government departments to identify upcoming issues that may be of interest. Oireachtas subject committees are provided with reports from the relevant department every six months, setting out the EU issues on which that department has been working. A 2014 report by the EU Affairs Committee into the scrutiny process found that these sessions are seen as a 'complement' to scrutiny of EU documents:

The reports serve as a potentially useful tool for sectoral committees to review developments on key EU policy areas within their remit within a given six-month period, and to examine their EU scrutiny engagement with the relevant department on all of the EU legislative measures being negotiated within the remit of the minister during that period.⁷¹

Early engagement directly with EU institutions

Some legislatures have developed lines of communication with the European Commission and the European Parliament directly, in addition to or instead of using pre-legislative documents or government sources to enable early engagement.

The European Commission

The European Commission is the source of all legislative proposals. Early engagement in the legislative process often requires engagement with the Commission, where the objectives and contents of proposals are often decided. As one Bundestag official told us: 'a Commission proposal doesn't fall from the sky'. There are many sources of information that parliaments can use to identify what is coming up on the Commission's agenda:

There's a lot going on – a consultation process, white books, green books [sic], and so on... Then you have your contacts in the Commission. You have a network with lobbyists... in Brussels too, representatives of companies, there's a lot of associations, German associations, the BDI [the federation of German Industries].⁷²

The Tweede Kamer's EU Affairs Committee and subject committees also have meetings with European commissioners. A member of the EU Affairs Committee told us that these meetings not only allow committees to understand commissioners' priorities, but also to influence them:

We try to have contact with commissioners... I'm not sure about the frequency but I think almost all commissioners have already visited our parliament and already had talks or debates... So that's really good, you can directly talk to commissioners and ask questions and try to understand, but also steer a little bit.⁷³

In addition, Bundestag committees try to have influence even earlier by meeting with commissioners to discuss their priorities. Through these direct meetings committees may be able to influence the development of EU proposals. A Bundestag official told us:

So at a very early stage the Bundestag [can] already put out an opinion saying 'we don't want it'. The message is 'we don't want it'. And of course this influences the Commission, 'oh my God, we see the German Federal Parliament says it's very against it', so the Commission could imagine that the German Government, which is of course informed by the Bundestag, could be against it too. This could even prevent the Commission putting forward a proposal.⁷⁴

The Storting also tries to engage with the European Commission. Subject committees travel to Brussels normally once during their term of office:

When [they] come... [they see] representatives from the Commission, maybe a commissioner or maybe some higher ranking civil servant depending on the topics.⁷⁵

The European Parliament

The European Parliament and its committees play a key role in amending and approving EU legislation, particularly during trilogue. A committee's Rapporteur – who is the MEP appointed to draft a report on each proposal, gather amendments and steer it through the European Parliament – is a particularly important individual for legislatures to engage with if they wish to influence the drafting stages of a proposal.

A German official told us that Members of the Bundestag try to meet with Rapporteurs on key dossiers:

[The Brussels Liaison Office] organises meetings with the Rapporteur on a dossier and then our members have the possibility to express their opinion on what's going on and the Bundestag's thinking, or the committee's thinking about the dossier which is currently being discussed in the EP [European Parliament] or in the Commission.⁷⁶

It is also common for Bundestag subject committees – not just the EU Affairs Committee – to travel to Brussels to meet with key officials in the Commission and the Parliament. A German official told us that in 2015, 11 Bundestag subject committees had visited Brussels:⁷⁷

[Committees] come maybe once a year and spend time with the Commission, with the European Parliament, have meetings with committees in the European Parliament and also meet staff in the Liaison Office just to get briefed on the newest issues which are of interest to them.⁷⁸

Both individual Norwegian MPs and subject committees travel to Brussels to meet with MEPs.⁷⁹ The Foreign Affairs Committee visits Brussels twice a year as they have biannual meetings with the European Parliament, but for most subject committees this happens once per term of office.

MPs involved in the scrutiny process also have the option of using their party colleagues in the European Parliament (MEPs) to find out about proposals. A Dutch politician told us:

Through my own political group I'm in close contact with my colleagues... in Brussels and try to find out what's on their agenda, and what the state is of the topic on their agenda and when it might come on our agenda, so I think it's important to use those contacts. Definitely in the European context information is power and you need to have the information at the right time.⁸⁰

Establishing resource in Brussels

Direct engagement with the EU institutions requires substantial resource in Brussels: to organise meetings for parliamentarians; to provide intelligence on upcoming proposals; and to monitor the progress of dossiers that have been selected for scrutiny by committees. For most EU member states this role is carried out by the National Parliament Office, an office of the national parliament based in Brussels that is separate to the representation that each national government also maintains.

The Bundestag has expanded its Brussels Liaison Office since it was first established in 2007. It now has around 20 staff, including parliamentary officials and staff from the parliamentary party groups. The Liaison Office acts as the Brussels eyes and ears for parliamentarians in Germany, providing reports on current proposals and also – importantly – identifying potential upcoming proposals to allow the Bundestag to engage as early as possible. A German official told us:

Our Liaison Office, they are writing regular reports from Brussels where they send the information as early as possible. And they also go into the committee meetings in the European Parliament and report on relevant issues, or if they hear something that the Commission is planning, a green or white paper, they are writing this in the report, so the members of parliament get informed very, very early if there could be a new proposal or another action of the Commission.⁸¹

The Dutch Tweede Kamer has a smaller team in Brussels – three staff – but having contacts in the EU institutions is an important qualification for the specialist EU staff who support its subject committees. All staff in the EU Unit, which supports subject committees in carrying out scrutiny, have networks from time spent working in Brussels or in government departments 'in order to have an antenna in the Commission and the PerRep [Permanent Representation to the EU]'.⁸² These connections allow Tweede Kamer committees to engage as early as possible in the lifecycle of proposals. Legislatures can engage through the European Commission or the European Parliament.

Recognising the importance of having a support network in Brussels, the Norwegian Storting established a National Parliament Office in 2010 to boost their presence and secure greater access to information. In 2013, their official got an office in the European Parliament. We were told that establishing these connections in Brussels has improved the Storting's connections to EU institutions:

It has been quite a significant change, a positive change, in that we are much more involved in what the European Parliament does, and also what the national parliaments and the EU Presidency do.⁸³

Aim 4: To engage parliamentarians, expert stakeholders and the public in EU matters

The main audience for the EU scrutiny conducted by legislatures is their national governments and the European institutions. However, interviewees were keen to point out that they also see themselves as having a role in facilitating a wider discussion about EU issues, gathering the views of other interest groups and raising awareness of how EU issues affect citizens.

Engaging parliamentarians not directly involved in the scrutiny process

A Bundestag official closely involved in the EU scrutiny process told us that they try to get all parliamentarians to engage in EU issues by providing them with information:

Once the last electoral term started we offered training classes on European Union affairs, on how to use our database, on different subjects, run by the staff of our directorates... We also have regular training on how to use our database. We have a hotline you can call if you can't find a document, they explain how to use it, and we send the document by email. So if you want to get informed it's possible.⁸⁴

Since 2014 the Norwegian Storting has arranged annual study trips to Brussels for its MPs. This is done so that their MPs can get an insight into how the EU works and interacts with their own work.⁸⁵ Storting officials also try to engage parliamentarians in EU issues through inter-parliamentary work:

The European Parliament has inter-parliamentary meetings for national parliaments. The Norwegian Parliament would be invited to these meetings and would normally try to participate by sending one or two MPs from relevant standing committees to those meetings.⁸⁶

This interviewee told us that attending these inter-parliamentary meetings allows members of the Storting 'to get information [about] what's going on in the EU, meet with colleagues in the EU, and also inform EU colleagues of the relevance of new EU policies for Norway through the EEA Agreement or bilateral agreements like Schengen and Dublin'.⁸⁷

Enlisting wider expert engagement

Interviewees from several countries identified engaging with experts and stakeholder groups as an aim of the EU scrutiny system. In Finland external experts and interest groups are closely involved in scrutinising EU proposals before the committee communicates its view to the government. A Finnish official told us:

While we handle it we listen to a number of experts. Of course we listen to the ministry or a representative from the ministry, we hear government agencies, organisations and other interest groups if the matter requires that kind of hearing.⁸⁸

Evidence sessions and consultations are the most common ways of encouraging expert engagement in EU issues:

... the committee itself would identify academics, interest groups etc. We have a fairly well developed information service and database of people who have expertise or at least opinions on more or less any subject you can imagine. And also members of the committee are quite forward in suggesting people they think should be heard on a particular subject.⁸⁹

Similarly, in Ireland, committees will ask stakeholders for their views on EU proposals. We were given the example of an EU proposal relating to car testing. The Oireachtas Transport Committee wrote to stakeholders in the automotive industry and sought their opinion on what the European Commission was proposing, and considered those responses as part of the scrutiny process.⁹⁰

Engaging the wider public

A Scottish official agreed that parliamentary scrutiny of the EU should aim to engage the public as well as other parliamentarians and stakeholders:

The other role of the committee is not just scrutinising government, but also raising public awareness and being a forum for debate... There is an element of people not knowing much about the EU, are we the place where there should be a debate where people can tune in if they wish?⁹¹

Interviewees told us that they try to enable members of the public to engage in the scrutiny process by being as open and transparent about activities as possible. In Ireland, all pre-Council hearings with ministers are publicly broadcast to make the process transparent and to try to engage citizens.⁹²

The Scottish Parliament's European and External Relations Committee uses social media and outreach programmes to engage the public in the work they are doing and invite contributions:

I think from the point of view of being a general member of the public being engaged in European issues, they're always being told it's too difficult, too complicated, it's bureaucratic. To actually be involved in something and formulate the way the committee's going to look at evidence I think has generated a very good profile for the committee... So we were able to connect with the wider world rather than just sitting in a wee bubble in Holyrood and talking about the things that we think are important.⁹³

Achieving effective scrutiny

Regardless of their political views on the EU or their country's membership of it, our interviewees felt that scrutinising EU legislation is an important role for national parliaments. As the example of Norway shows, even national parliaments that are not members of the EU have reformed domestic scrutiny systems to ensure that they identify and engage with relevant EU proposals at an early stage in the legislative process.

As we have discussed, the scrutiny role of national parliaments is driven by four common aims. Our case study legislatures have invested time and resource in establishing scrutiny systems to achieve these aims, and have also taken measures to evolve and adapt those systems to keep pace with changes at the EU level. Our interviewees highlighted a number of elements of, and developments in, their scrutiny systems that they felt are important in meeting their aims and allowing effective scrutiny:

Aim 1: To identify issues of legal or political importance to the country

- Prioritise documents to ensure that parliamentarians are able to engage with proposals at the right point in the legislative process, without being overwhelmed by the volume of EU documentation.
- Mainstream scrutiny of legislative proposals to subject committees with specialist knowledge of relevant policy areas.
- Appoint EU Reporters on subject committees as a 'contact point' between the committee responsible for scrutiny and those with expertise in related policy areas.
- Provide access to expert support from officials. Whether scrutiny is carried out by a single committee or is mainstreamed to subject committees, support from officials is important in helping parliamentarians to prioritise documents and to assess their implications.

Aim 2: To hold national ministers to account and influence the government's position on EU issues

- Establish formal opportunities to inform ministers' positions on EU proposals in advance of Council meetings; and to hold ministers to account after Council meetings.
- Ensure that committees involved in scrutiny of proposals are kept up to date as the content and status of those proposals changes.

Aim 3: To influence EU policymaking directly

- Engage with EU legislative proposals at the early stages of development, through pre-legislative documents and meetings with the European Commission and Parliament.
- Establish resources in Brussels to provide information on proposals and facilitate meetings with key actors at the EU level.

Aim 4: To engage parliamentarians, expert stakeholders and the public in EU matters

- Provide parliamentarians who are not directly involved in the scrutiny process with information and training about EU affairs, and encourage them to attend inter-parliamentary meetings.
- Enlist external experts and interest groups to highlight the impact of EU proposals on specific policy areas.
- Engage the wider public by making the scrutiny process as transparent as possible.

Part 4: Making the scrutiny system work

In the previous chapter we examined how different parliaments go about achieving their scrutiny aims. But across our case studies we identified one common challenge which all parliaments face: how to support those with a formal role in the system – members of legislatures – to dedicate the time and resource required to make the scrutiny process work. This challenge can be addressed by recognising parliamentarians' motives for engaging with scrutiny.

We identified three key barriers which discourage parliamentarians from engaging in EU scrutiny:

- EU affairs are seen as remote from the constituency issues which are often the focus for parliamentarians.
- It is difficult, even for those who do engage in EU scrutiny, to demonstrate direct impact on proposals.
- EU policymaking is complex and bureaucratic.

Our research uncovered a number of ways in which our case study legislatures have sought to overcome these barriers and support parliamentarians to engage in EU affairs.

Making EU issues relevant to local and national interests

In all legislatures a chief concern of parliamentarians is representing the interests of their constituents or their party. The need to secure local votes is a powerful incentive to devoting time and resource to issues which relate to constituency concerns, particularly for those who are directly elected by a constituency. EU issues are rarely high on constituents' list of concerns, and so there is little incentive for politicians to dedicate time to these matters. As one MSP told us:

I can't think of an individual issue in the European work that has ever impacted directly on whether somebody voted for me or not. Now, every single day there are things that the EU does that impact on your constituency, but people don't see the connection between, for example, water, whether the quality of your water is good or bad, for them there's a disconnect between all of that stuff that the EU's doing, and things happening on the ground for them, and who's to blame.⁹⁴

Even without the immediate pressures of constituency politics, EU issues are not seen as a means of boosting politicians' popularity or profile in the legislatures we looked at. Members of the Tweede Kamer are not elected by constituency, but through their party's share of the national vote. The need to appeal to local voters is therefore less of a concern for parliamentarians. Nevertheless, public opinion is important. A Dutch parliamentarian gave the example of a policy which they had successfully influenced, but which received no media attention at the time:

We forced our ministers to negotiate on this guideline, which they did quite effectively, but as it was on Europe and it was leading into direct legislation, there was no media attention... Once the guideline was effectively published, one and a half years later, as a guideline, essentially in line with what we as the Dutch Parliament wanted, then again there was no media attention because this guideline was not much of a thing to debate on. And as politicians live by media attention, that's what makes European debates so difficult.⁹⁵

Lack of political salience or local relevance discourages parliamentarians from getting involved in EU scrutiny and EU issues more generally. Some interviewees felt that showing the impact that proposals will have is an important way to generate parliamentary interest. One told us that officials supporting the scrutiny process need to 'break down' proposals in terms of how they will affect people on the ground, in order to engage parliamentarians. Another said that setting out the real-world policy implications of a proposal and demonstrating how it will affect citizens is the best way to engage parliamentarians in scrutiny.⁹⁶

Other interviewees felt that even if EU proposals could not be linked to constituency concerns, matters of national relevance could still be interesting to politicians. A member of the Tweede Kamer agreed that the importance of the EU in matters of national interest had encouraged politicians to seek a more active EU-facing role:

I think it's because, if you look at some of the larger questions that we have right now, for example the migration issue, it's a European issue. Of course it's also a national issue when it comes to reception and integration, but the issue as such is a European issue... And if you want to have a result, and this is the ambition we have as politicians, the result can be reached through European cooperation.⁹⁷

As noted above, Norwegian parliamentarians have pushed for greater access to EU proposals because of their impact on national interests:

I think everyone here realises that the EEA actually is about domestic policy, what happens in Brussels it's highly relevant for what happens here, what laws we have to implement or develop in Norway... So you have to sort of present the exact importance of the domestic issue to get them interested, I think.⁹⁸

Finnish officials suggested that, because Eduskunta subject committees are involved in scrutinising domestic legislation, it is in their interests to engage in any EU work that is likely to become a domestic bill later:

They are motivated because the most part of our legislation comes from the EU... For example in our committee, let's say, more than 80% of the legislation comes from the EU somehow. So it's more or less necessary to be interested in it.⁹⁹

Demonstrating impact on EU proposals

As with other aspects of parliamentary scrutiny, the ability to make, and to demonstrate, impact as a result of their efforts is also understandably important to parliamentarians. We asked one Dutch parliamentarian whether it is possible to see the impact scrutiny has on EU proposals:

No, of course not. The large decision-making machine has the Parliament, the Commission, the Council, a specific role for legislatures through the Reasoned Opinion process or via the Council. For an individual member of parliament I think it's very difficult to claim success. Which is easier when it's a local health policy and you were the one that made sure that the wages of the doctors are improved – you have your direct result there, which is something that is much easier than in the European context.¹⁰⁰

A Scottish parliamentarian agreed that the difficulty in securing impact on EU affairs could be a powerful disincentive to parliamentarians spending time on EU scrutiny:

*We don't have that direct input. And I think... that creates at the very least a disincentive to get involved at committee member or individual member level, because it's difficult to see the chain of events that if you took an interest, you cannot see how that would lead to an impact. And actually change anything. Why waste your time if there's not any hope that you'll actually change anything?*¹⁰¹

He contrasted this to domestic policymaking, where the avenues for influence are clearer and easier to take advantage of:

*Whereas, if you pay attention to more domestic issues, you do get the chance to change things, you do get your chance to amend legislation, you do get the chance to grab the minister in the canteen and say I'm worried about this, that or the other. You can have the impact so that's what you spend your time doing.*¹⁰²

A Swedish official suggested that, while it was possible to see changes to the final text that reflected the national position, it was harder to judge exactly what the Swedish Parliament's input had been:

*When we look at the specific matters upon which the Swedish Parliament has issued Reasoned Opinions and you look at the final... legal act adopted by the European Parliament and the Council, in many cases... the final adopted legal act has actually been changed in a way in the direction that the Swedish Parliament has wanted. This is not necessarily because the Swedish Parliament issued a Reasoned Opinion, but... the Swedish Parliament's view is at least one of the many voices that has affected the proposal.*¹⁰³

Although impact is very difficult to demonstrate, opportunities to raise their political profile, either through speaking in plenary debates or by meeting with ministers, are mechanisms that encourage parliamentarians to spend time on scrutiny. In Sweden, committees can have reports on EU proposals debated:

*The committee writes a report and with the views of the committee and there may be a debate... I should say when it comes to debates in the chamber, here in Sweden it is the parliament that decides on whether there should be a debate or not... For all these reports, including the green papers and white papers, for all these reports there is the possibility for debate in the chamber. If a member of the parliament wants to say something he is free to do so.*¹⁰⁴

The incentive in these debates is not to exert power over the government – these debates do not bind the government – but to be seen to have impact on the government.

In the Scottish Parliament there is an annual debate on the Commission's Work Programme where members of each subject committee are able to raise issues and debate them with government ministers. An MSP told us that parliamentarians were keen to be involved in these debates:

*It's getting their voice heard... Getting quick, sensible and workable responses is paramount for every politician irrespective of your political allegiance because that's people's livelihood... having your voice heard and your aspirations exercised out in the parliament but also questions asked on behalf of your constituents being very, very relevant, so most members of parliament get involved in the whole process and debate.*¹⁰⁵

Decoding the complexity and volume of EU processes

Parliamentarians also told us that the nature of the EU itself can discourage involvement in scrutiny. One Scottish parliamentarian told us that the complexity of EU processes – the nature of the different institutions and the language used in policymaking – acts as a barrier to engagement:

... it's too opaque, it's too difficult to understand, and that leads to most people saying 'well I'm not going to bother because I can't see the point'.¹⁰⁶

The sheer number of documents produced during the EU legislative process can also be off-putting. A member of the Tweede Kamer European Affairs Committee told us that the volume of documents, and the difficulty in identifying exactly which sections are relevant, is another disincentive to engagement:

There's so much information and you have to be able to pick up the right information at the right time to be able to influence... When you get all this information, someone has to point you to page 35, line 6. The key point for your political colour or your country is on page 35, how to get to page 35? I think that's the biggest challenge.¹⁰⁷

Interviewees told us that having dedicated support from policy specialists to decode and make sense of EU documents was invaluable. A Tweede Kamer official involved in the scrutiny process told us that giving each committee dedicated EU support helped to engage members, because that individual could present issues in a way that would appeal to their interests:

We are able to really show [parliamentarians] what's in it for them because we give a lot of information relating to their own hobby horse. We have 150 MPs and all of my advisers know them personally, they know their own MP in their own committee. And they go to them and they say 'listen, the habitat directive's going to be, or the nature directive's going to be redesigned, and would you like to have input?'. We have a very individual and personal approach which is necessary.¹⁰⁸

Overcoming barriers to engagement

The impact that EU legislation and regulation has on national citizens and business means that – whatever your political view of the EU – scrutiny of EU legislation is an important role for national parliaments. But despite the importance of this role, a number of practical and political barriers can discourage national politicians from engaging with it.

First, EU issues are seen as remote from the national and constituency interests that parliamentarians focus on. Second, parliamentarians are put off engaging in EU proposals because of the jargon and process that accompanies them, which is unfamiliar and takes time to untangle. Finally, the EU legislative process is opaque, complex and distant – it is hard to secure impact, and harder still to demonstrate that impact when final proposals emerge.

Through our case studies we have identified actions and resources which – our interviewees argued – can go some way to overcoming these barriers. Providing expert support to committees helps to identify the local or national impact of proposals, and to decode complex EU jargon and process. Providing regular and public opportunities to hold ministers to account allows parliamentarians to demonstrate some impact on the legislative process and supports them by giving them a political incentive to engage in EU matters.

Conclusion

In the shadow of the upcoming EU referendum, at a time when the UK's future membership of the EU is in doubt, it may seem odd to produce a piece of research on the importance of parliamentary scrutiny of EU legislation. However, our research – in particular our discussion with Norwegian officials and politicians – suggests that whatever the outcome of the referendum, the UK Parliament will want to continue to engage in the development of EU legislation.

“Scrutiny of EU matters is important, and is part and parcel of national parliaments’ crucial role in protecting national interests and bringing democratic legitimacy to government decisions”

All of our case study legislatures believe that, given the impact that EU activities have on national interests, scrutiny of EU matters is important, and is part and parcel of national parliaments’ crucial role in protecting national interests and bringing democratic legitimacy to government decisions. While the nature of that engagement will depend on the nature of the future UK–EU relationship, the UK’s system of scrutiny needs to be fit for purpose. The lessons about delivering effective parliamentary scrutiny identified in this paper will inform our future work on setting out recommendations about how to ensure the effectiveness of the UK parliamentary scrutiny system.

This paper has identified common aims in national parliaments’ scrutiny of EU legislation and has examined the approaches they use to achieve them. These approaches can help to overcome the practical difficulties in scrutinising EU documents, such as dealing with the high volume of documents published by EU institutions each year. However, our research also found that, in addition to these practical issues, there are a number of challenges faced by parliamentarians in trying to engage in scrutiny.

We have identified the following key lessons about how to lower the practical and political barriers to scrutiny:

- **Prioritisation of documents** can reduce pressures on the scrutiny process and allow more time to be spent on important proposals. Documents can be prioritised on the basis of how relevant they are to national interests and/or the stage of the legislative process to which they relate; hence whether it will be possible to engage with the proposals they contain at a later stage.
- **Many parliamentarians value access to expert support** – whether through dedicated committee staff or a central EU unit – to help identify the impact of proposals and prioritise those which are most important. Such expertise can also help identify the local or national impact of proposals, a core motivation of parliamentarians for engaging in scrutiny.
- **Meetings with ministers on a regular basis** allow exchange of views and debate. Providing regular and public opportunities to hold ministers to account allows

parliamentarians to demonstrate some impact on the legislative process, and thereby enhances their motivation to engage in EU matters.

- **Resources and networks in Brussels** can help flag new proposals, provide updates on their progress, facilitate contacts with EU institutions, help parliamentarians to navigate the EU processes and identify the best window for influence.

However, a key challenge remains around how to demonstrate the impact of scrutiny on EU legislation; and hence why scrutiny should matter, to national governments, to legislatures, and to the public who elect them.

In contrast to many of our case studies, the UK Parliament's system for scrutinising EU legislation has changed little since it was established over 30 years ago. Consensus is growing on the need for changes to the UK system. We will return to this subject in a future report.

Notes

Interview references: all quotes in the text have been anonymised. Instead of quoting interviewees by name, each interviewee has been allocated an anonymised code based on their case study country; each quote is attributed to one of these codes. Codes beginning 'GER' refer to German interviewees, 'NL' the Netherlands, 'SCO' Scotland, 'IRE' Ireland, 'FIN' Finland, 'SWE' Sweden and 'NOR' Norway.

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