

National Parliaments and OMC: Destined to Remain Apart?

Tapio Raunio¹

ABSTRACT

The increasing use of OMC and other informal, non-binding, primarily intergovernmental ‘soft law’ instruments presents a serious challenge for national parliaments. Analysing the impact of OMC on national legislatures, this paper shows that so far domestic legislatures have remained sidelined in OMC. Policy coordination among national governments is dominated by the executive branch, with national MPs paying little attention to such processes. A comparison between OMC and the supranational mode of EU governance indicates that domestic parliaments could in fact benefit from becoming more involved in OMC. The information made available through the OMC would help the MPs to produce better laws and would in particular provide the opposition parties with tools for criticizing the government for its policy failures. There is also the danger that unless national MPs start to pay more attention to such processes, their ability to control the government in both EU and domestic matters may subsequently be weakened.

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¹ Department of Political Science and International Relations, 33014 University of Tampere, Finland. Email: tapio.raunio@uta.fi.

INTRODUCTION

While national parliaments have certainly been late adapters to European integration, there is no doubt that they do now exert tighter scrutiny on their governments in European Union (EU) matters than before. This is not surprising. After all, European integration has taken major steps forward since the early 1990s, and hence the EU has simply become a much more powerful actor whose policy competence extends basically to all policy sectors. National parliaments have responded quite logically to the empowerment of the EU: they all have established a European Affairs Committee (EAC) for coordinating parliamentary work in European matters, specialized committees are starting to play a bigger role in processing EU issues, and in general political parties and MPs pay more attention to EU politics. National legislatures have proven that they are capable of institutional adaptation and learning, with most parliaments gradually improving their mechanisms of scrutiny -- at least partly through drawing on the strengths and weaknesses of the control arrangements found in the other member countries. Moreover, early evidence from those member states that joined the EU in 2004 shows that they have already from the start of their membership implemented fairly comprehensive scrutiny mechanisms. Whether these developments have resulted in effective control of governments in EU matters is another matter, but at the very least national parliaments should no longer be simply labelled as losers or victims of integration. (Maurer and Wessels eds. 2001; Auel and Benz eds. 2005; O'Brennan and Raunio eds. 2007; Tans et al. eds. 2007.)

However, national parliaments are facing a new challenge as a result of the gradually changing patterns of EU governance. The EU and its member countries have in the new millennium increasingly relied on various forms of intergovernmental policy coordination, or 'soft law' instruments as opposed to binding supranational legislation, for achieving their policy objectives. Particularly noteworthy has been the introduction of the Open Method of Coordination (OMC) and its application in a broad range of policy questions. This change in governance is explained by several factors. First, the successive enlargements make it harder to find solutions that would fit all the member countries. Managing diversity is much more difficult among 27 countries than in the old EU15. Secondly, according to public opinion surveys EU citizens have become more sceptical of deeper integration. In an environment where people have concerns about excessive centralization, the Commission has repeatedly

emphasized the need to focus on issues that genuinely require supranational regulation (“less but better”). And thirdly, the difficulty of constitutional reform -- as illustrated by the fate of the Constitutional Treaty – means that the EU simply must rely on soft law in policy areas where it has no recourse to supranational legislation. National governments want, on the one hand, to achieve highly-valued policy objectives, such as reducing unemployment and making their economies more competitive, while on the other hand, they are not willing to cede formal sovereignty to the Union. The EU, and particularly the Commission, meanwhile sees OMC as a way to expand the EU’s competence in the face of resistance from the member states. While this change in EU governance should not be exaggerated, with binding laws still maintaining their place as primary outputs of the EU’s policy process, the challenge posed by OMC deserves to be taken very seriously by national parliaments.

This paper analyses the impact of OMC on national parliaments. The next section of the paper compares the OMC with the supranational mode of governance from the point of view of national legislatures. The empirical record of national parliaments’ involvement in OMC processes is examined in the third section.² The final section summarizes the main points and looks ahead to the future, arguing why parliaments should become more actively involved in OMC. The analysis shows that so far national parliaments have remained marginalized in OMC, with little evidence of OMC documents receiving attention from national MPs. However, the information made available through the OMC could help the MPs to produce better laws and would in particular provide the opposition parties with tools for criticizing the government for its policy failures.

COMPARING THE OMC AND SUPRANATIONAL GOVERNANCE

While intergovernmental policy coordination has been a feature of the EU’s decision-making system throughout the history of integration, such informal policy coordination has become much more prominent since the early 1990s. The European Employment Strategy (EES) adopted at the Essen European Council in 1994 and the coordination of national economic policies agreed in the Maastricht Treaty extended this coordination to two highly salient issue areas of domestic politics. And, the Open Method of Coordination became officially a part of

² This paper draws on previous work by the author, particularly on Duina and Raunio (2007). See also Raunio (2004, 2005b).

EU jargon at the Lisbon European Council in 2000. OMC has four main components: 1) fixed guidelines set for the EU, with short-, medium-, and long-term goals; 2) quantitative and qualitative indicators and benchmarks; 3) European guidelines translated into national and regional policies and targets; and 4) periodic monitoring, evaluation and peer review, organized as a mutual learning process.³ In recent years OMC (together with other forms of policy coordination) has been applied to a broad range of policies, including employment, social policy, environment, taxation, immigration, research, transport, working time, social protection, education, social infrastructure, regional cohesion and social inclusion.⁴

At this point it is worth comparing the position of national parliaments in two modes of EU governance -- the traditional 'Community method' of producing supranational legislation and the OMC mode (Table 1). When it comes to agenda setting and proposal power, national parliaments are weak actors in both types of governance. In supranational legislation the Commission basically has the monopoly of initiative, but obviously its initiatives are largely based on instructions from the Council and the European Council. The OMC is much more a tool to be used collectively by the member states, but here too the EU institutions – mainly the Commission and the Council depending on the policy question – set the agenda and coordinate subsequent actions. In supranational legislation the competence belongs to the EU, whereas the OMC is primarily used in policy areas where the Union has no access to binding legislation. This division of competence impacts also on the Council decision rule. Much of supranational legislation is passed nowadays in the Council by qualified majority vote (QMV), but in OMC processes issues are decided by unanimity. Thus domestic legislatures are in a stronger position, as domestic governments cannot be outvoted in the Council, and hence national parliaments can, at least theoretically, veto decisions they disagree with.⁵ The European Parliament (EP) performs an increasing role as a co-legislator in producing supranational laws, but it is merely consulted (or kept informed) in OMC.

TABLE 1

³ Presidency Conclusions, Lisbon European Council, 23 and 24 March 2000.

⁴ The literature on OMC and other forms of soft law instruments, or 'new modes of governance', is already quite extensive. See in particular the material available at the homepage of the OMC Forum at the European Union Centre of the University of Wisconsin-Madison (<http://eucenter.wisc.edu/OMC/index.htm>) and the references in Borrás and Greve eds. (2004), Zeitlin et al. eds. (2005), Sabel and Zeitlin (2007), and Citi and Rhodes (2007).

⁵ However, in several instances the non-binding policy recommendations are adopted by QMV instead of unanimity.

Turning to the domestic level, civil servants are central actors in both types of governance. However, in OMC their role appears to have been far more influential, with much less guidance and instructions from members of government. Most national legislatures, however, have also become actively involved in EU issues in recent years. As a result, the majority of them process routinely most if not all supranational legislation in the EACs and also increasingly in the specialized committees. The (so far relatively scarce) evidence from the OMC, in turn, shows that national parliaments have not scrutinized OMC documents in the same way as they process EU laws (see the next section). The information rights of national parliaments are also stronger in supranational legislation, as they receive the legislative initiatives from their own government and also from the Commission. As OMC documents are non-legislative items, the information rights of national legislatures are generally weaker (with much variation between the individual countries). Importantly, if the government is not obliged to send the documents to the parliaments, then it is up to the national MPs to ask for such documents (provided they are aware of their existence).

The role of the parliamentary opposition is quite different in the two types of governance. In supranational legislation the opposition of course does its best to criticize and challenge the government, but this criticism is modified by two factors. First, in many EU countries, particularly in the smaller member states, national integration policy is based on broad parliamentary consensus, with the opposition also involved in forming national positions (see Bergman and Damgaard eds. 2000; Hanf and Soetendorp eds. 1998). Moreover, were the opposition to attack the government, the prime minister might blame the opposition parties for rocking the boat and jeopardizing the success of the government (and thereby the ‘national interest’) in EU negotiations (Benz 2004: 881; Auel and Benz 2005: 379). Yet in OMC the opposition can use the information generated by cross-national comparisons to criticize the government for inefficiency and policy failures. As OMC produces non-binding outputs, it also has a higher capacity for policy learning.

This brief comparison reveals that national parliaments could in fact in many ways benefit from the use of OMC, not least because it does not force the domestic legislatures to adopt legislation. However, the survey of empirical evidence in the next section convincingly shows that so far national parliaments have remained uninterested and marginalized in OMC.

EMPIRICAL RECORD

The literature on OMC has shown that the policy impact of OMC varies considerably between individual policy areas. However, scholars usually point that, unlike top-down supranational legislation, it is flexible and supposedly respects subsidiarity and national autonomy. The down-side of this flexibility and non-binding nature of outputs is that the EU has few if any means to make the national governments follow its recommendations. The more important findings in terms of national parliaments are those concerning the involvement of various institutions. OMC has strengthened the leadership role of the Council and the European Council, intruding thus on the Commission's right of monopoly. Yet the Commission has a central role to play through its role as the institution setting objectives and issuing guidelines and recommendations to national governments.⁶ The EP has until now been effectively marginalized, and, more worrisome, the contribution of local and regional actors, often identified as the main stakeholders in these processes, has so far been quite disappointing. At the national level OMC seems to be the preserve of a fairly small circle of civil servants that possess expertise on the issues. As OMC and all forms of soft law policy coordination are primarily intergovernmental in character, national parliaments are thus, from a constitutional perspective, in a strong position to influence the proceedings. However, this applies only if they are willing and able to control their governments in these matters.

The available evidence indicates that national parliaments have failed to make an impact in OMC. Examining policy coordination in employment and social inclusion strategies, the country chapters in Zeitlin et al. (2005) testify that the various OMC documents, particularly National Action Plans (NAP), largely escaped parliamentary scrutiny or debates (Jacobsson 2005: 112-113, 128; Visser 2005: 206; Büchs and Friedrich 2005: 257, 261, 269; Armstrong 2005: 300-302). To be sure, NPs were often informed about NAPs, but mainly after they had been sent off to Brussels. In some exceptional cases (as in Portugal and Ireland), national MPs did demand more information from the government, and there were some examples – for example in Sweden -- of opposition parties using EU's recommendations to support their own claims (Jacobsson and Schmid 2003; Jacobsson and Vifell 2007; López-Santana 2006: 491).

⁶ The role of the Commission in OMC and other forms of policy coordination varies considerably between policy areas, with the Council often adopting the leading function instead of the Commission.

The observation by Visser (2005: 208) on the Netherlands can thus be generalized to most, if not all, member states: ‘the process has remained rather bureaucratic and isolated from parliamentary influence ... the audience for learning [being] almost entirely limited to the Ministry of Social Affairs and a handful of local, national and European civil servants.’

In the case of employment and pension policies, de la Porte and Nanz (2004: 278) also point to very little parliamentary scrutiny. The other case studies on OMC in various policy areas hardly even mention domestic legislatures, or merely just note their lack of involvement. National legislators have thus overall had very little direct involvement in the OMC, playing at best a passive role by being informed of developments (de la Porte and Pochet 2005: 360). It is therefore easy to concur with Radaelli’s (2003: 50) overall assessment of OMC: ‘Although there is some preliminary evidence of limited technocratic-political learning, the potential in terms of participation, openness, real transparency, increasing visibility in the domestic media and parliaments – in a word, the democratic aspects of the process – has not been fulfilled.’

But what accounts for this lack of involvement? There are probably three main reasons why national parliaments have failed to make an impact under OMC. First, it appears that the actual impact of OMC and other forms of informal policy coordination has so far been relatively modest, if not even inconsequential, in many policy areas. As a result, national parliamentarians have not found it worthwhile to spend their precious time on scrutinizing such processes. Second, the whole process is by its very nature bureaucratic and intergovernmental, with civil servants primarily responsible for drafting national programmes and presenting them in Brussels.⁷ National MPs are informed of these preparations, but far too often this happens much too late.

And thirdly, national legislators may find it hard to follow OMC processes. Unlike normal EU legislation, OMC and other forms of policy coordination do not often have any fixed deadlines or even rules guiding the behaviour of the various actors. The OMC processes are on average characterized by more flexible rules and procedures, with strong reliance on

⁷ Another related and highly important question, which lies beyond the scope of this paper, is the extent to which these civil servants are subject to control by their ministers or even by their immediate superiors in the ministries. The evidence so far would largely indicate that civil servants effectively run the show, with fairly little political guidance from ministers.

voluntary cooperation by national governments. This means that national parliaments find it harder to ‘get a grip’ on the OMC, as such issues are not processed according to the familiar procedures used for scrutinizing EU legislation. The informal nature of the OMC means also that the negotiations are less transparent and open, with both the national parliaments and the media having weaker (legal) access to documents and information (Borrás and Jacobsson 2004: 197-198; Jacobsson 2005; Jacobsson and Vifell 2007).⁸ Given the intergovernmental or informal nature of OMC, there is also (at least in some national parliaments) procedural ambiguity about how to process these things in the parliament and domestically in general. For example, what are the rights of the national parliaments to receive the relevant information and documents, and how are these to be processed in the legislature? Hence it could be that national parliaments have simply not learned yet how to contribute to OMC issues and that their contribution will become stronger over time.

This survey of research indicates that national parliaments have so far been weakly involved in OMC processes. Indeed, national MPs themselves have become aware of their limited input. During the Convention a group of national parliamentarians stated:

The ‘open method of coordination’ occupies the middle ground between purely intergovernmental cooperation and common rules put in place at the Union level. This method should not just be the responsibility of the Council and the Commission; it should specifically involve national parliaments, who will then be obliged to account to citizens for decisions taken within the framework of the guidelines defined in this way. Is it seriously possible, for example, to envisage a coordination of national budgetary policies without consulting all the national budgetary authorities?⁹

⁸ It is important to understand the difference between OMC and supranational legislation. The negotiations that form part of OMC are always carried out behind closed doors, and the legal rules about information rights that apply to access to legislative documents may not always cover non-legislative items. The processing of supranational legislation is on the whole much more transparent, particularly under the co-decision procedure where the EP is actively involved. As a result, OMC and intergovernmental policy coordination thus weakens the transparency of collective decision-making and, consequently, the accountability of the representatives.

⁹ ‘Joint contribution on the role of national parliaments’. A draft written contribution on the role of national parliaments by Hubert Haenel and supported by Gisela Stuart, Henrik Dam Kristensen, Kimmo Kiljunen and Sören Lekberg, 17 January 2003.

EU officials themselves have come to similar conclusions. In a major report on the employment initiative by a Commission-sponsored High Level Group, chairman Wim Kok wrote that ‘national parliaments must take more ownership of Lisbon, interpreting it for their publics and by debating what to do or not to do, opening up the whole issue’ (Kok 2004: 40).

Whether this lack of involvement results from voluntary non-participation or from lack of awareness cannot be answered without appropriate data. However, on the whole it appears that national parliaments – that have gradually learned how to more effectively process EU laws – face difficulties in how to deal with various soft law processes. As Armstrong (2005: 302) summarizes in the case of the UK parliament: ‘The suspicion that OMC is developing as a mode of governance acting outside the traditional scrutinising structures of representative democracy is, therefore, well illustrated in the UK. There is a sense that while structures and mechanisms for scrutinising ‘hard law’ emanating from the EU have evolved, governance techniques which seek domestic influence by alternative means are slipping through the scrutiny net.’

DISCUSSION: WHY NATIONAL PARLIAMENTS SHOULD TAKE OMC SERIOUSLY

The EU is increasingly using the OMC and other forms of intergovernmental policy coordination – and it is safe to argue that that such policy coordination will become even more prominent in the future. Hence the findings about the lack of parliamentary input give cause for concern. This final section argues first why national parliamentarians should indeed take OMC more seriously, before concluding with some cautionary remarks about whether domestic legislatures will in fact become more actively involved in intergovernmental policy coordination.

There are two main reasons why national parliamentarians should focus more on OMC: it facilitates better law-making, and it provides (particularly the opposition) with information that can be used to challenge the government.

1. Better law-making. One of the main arguments used in favour of OMC is that it facilitates policy diffusion and enables national politicians to learn about solutions adopted in the other

member countries (Duina and Oliver 2005). The OMC generates insights into legislative best practices which can be used by national legislators to produce more successful domestic legislation. It needs to be emphasized that EU's laws (including directives) do not allow for much legislative creativity at the national level. The fundamental function of the OMC, by contrast, is to expose officials from any one member state to ideas, practices, and frameworks from other member countries for the ultimate purpose of policy improvement.

OMC does this through offering a wealth of comparative data and information. First, NAPs provide data about good and poor legislative initiatives across the Union. Prepared by the member states on a given topic on a regular basis, these plans disclose every country's legislative approaches and frameworks, along with that country's progress towards achieving commonly agreed goals and its responses to recommendations from the EU. Joint Reports on the other hand offer deep analyses of domestic and foreign legislative frameworks. Crafted by the Commission and Council, these reports evaluate national approaches, benchmark progress, and recommend good practices. Well-designed laws from across the EU are set against weaker laws. Strategies are examined, problems identified and solutions suggested – in most cases targeted to each member state. Indicators in turn offer recommended statistical tools, ratios and other numerical as well as qualitative measurements of existing situations and conditions on the ground, plus information on progress towards commonly agreed objectives. Devised by the Commission, they are as relevant for lawmakers as they are for administrators; indeed, they are derived from an evaluation of existing indicators in domestic law and administrative practices. The last main component of the OMC, Peer Review Programs allow for the direct spread of successful legislative measures. The programs include a variety of sessions, conferences and exchanges in which national officials present, compare, and share information. National legislators do not participate in producing all these documents, but the resulting information is easily available to them. There is indeed evidence that OMC has contributed to better law-making in various EU countries, and hence national MPs have at least indirectly benefited from such processes (see Duina and Raunio 2007).

2. More efficient control of the government. As discussed above, OMC produces a wealth of information about the performance of governments. This information is, moreover, comparative: observers in any given country can learn about policies undertaken in the other EU member states. The OMC in effect produces a public report card on the policy performance of any given country. Given that national governments are primarily responsible

for a country's policies, and for initiating and (through their representatives in the parliament) adopting legislation, the OMC gives the opposition parties exceptional (and third-party and thus more 'objective') munitions for attacking the executive branch. Governments, in turn, cannot as easily dismiss such criticism as biased, uninformed, or irrelevant: the experience of other countries cannot be easily ignored. With the arrival of OMC, as well as other new forms of EU governance, government officials must explain their choices, while justifying why they did not pursue alternatives (Sabel and Zeitlin 2007: 9-10). The OMC, then, introduces new possibilities and dynamics in the institutional power struggles of the member states, generating what Sabel and Zeitlin (2007) call a 'democratizing destabilization effect'.

However, these potential benefits of OMC depend on whether parliaments monitor such processes. To facilitate parliamentary involvement in OMC (and other non-binding forms of intergovernmental coordination), such matters should be processed by national legislatures using basically the same procedure that is reserved for scrutinizing the Commission's legislative initiatives (in countries that have more advanced scrutiny mechanisms in EU matters). This would mean that ministers would be forced to explain their actions before parliamentary committees and perhaps even in the plenary, with MPs having the chance to put questions to the ministers or other government representatives travelling to Brussels. This would create 'ownership' of OMC among national parliamentarians and would inject much-needed democracy into such processes.¹⁰ While MPs and parliamentary civil servants may object to this by saying that their desks are already full without having to process such non-binding matters, one must keep in mind that OMC is to an increasing extent used in questions that are highly salient for most legislators -- including issues such as employment policy, economic policy, social policy and pension reforms. Efficient scrutiny of such matters is thus significant also in terms of national legislation, as the policy choices and recommendations adopted at the European level increasingly influence member states' domestic policies.¹¹

¹⁰ Alternatively, or in addition, the 'early warning system' included in the Constitutional Treaty could be extended to cover OMC (Metz 2006). This way national parliaments would receive information about individual OMC processes before they are officially launched.

¹¹ This would also enable the national parliaments to become more proactive in EU matters. Currently domestic legislatures are nearly always reacting to developments at the European level. Perhaps national MPs should reconsider their strategies. One solution would be to be more selective in deciding which legislative initiatives deserve detailed scrutiny, and to complement this reactive scrutiny with proactive European work. OMC might help national MPs to understand better the future challenges facing the EU and European societies, and parliamentarians could use this information to send political messages to the European level

Future research will certainly provide more comprehensive evidence on the extent to which national parliaments choose to capitalise on these opportunities. However, there are at least two factors that work against such involvement. The first concerns a more general question about the ability of legislatures to deal with such broader, future-oriented issues. According to Zeitlin (2005: 488):

National parliaments . . . could valuably participate in framing and debating OMC objectives and procedures, monitoring progress toward agreed goals, and revising the process in light of the results achieved. But this would involve a transformation of the conventional conception of parliaments' role in democratic polities as authoritative principals delegating detailed implementation of legislation to administrative agents, whose behaviour they seek to control through a combination of ex ante incentives and ex post sanctions. Effective participation by parliaments in OMC processes . . . would require them to develop new roles in passing framework legislation embodying commitments to broad goals (such as OMC objectives); establishing administrative infrastructures to stimulate decentralized experimentation about how best to achieve these goals, monitor the efforts of local units to improve their performance against them, pool the resulting information, and set provisional standards in light of what they have learned; and reviewing the results and revising the framework objectives and administrative procedures accordingly.¹²

While one can disagree with Zeitlin, he does make a valid point. National parliaments are not used to looking too far into the future or particularly to processing broader, non-binding matters. Parliamentarians as legislators focus in their daily work on controlling the government, amending laws (that obviously may stay in force for a long time), and on looking

before the policy process begins in the EU's institutions. As Szyszczak (2006: 496) points out, 'the OMC has the potential to offer national parliaments a new site of political access outside of the conventional EU institutional structures.'

¹² Following these considerations, Zeitlin (2005) concedes that they might be unrealistic. He thus argues that a better way to inject democracy into OMC would be through increasing transparency, openness, and the participation of all relevant actors. His opinion echoes those of others who view the EU as new type of political entity that need not operate – in order to remain democratic – in traditional ways.

after the interests of their constituencies.¹³ In OMC and other soft law policy coordination matters the lack of binding regulations and the more extended and vague time-frame work against MPs finding the political will to engage themselves in such matters.

This leads directly to my second and final point. MPs are busy people with full agendas even without EU questions. Hence when choosing what issues to focus on, they need to make a rational calculus, weighing the costs and benefits of various parliamentary activities. Considering that re-election and policy influence probably are the primary goals of most MPs, focusing on EU matters is not a very attractive option in most member countries. In terms of re-election, focusing on European matters in parliamentary work is hardly an optimal strategy. EU policy may be important for the electoral districts (e.g., in terms of attracting regional policy funds), but not necessarily for the voters who still base their voting choices primarily on ‘domestic’ issues – taxation, health care, education, level of social services and so on. Secondly, political parties, that often experience serious internal divisions over Europe and are in general more pro-integrationist than their electorates, are not very likely to elevate EU matters to a more prominent place on the parliamentary agendas.¹⁴

In a key contribution to the literature, Saalfeld (2005) argues that the existing level of parliamentary scrutiny in European issues is not very surprising and is in line with theoretical expectations. That is, national parliaments ‘delegate’ rather than ‘abdicate’ EU matters to the governments -- in a similar way in which they delegate policy-making authority to governments and their agencies in other electorally less salient matters. If we accept this line of argument, then we really have no reason to expect that national MPs would devote more of their time to EU matters in the future. And even if they do, scrutinizing supranational laws or major European questions such as the EU’s budget or future enlargements are more likely to get MPs’ attention than OMC and other soft law processes. These very basic considerations need to be taken into account when assessing the future level of involvement by national parliaments in OMC matters.¹⁵

¹³ The notable exception is of course the House of Lords, the members of which can devote much of their time to producing future-oriented reports on societal questions, including EU governance.

¹⁴ This applies especially to plenary sessions, as public debates in the chamber might expose parties’ internal differences over Europe.

¹⁵ Research on explaining cross-national variation in the level of scrutiny of EU matters points in the same direction. Studies have shown that the variation is primarily explained by two

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factors: the role of the parliament in the domestic political system, and public and party opinion on European integration. According to the first variable, the executive-legislature relationship, the parliament controls the government to the same extent in EU matters as it does in the context of domestic legislation. Similarly the divisiveness or salience of the EU dimension is important: in countries where integration matters produce divisions within both political parties and the general public the tendency is toward adopting tighter scrutiny mechanisms. (Raunio 2005a; Saalfeld 2005)

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Table 1. EU Governance Models and the Position of National Parliaments

	Supranational legislation	OMC
Agenda-setting power	Commission	Commission or the Council
Formal competence	EU	Member states (but OMC is also used in policy areas that fall under the EU's competence)
Decision rule in the Council	Increasingly QMV – national governments can thus be outvoted; when unanimity applies, national governments have veto power	Unanimity, with national governments possessing veto power. However, QMV can often be applied in questions in which the Council in supranational legislation also decides by QMV
The role of the European Parliament	Co-legislator when the co-decision procedure (and also assent procedure) is used; otherwise consultative	Consultative
Domestic negotiators at the EU level	Policy preparation is mainly delegated to civil servants, but final decisions are taken by ministers in the Council; more important items are always debated in the government	National reports and action plans are prepared and presented mainly by civil servants; the input of ministers has been relatively limited
National parliamentary scrutiny	The EAC monitors government behaviour; specialized committees are also increasingly involved	In principle the same as in supranational legislation, but so far there is little evidence of national parliaments actively scrutinising OMC processes
Information rights of	Legislative proposals and amendments are sent to	Documents are sent to national parliaments; but

national parliaments	national parliaments; governments often also provide MPs with additional explanatory memoranda	parliaments often have weaker access to non-legislative documents
The role of opposition	To challenge and criticize the government; but often actively involved in shaping national EU policy, coordinating with the government	Less involved in the process; could use the information to attack the government
Output	Binding EU legislation that either requires (directives) implementation by national parliaments or does not (regulations)	Non-binding recommendations, which may result in new domestic legislation or other measures enacted by national governments or parliaments
Policy learning	With the exception of directives, the same solution applies across the Union	National parliaments can use the information to improve domestic legislation