

National Parliaments and European Democracy

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OLAF TANS, CARLA ZOETHOUT & JIT PETERS (eds.), *National Parliaments and European Democracy. A bottom-up Approach to European Constitutionalism*. (Groningen/Amsterdam, Europe Law Publishing 2007) 253 p., NUR 828; ISBN 978-90-76871-81-3

This volume is an offspring of a research programme launched in 2004 by the Universities of Amsterdam, Maastricht and Utrecht. Its purpose is to examine on the basis of legal and political studies how political control and accountability are to be organised in the European Union. As is so often the case in studies on European integration, the analysis of what is happening is closely connected to the utilitarian goal of how the process of integration can be improved. Neither the editors nor the authors seem to be aware of the danger such an approach involves. After all, the ways and means of improvement are ultimately a political, i.e., subjective choice, while the analysis of what is happening requires a strictly scholarly, i.e., objective approach. I have found no indication, however, that the contributors to this book fell into this pitfall.

The focus of the book is on the future role of national parliaments in the European Union on the basis of what is called 'a bottom-up approach'. This means that the political systems of the member states are considered to be the prime sources of inspiration to the process of establishing supranational norms. With this idea in mind, the systems of parliamentary scrutiny of decision-making in the European Union of nine member states¹ have been critically analysed, and in some cases suggestions for improvement have been given. No other criteria for the selection of the nine member states are mentioned other than that distin-

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¹ Finland by Tapio Raunio, Germany by Daniel Thym, the United Kingdom by Adam Cygan, Belgium by Hendrik Vos, Sofie Staerlaeve, Carl Devos, Jan Orbie, Hilde van Liefferinge and An Schrijvers, Hungary by Klára Szalay and Angéla Juhász-Tóth, Austria by Barbara Blümel and Christine Neuhold, the Netherlands by Olaf Tans, Denmark by Peter Riis, and the Czech Republic by Lenka Pítrková and Martina Coxová.

guished scholars have been invited to contribute. How understandable this may be, it does not contribute to the representativeness of the volume. There are, for instance, no articles on the countries of southern Europe.

An introduction in which the main editor, Olaf Tans, is in search of a common ground, and a conclusion by the same author, complete the book. There is no index and the literature is partly in footnotes and partly at the end of the papers. In his introduction, in fact an explication of the research questions that have been presented to the authors and which is added as an appendix, Tans states that there seems to be a general agreement about the democratic deficit affecting the legitimacy of the powers that have been transferred from the national to the Community level. Although there exists a European Parliament with steadily increasing powers, the national parliaments are still considered to be crucial in redressing the democratic deficit. It remains however unclear what the role of the national parliaments actually is and what this role should be in a democratically more satisfying Union. To contribute to the debate about this problem, the editors have chosen what they call a 'bottom-up approach' as opposed to the 'top-down approach' which seems to have dominated European constitutional studies over the last decades. This means that the authors in their essays have been asked to depart from the member states' constitutions in order to extract from the actual state of affairs a binding factor which can serve as a basis for national parliamentary control in the future European Union.

The three elements of national parliamentary control of EU decisions which have been studied are the *national parliaments*, *control* and *EU decision-making*. The focus on decision-making implies that in this volume, no attention is paid to parliamentary control of the implementation of EU decisions. The analyses of national constitutional regimes in the contributions are supposed to follow a threefold approach: firstly a description of constitutional norms that purport to regulate parliamentary control of EU decision-making, secondly a summing-up of the practises that are not prescribed by explicit constitutional norms and thirdly an analysis of the question whether the relevant constitutional norms fit in their surrounding political systems. After having elaborated on the ins and outs of this threefold approach Tans concludes that in this way the nine country studies together offer an illuminating picture of the various scrutiny systems, revealing both the differences and the commonalities. On this basis the future development of the role of national parliaments can be discussed.

In the nine research papers the authors have bravely tackled the questions elaborated in the introduction, but have allowed themselves the freedom to do this in their own way. Some start for instance with a sketch of the constitutional structure of the given country, others come straight to the point of scrutiny and try to fit this into the general constitutional structure. There are no cross-references and

the federal systems of Belgium, Germany and Austria are not compared. In some articles attention is paid to historical development, while in others this is lacking. None of the contributions pays any attention to the question whether parliamentary scrutiny of EU decision-making differs from scrutiny of foreign policy in the systems described. This I find to be a rather serious omission, because the answers could have shed some light on one of the essential dilemmas of national policy towards the European Union: is this understood to be foreign policy or rather to be something analogous to the policy of a member state towards a (con)federation?

The differences in form and approach of the articles make them not always easy to read nor easy to compare and Olaf Tans must have had a tough job of summarising the results. He has done this in an admirable way in a long concluding essay in which he from time to time ventures beyond the boundaries of the essays. It appears that present day control of EU decision-making by the different parliaments is, not surprisingly, based on the principle of democracy. National parliaments rely on ministerial responsibility, increasingly improved by *ex ante* mechanisms. In practice, control is dominated by European affairs committees that work in a political culture of co-operation between governments and parliamentary majorities. The question arises whether this method of control of European decision-making is very different to the control mechanisms of decisions in other fields. The incredible flow of documents, which are not always crammed with information but contain at least a fair amount of hot air, is certainly more overwhelming and the problems are more complex. One can agree with the author that national parliaments should take the lead in firing up domestic discourses on European affairs. But I doubt whether this is a solution to the problem of the democratic deficit. Representatives of the peoples in the countries of Europe derive their power from their voters and as long as the horizon of the voters is mainly determined by the immediately visible problems of their daily lives, we probably have to accommodate a European democratic deficit in one way or the other.

