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THE FINNISH PARLIAMENT AND ITS SCRUTINY OF EU MATTERS: AN EFFICIENT MODEL

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Abstract

The aim of this Article is to demonstrate that parliamentary scrutiny of EU matters is particularly efficient in Finland. EU matters fall within the government's competence. The Constitution, however, requires that the Finnish Parliament (the *Eduskunta*) be deeply involved in the formulation of national policy regarding the European Union. Parliamentary committees, especially the Grand Committee, have a prominent role in scrutinizing EU proposed legislation and dealing with other EU matters. Stabilization and economic governance measures recently taken at EU level to tackle the financial crisis have been deemed to be compatible with the Finnish Constitution by the Constitutional Law Committee.

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Introduction

This Article aims at demonstrating that Finland's parliamentary scrutiny of EU matters is particularly efficient and can be a model for other EU member states. Even though the government is competent to deal with EU matters, the Finnish Parliament (the *Eduskunta*) is constitutionally empowered to participate in EU policy formulation. Deep involvement in the preparation of national positions on EU matters is consistent with the *Eduskunta's* "role as the supreme organ of state."¹ At the heart of the system laid down in the Constitution and the Parliament's Rules of Procedure are parliamentary committees, especially the Grand Committee. The Parliament also enjoys the right to receive from the government comprehensive information enabling the Parliament itself to examine EU documents and express its view. As a result, Finland's constitutional framework requires the government and the Parliament to steadily cooperate on EU matters².

The Article proceeds as follows. Section A outlines the history of Finland's relations with the European Union until the Lisbon Treaty was ratified. Section B briefly examines the Constitution of Finland on two counts: the governmental decision making and international relations. With regards to the latter, the President of the Republic and the government cooperate in conducting foreign affairs. Issues concerning the European Union, however, fall within the government's remit. As noted above, the Finnish Parliament has a prominent role in the formulation of national policy on EU matters. Section C focuses on the Åland Islands, an autonomous region enjoying a special relationship with the European Union. The government of Åland is granted the right to participate in preparing Finnish positions relating to the European Union. Section D deals with the structure and functioning of the *Eduskunta* and stresses the importance of parliamentary committees. Section E looks more deeply into the Grand Committee and the Foreign Affairs Committee. The former analyses all EU matters involving the Parliament's competence except for those regarding common foreign and security policy (CFSP). CFSP issues are entrusted to the Foreign Affairs Committee. Section F addresses the *Eduskunta's* relation with COSAC. Furthermore, usage of IPEX database by the Finnish Parliament is briefly examined. Section G deals with the Parliament controlling proposed EU legislation's compliance with the principle of

¹ Report of the Grand Committee 1/2014. *The Government's White Paper on EU Policy 2014*, SuVM 1/2014 vp ("vp" stands for "valtiopäivät," which means "parliament"), 32.

² ID.

subsidiarity. Section H investigates Finland's approach to the stabilization and economic governance measures taken to combat the recent financial crisis. By and large, those measures have been considered to be compatible with the Finnish Constitution by the Constitutional Law Committee.

A. Finland and the European Union until the Lisbon Treaty

On 24 June 1994, the European Union and Finland signed a treaty on accession of the latter to the EU [hereinafter, Finnish Accession Treaty] in Corfu. The related Act of Accession [hereinafter, Act of Finnish Accession to the EU], expressly considered as part of the Treaty, set out the specific conditions of admission. The Treaty was also signed by the representatives of Austria, Sweden, and Norway. Therefore, the act integrating the Treaty contained provisions regarding the accession of those four countries to the EU³.

The Finnish Accession Treaty did not grant Finland any opt-out concerning the EMU (Economic and Monetary Union). On 1 January 1995, Finland officially joined the European Union⁴. In April 1998, the Finnish Parliament decided by simple majority to proceed to the third EMU stage on the basis of a government statement⁵. Finland's commitment to participating in the third stage was deemed to be "constitutionally settled as a part of the EU membership obligations."⁶ It has been noted that the strong recession Finland had gone through in the early 1990s "paved the way for a smooth transition into the third stage of the EMU."⁷ A key point of this stage was the introduction of a common currency, and Finland was among the first-wave countries switching to the euro. Indeed, since 1 January 1999, the euro has been Finland's currency instead of former national currency - the Finnish *markka*.

³ Act concerning the conditions of accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments to the Treaties on which the European Union is founded, O.J. 1994 C 241/21. The Act of Accession included specific provisions targeting those countries individually, since the EU institutions had decided to conduct parallel but separate negotiations with them. In other words, the peculiarity of each candidature was taken into account and resulted in granting temporary derogations tailored to that distinctiveness. See M. JORNA, *The accession negotiations with Austria, Sweden, Finland, and Norway: a guided tour*, E.L. Rev. 1995, 20(2) 131.

⁴ On 6 October 1994, an advisory referendum was held in Finland and 56.9 per cent of the votes cast was in favor of accession. The Parliament approved the Ratification Act on 18 November 1994 (152 votes out of 200) and the President of the Republic of Finland signed it on 8 December 1994. The Ratification Act entered into force on 1 January 1995. See P. AALTO, *Accession of Finland to the European Union: first remarks*, E.L. Rev. 1995, 20(6), 618, 622.

⁵ See Government Statement 1/1998 vp. See, also, Statement of the Constitutional Law Committee 8/1998.

⁶ P. LEINO - J. SALMINEN, *The euro crisis and its constitutional consequences for Finland: is there room for national politics in EU decision-making?*, E.C.L. Rev. 2013, 9(3), 451, 455 [hereinafter, *The euro crisis and its constitutional consequences for Finland*].

⁷ ID., at 454.

On 11 June 2008, the majority of Finnish Parliament approved the Lisbon Treaty⁸ (151 votes out of 200). On 12 September 2008, the President of the Republic of Finland signed the Treaty, which was thus formally ratified. The act implementing the Treaty also got confirmation.

B. The Finnish Constitution

1. The overall framework of decision-making powers

The Constitution of Finland (Act No. 731/1999) was adopted on 11 June 1999 and entered into force on 1 March 2000. Section 131 Const. enumerates the former constitutional acts repealed by the Constitution itself: the Constitution Act of Finland of 17 July 1919; the Parliament Act of 13 January 1928; the Act on the High Court of Impeachment of 25 November 1922 (Act No. 273/1922); the Act on the Right of Parliament to Inspect the Lawfulness of the Official Acts of the Members of the Council of State, the Chancellor of Justice and the Parliamentary Ombudsman of 25 November 1922 (Act No. 274/1922).

Professor Saraviita argues that "[t]he year 2000 Constitution was partly a response of the political system to the obvious semi-presidential features of the year 1919 Constitution."⁹ In particular, the new Constitution has increased the Finnish Parliament's powers and dampened the prerogatives of the President of the Republic. Section 3(1) Const. assigns the legislative and budgetary powers to the Parliament. Section 3(2) provides: "The governmental powers are exercised by the President of the Republic and the Government, the members of which shall have the confidence of the Parliament." The Finnish government, officially known as the Council of State, is involved in presidential decision making essentially by issuing proposals. At the same time, the government is politically accountable to the Parliament, which is capable of influencing the President of the Republic by holding the government accountable. Therefore, the so-called principle of parliamentarism is essential to the current model of governmental decision making in

⁸ O.J. 2007 C 306/1.

⁹ I. SARAVIITA, *Semipresidential aspects in the year 2000 Constitution of Finland*, 8 (2007), available at <http://www.ulpland.fi/loader.aspx?id=92ff6f32-e17a-4026-ae83-2429e7ee0ebc>.

Finland¹⁰. By and large, the framework of decision making as meant by the 2000 Constitution has been deemed to be one of a kind¹¹.

2. The Constitution and international obligations

Section 1(3) Const. contains "a so-called internationalisation principle."¹² Since 2000, the Constitutional Law Committee (*PeV, Perustuslakivaliokunta*) has interpreted such principle so as to embrace Finland's EU membership¹³. A partial revision of the Constitution¹⁴, which entered into force on 1 March 2012, added an express reference to EU membership¹⁵. Currently, Section 1(3) provides: "Finland participates in international co-operation for the protection of peace and human rights and for the development of society. Finland is a Member State of the European Union."

Chapter 8 of the Finnish Constitution is dedicated to international relations. Pursuant to Section 93(1), foreign affairs are conducted by the President of the Republic in cooperation with the government. Nevertheless, the power to ratify and withdraw from international obligations is vested in the Parliament. Furthermore, the *Eduskunta* is competent to decide on implementation of those obligations. According to Section 93(2), instead, the government is empowered to prepare and make decisions concerning the European Union. Therefore, the government has the authority to deal with all EU matters. The Finnish Parliament, however, is to participate in drafting national policy on EU matters affecting the Parliament's province.

Section 94 of the Constitution regulates the acceptance and denouncement of international obligations. According to Section 94(1), the Parliament's acceptance is necessary whenever international obligations "contain provisions of a legislative nature, are

¹⁰ ID., at 20 ("Characteristically to the year 2000 Constitution, the connection of the presidential powers to the principle of parliamentarianism may be seen in the wording, that the President of the Republic makes decisions on the proposals of the Government. In an ambiguous way, even the President is bound to the influence of Parliament (the majority groups) through the principle of parliamentarism . . . The Government and the Ministers bear the political responsibility of the decisions of the President of the Republic").

¹¹ ID., at 10 ("The decisionmaking system in the year 2000 Constitution is purely of Finnish design, and has no equivalent among existing constitutional systems").

¹² LEINO - SALMINEN, *The euro crisis and its constitutional consequences for Finland*, *supra*, note 6, at 456.

¹³ See T. OJANEN, *EU Law and the Response of the Constitutional Law Committee of the Finnish Parliament*, *Scandinavian Studies in Law* 2007, 52, 203, 217.

¹⁴ Act No.1112/2011.

¹⁵ See J. SALMINEN, *Manifestations of the European Union Membership in the Constitution of Finland in the European Context*, *Europarättslig tidskrift*, 2010, 509.

otherwise significant, or otherwise require approval by the Parliament under this Constitution." In like manner, Section 95(1), amended by Act No. 1112/2011, provides that an act of the Parliament is required to bring into force international obligations containing provisions of a legislative nature. International obligations are brought into force by a decree, instead, if they do not fall within the Parliament's competence.

Furthermore, Sections 94(2) and 95(2), as amended by Act No. 1112/2011, require a two-third majority vote of the Parliament to decide on fundamental matters such as EU membership¹⁶. Pursuant to Section 94(2), decisions concerning the acceptance or denouncement of international obligations are to be made by at least two third of the votes cast when "the proposal concerns the Constitution or an alteration of the national borders, or such transfer of authority to the European Union, an international organisation or an international body that is of significance with regard to Finland's sovereignty . . ." In the cases just mentioned, Section 95(2) provides that bringing into force international obligations calls for the Parliament to adopt an act, "without leaving it in abeyance, by a decision supported by at least two thirds of the votes cast."

Section 96 Const. contains the main provisions on the Finnish Parliament's participation in formulating national policy on EU matters. Section 97, finally, concerns the Parliament's right to receive information on international affairs.

C. The Åland Islands and the EU

The Åland Islands or Åland, a Swedish-speaking archipelago, form part of Finland. This region has been granted a great deal of autonomy by the Finnish Parliament since 1920. The Act on the Autonomy of Åland (currently, Act No. 1991/1144) [hereinafter, the Autonomy Act] entered into force on 1 January 1993. According to Section 120 of the Finnish Constitution, the Åland Islands are recognized to have self-government "in accordance with what is specifically stipulated in the Act on the Autonomy of the Åland Islands."

¹⁶ Prior to Act No.1112/2011, the Constitution of Finland did not expressly address the matter of transferring authority to international and supranational organizations. See OJANEN, *EU Law and the Response of the Constitutional Law Committee of the Finnish Parliament*, *supra*, note 13, at 206 (arguing that "one . . . looks in vain for a constitutional provision that permits limitations of sovereignty or the transfer of sovereign powers to international institutions in general, not to speak of the EU in particular").

The *Lagting* is Åland's thirty-member legislative assembly. Amendments to the Autonomy Act by the Finnish Parliament require not only the same legislative procedure as constitutional amendments, but also the *Lagting's* consent. Therefore, the Autonomy Act is usually considered to be hierarchically lower than the Constitution of Finland but higher than legislative acts of the Parliament¹⁷. In addition, Chapter 9, Section 59(1), of the Autonomy Act, amended by Act No. 68/2004, provides: "If a treaty or another international obligation binding on Finland contains a term which under this Act concerns a matter within the competence of Åland, the Åland Parliament must consent to the statute implementing that term in order to have it enter into force in Åland."

In 1994 Åland's Parliament gave its consent to EU membership¹⁸, and the Åland Islands joined the European Union along with the rest of Finland on 1 January 1995. Åland's relationship with the European Union¹⁹ is governed by Protocol No. 2 to the Act of Finnish Accession to the EU [hereinafter, Protocol 2]. As the preamble to Protocol 2 states, the Åland Islands enjoy "special status" under international law. Accordingly, Åland is granted some exemptions from application of European Union legislation²⁰. Article 2(a) of Protocol 2, for example, provides that Åland's territory is excluded from "harmonization of the laws of the Member States on turnover taxes and on excise duties and other forms of indirect taxation."²¹ Pursuant to Article 2(b), the derogation regarding indirect taxation "is aimed at

¹⁷ See *Hierarchy of Norms in Finnish Law*, ACA-Europe Seminar, *Soft law, legal norms and sources of law*, Paris, 18 December 2013. See, also, I. SARAVIITA, *Constitution of Finland*, 48-49, available at personal.inet.fi/tiede/ilkka.saraviita/constitutionoffinland1.pdf ("From the hierarchical point of view the Act of the Autonomy is located somewhere between the Constitution and ordinary legislation . . .").

¹⁸ A separate referendum on EU membership was held in the Åland Islands on 20 November 1994. The tally of voters in favour of joining the European Union was 73.6 per cent. Accordingly, Åland's Parliament formally approved the Åland Islands' accession to the EU on 2 December 1994. See COUNCIL OF EUROPE - EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW, *Local Self-Government, Territorial Integrity, and Protection of Minorities*, 35 (Science and technique of democracy, No. 16, 1996) ("Had EU membership been rejected, the Ålandic government would probably have resigned and the Islands would not have become a part of the European Union by 1 January 1995, but would have assumed a status comparable to that of the Faroe Islands").

¹⁹ See M. EKMAN, *The Right to be Small and Different – Åland and the EU*, *The Jersey L. Rev.*, October 2006, available at http://www.jerseylaw.je/Publications/jerseylawreview/oct06/JLR0610_Ekman.aspx. See, also, H. JANSSON - J. SALMINEN (eds.), *The second Åland Islands question: autonomy or independence?* (Julius Sundbloms Minnesstiftelse, 2001).

²⁰ See F. MURRAY, *The European Union and Member States Territories: A New Legal Framework Under the EU Treaties*, 132 (T.M.C. Asser Press, The Hague, The Netherlands, 2012) (noting that in the course of negotiations for Finland's accession to the EU, the Åland Islands "made it clear that they would only accept EU membership in return for specific derogations"). See, also, M. SUKSI, *Sub-State Governance through Territorial Autonomy. A Comparative Study in Constitutional Law of Powers, Procedures and Institutions*, 593 (Springer Verlag, 2011) (pointing out that if Åland had not been expressly authorized to derogate from EU rules, "the assent of the Åland Legislative Assembly could not have been taken for granted, and thus there was a risk that Åland might remain outside the European Union altogether").

²¹ See C. SCARPULLA, *The Constitutional Framework for the Autonomy of Åland: A Survey of the Status of an Autonomous Region in the throes of European Integration*, 87 (Meddelanden från Ålands högskola nr 14, Mariehamn 2002) (contending that "the

maintaining a viable local economy in the islands and shall not have any negative effects on the interests of the Union nor on its common policies."²²

Åland's Parliament was required to approve the Lisbon Treaty to the extent that the Treaty fell within Åland's competence. Åland's Parliament passed its instrument of implementation (24 votes out of 30) on 25 November 2009²³. The *Lagting's* consent came after a long period of uncertainty²⁴. As a result, the provisions of the Treaty on the European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) entered into force in the whole territory of Finland on 1 December 2009. Under Article 355(4) TFEU, "the Treaties shall apply to the Åland Islands in accordance with the provisions set out in Protocol 2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden."

Section 59a of the Autonomy Act²⁵, amended by Act No. 68/2004, regulate Åland's involvement in drafting Finnish policy on EU matters. According to Section 59a(1), the government of Åland is granted the right to participate in the formulation of national positions concerning the European Union "if the matter would in other respects fall within the powers of Åland or if the matter otherwise may have special significance to Åland." In case the stance taken by the government of Åland is incompatible with that of the Council of State, the government of Åland may request to declare its own view "when the positions of Finland are being presented in the institutions of the European Union." Section 59a(2) empowers the government of Åland to prepare Finland's position on EU decisions producing effects in the Åland Islands "in so far as the matter would in other respects fall within the powers of Åland." Furthermore, Section 59a(c) permits the government of Åland,

exemption from the application of the Community rules in the field of indirect taxation, provided by Article 2 of the Protocol, has nothing to do with the previous status of Åland under International Law").

²² See MURRAY, *The European Union and Member States Territories*, *supra*, note 20, ID. (arguing that the Åland Islands needed exemption from EU fiscal legislation "to permit the continuance of duty and tax free sales on ferry traffic to and from the Ålands after June 30, 1999 when all duty-free sales within the EU would be abolished"). The Author adds: "The Islands' economy depended to as large extent on these duty and tax-free arrangements which underpinned two of the Islands' most important industries - shipping and tourism." ID.

²³ See SUKSI, *Sub-State Governance through Territorial Autonomy*, *supra*, note 20, ID. (noting that Åland's Parliament was "the last law-making body in Europe" to approve the Lisbon Treaty).

²⁴ See D. CHAMPLIN, *The Lisbon Treaty and Parliaments: Status, Democracy, and Opinions*, 22 (Stockholm University, ACIII, 2008) ("The Fact that Finland's Parliament passed the treaty many months ago, in June [2008], and that Åland as of early January 2009 has yet to . . . shows that there have been conflicts in this attempt. What might happen in Åland is still unclear"). See, also, P. ALLONTTINEN - S. RUÅ, *Lisbon Treaty Ratification: Will the Åland Islands become Finland's Greenland?*, EPIN Commentaries, 1/2008, 1 (quoting the following statement of former Finnish Supreme Court President and ECJ member Leif Sevón: "[T]he opposition by the Åland Islands may even jeopardize the ratification of the Lisbon Treaty").

²⁵ Act No. 1556/1994 amended the Autonomy Act by adding a chapter regarding the Åland Islands' relations with the European Union.

upon request, to join the Finnish delegation "when matters falling within the powers of Åland under this Act are being prepared in the European Union."

D. The Finnish Parliament (the *Eduskunta*)

The *Eduskunta* is Finland's unicameral parliament. Pursuant to Section 24(1), the Parliament "consists of two hundred Representatives, who are elected for a term of four years at a time." A proportional method - the *d'Hondt* method - is used to allocate seats in the Parliament. For parliamentary elections, Finland is divided into 15 constituencies. According to Section 25(2), "the Åland Islands shall form their own constituency for the election of one Representative."

The Finnish Parliament's plenary sessions are open to the public, even though the Parliament can opt for closed-door debates on specific occasions. On the contrary, secrecy characterizes committees' meetings. Section 50(2) Const., however, allows each committee to open its meetings to the public "during the time when it is gathering information for the preparation of a matter." Minutes and other documents related to committees' meetings are to be made available to anyone unless there is a compelling reason for withholding those documents from disclosure. Section 50(3) provides that "when considering matters relating to Finland's international relations or European Union affairs, the members of a Committee shall observe the level of confidentiality considered necessary by the Foreign Affairs Committee or the Grand Committee after having heard the opinion of the Government."

The *Eduskunta* is usually described as a working parliament²⁶, that is a parliament whose members "focus in their work on detailed legislative scrutiny instead of grand debates on the floor."²⁷ Over time, the Finnish Parliament has depended on its broad access to government information to hold the government accountable²⁸. The 2000 Constitution expressly grants the Parliament the right to receive comprehensive information from the government on matters relating to the European Union (Section 96) and international affairs in general (Section 97). It has been pointed out that Finland is the only EU member state "where the

²⁶ See, e.g., D. ARTER, *Scandinavian Politics Today*, 211-17 (Manchester: Manchester University Press, 1999).

²⁷ T. RAUNIO - T. THILIKAINEN, *Finland in the European Union*, 72 (Frank Cass, 2003).

²⁸ See T. RAUNIO, *The Finnish Eduskunta: Effective Scrutiny, Partisan Consensus* [hereinafter, *The Finnish Eduskunta*], 31, in O. TANS - C. ZOETHOUT - J. PETERS (eds.) *National Parliaments and European Democracy: A Bottom-Up Approach to European Constitutionalism* (Groningen: Europa Law Publishing, 2007) ("A crucial element in holding the government accountable is access to information, and, in this sense, the *Eduskunta's* powers have traditionally been very strong").

Constitution prescribes unlimited access to information for parliament."²⁹ According to the results of a questionnaire presented to national parliaments and chambers in 2012, the *Eduskunta* deploys European Commission documents transferred by the government³⁰. In other words, there is no direct flow of material from the EU "core executive"³¹ to the Finnish Parliament. Those documents are then made available to Members of Parliament (MPs) and their staff. Overall, the *Eduskunta* has stated it receives from the government between 100 and 200 EU documents annually³². Among them are "the latest Council working group documents."³³ The Finnish Parliament, however, is not provided access to any government-held database containing information and data on EU activities³⁴.

Parliamentary oversight of EU matters, regulated by the Constitution and the Parliament's Rules of Procedure³⁵, is particularly efficient in Finland. The *Eduskunta* has been deemed to have "the strongest scrutiny mechanism [in the European Union] after the Danish parliament."³⁶ Parliamentary scrutiny of EU matters is based on the pivotal role assigned to committees, whose decision-making process is essentially laid down in Section 39 of Parliament's Rules of Procedure, amended by Act No. 10/2006. The Grand Committee and to less extent the specialized committees and sub-committees examine EU documents and participate in defining Finland's positions on EU matters. EU proposals in the field of common foreign and security policy, however, are dealt with by the Foreign Affairs Committee (*Ulkoasiain valiokunta - UaV*). By contrast, the Parliament's plenary session gives little contribution to EU policy formulation³⁷. Section 35(1) Const. provides that the Parliament is to appoint, "[f]or each electoral term," the Grand Committee, the Constitutional Law Committee, the Foreign Affairs Committee, the Finance Committee, the Audit Committee "and the other standing Committees provided in the Parliament's Rules of

²⁹ EUROPEAN PARLIAMENT - CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS, *Democratic Control in the member states of the European Council and the Euro zone summits*, Study, PE 474.392, 32 (2013).

³⁰ See Seventeenth Bi-annual Report of COSAC on EU Practices and Procedures (April 2012) - Annex, 1.

³¹ S. HIX, *The Political System of the European Union*, 32 (2nd ed., Basingstoke: Palgrave Macmillan, 2005).

³² See Seventeenth Bi-annual Report of COSAC - Annex, *supra*, note 30, at 2.

³³ ID., at 4.

³⁴ ID., at 5.

³⁵ Act No. 40/1999.

³⁶ ID., at 32.

³⁷ RAUNIO, *The Finnish Eduskunta*, *supra*, note 28, at 37 ("The low involvement of the plenary means that while the Eduskunta deserves credit for establishing an effective committee-based system of parliamentary scrutiny, the debating function of the parliament has so far remained marginalised in European matters"). The Author, however, points out that "[w]hile routine EU legislation is rarely debated on the floor, far-reaching political decisions such as the Economic and Monetary Union (EMU), Agenda 2000, IGCs, and notably the development of CFSP have inspired long plenary debates." ID.

Procedure."³⁸ Hence, those committees must be set up afresh after a new parliament is elected. Besides holding meetings, parliamentary committees prepare reports and issue statements every year³⁹.

E. The Grand Committee (*Suuri valiokunta - SuV*) and the Foreign Affairs Committee (*Ulkoasiain valiokunta - UaV*) of the Parliament

The Grand Committee of the Finnish Parliament (*Suuri valiokunta - SuV*) has been characterized as "the equivalent of an European Affairs Committee."⁴⁰ According to Section 35(2) Const., the Committee has twenty-five members⁴¹. It also has thirteen substitutes. Section 36 of Parliament's Rules of Procedure grants the Member of Parliament elected from the constituency of the Åland Islands the right to be present at all Grand Committee meetings. Those meetings can be attended by other members of the Finnish Parliament, instead, only when a legislative matter is under consideration. The Grand Committee is constitutionally empowered to conduct parliamentary scrutiny of EU legislative proposals and express the view of the Parliament on such matters. In particular, the Grand Committee's main tasks are the following:

- to ensure the Finnish Parliament's participation in formulating national policy on EU legislative proposals by sifting those proposals⁴²;
- to scrutinize the conduct of Finnish representatives in the European Council;
- to give instructions to cabinet ministers attending the meetings of the Council of the European Union.

³⁸ The standing committees that the Finnish Parliament has to appoint are enumerated in Section 7 of Parliament's Rules of Procedure, as amended by 609/2007.

³⁹ According to Parliament of Finland 2012 Annual Report, in the course of 2012 the Grand Committee held 65 meetings, drafted 1 report and issued 4 statements. The Foreign Affairs Committee, instead, held 90 meetings, drafted 14 reports and issued 4 statements. EDUSKUNTA, *Parliament of Finland 2012 Annual Report* (English), available at <http://web.eduskunta.fi/dman/Document.php?documentId=zy11313135536721&cmd=download>.

⁴⁰ RAUNIO - TILIKAINEN, *Finland in the European Union*, *supra*, note 27, at 74.

⁴¹ *ID.*, at 76 (noting that within the Grand Committee are traditionally some of the most prominent political figures in Finland, such as leaders of party groups in the *Eduskunta* and former chairpersons of parliamentary standing committees).

⁴² See LEINO - SALMINEN, *The euro crisis and its constitutional consequences for Finland*, *supra*, note 6, at 457 ("In Finland, the transfer of legislative powers to the EU institutions has been rather successfully compensated by providing the *eduskunta* with the possibility of participating in the *ex ante* preparation of national positions in EU affairs").

Section 96(1) provides that the Parliament's scrutiny at national level regards "proposals for acts, agreements and other measures which are to be decided in the European Union and which otherwise, according to the Constitution, would fall within the competence of the Parliament." The category of so-called "U-matters" is made up of the EU proposals affecting the Finnish Parliament's constitutional remit. It has been observed that "the division into 'legislative' and 'non-legislative' matters tends to be the key consideration in determining the role of the parliament."⁴³ According to Section 80 Const., legislative matters are those capable of affecting the rights and obligations of private individuals and the other matters to be decided by an act of Parliament⁴⁴.

Pursuant to Section 96(2), the government is to communicate EU proposals to the Grand Committee as soon as possible. Such communication is necessary to enable early scrutiny. In the foreign and security policy domain, proposals and other relevant documents are to be forwarded to the Foreign Affairs Committee. The Grand Committee or the Foreign Affairs Committee may also issue statements to the government when those statements are deemed to be useful to set forth the Parliament's position on EU matters. Furthermore, other committees are involved in examining the proposals⁴⁵. According to Section 38(1) of Parliament's Rules of Procedure, amended by Act No. 118/2003, the Grand Committee and the Foreign Affairs Committee are indeed allowed to "request the statement of another Committee on a proposal or report referred to in sections 96 and 97 of the Constitution." When several statements are delivered by different standing committees, the Grand Committee - or the Foreign Affairs Committee - has to summarize them and find a compromise solution. Section 96(3) imposes on the government the duty to "provide the appropriate Committees with information on the consideration of the matter in the European Union." In particular, the government sends the Speaker of the Parliament a letter containing the full text of the proposal at issue and the implications for Finland. Furthermore, the letter outlines the stance the government intends to take on the matter. The Speaker, in turn, forwards the material to the various standing committees concerned. Section 30(1) of Parliament's Rules of Procedure, amended by Act No. 1023/2009, provides that the Speaker designates the committee that is to release a statement to the Grand

⁴³ ID., at 458 (quoting Statements of the Constitutional Law Committee 11/2000 vp and 12/2000 vp).

⁴⁴ See Statement of the Constitutional Law Committee 11/2000, ID. (considering legislative not only matters affecting individuals' rights or obligations, but also matters that are or should be regulated by an act of Parliament).

⁴⁵ See RAUNIO, *The Finnish Eduskunta*, *supra*, note 28, at 34 ("The majority of U-matters are processed by more than one specialized committee. Committee involvement in European matters depends on their policy jurisdiction").

Committee or the Foreign Affairs Committee. These two Committees are authorized to establish a deadline for the selected committee. They may also issue a statement themselves.

According to Section 97(1), the government transmits "upon request and when otherwise necessary," reports on foreign and security policy to the Foreign Affairs Committee. Moreover, reports on the preparation of other matters in the European Union are to be forwarded to the Grand Committee of the Parliament. Those reports pertain to "E-matters," which embrace the EU initiatives not falling within the Finnish Parliament's competence⁴⁶. Therefore, the distinction between "U-matters" and "E-matters" depends on the scope of the Parliament's authority and has nothing to do with importance of the issues concerned. In other words, despite belonging to the *Eduskunta's* province, "U-matters" may well prove far less significant than "E-matters"⁴⁷. Section 97(1) also provides: "The Speaker's Council may decide on a report being taken up for debate in plenary session, during which, however, no decision is made by the Parliament." The Speaker's Council, indeed, is constitutionally empowered to make decisions about the organization of parliamentary work⁴⁸. The specific duties imposed on the Speaker's Council are enumerated in Section 6 of Parliament's Rules of Procedure.

According to Section 97(2), the Prime Minister has to supply "the Parliament or a Committee" with comprehensive information on matters dealt with by the European Council. That information is to be transmitted to the Grand Committee before and after any European Council meeting. The Foreign Affairs Committee, too, has the right to be kept informed whenever foreign and security policy issues are addressed. It has been pointed out that the Constitution of Finland does not make any distinction "between regular and other European Council meetings."⁴⁹ Material concerning the preparation of amendments to the European Union treaties is also to be forwarded to committees. Should new matters come

⁴⁶ ID. ("Typical E-matters are the Commission's legislative initiatives that fall outside the jurisdiction of the *Eduskunta* and non-legislative documents published by the Commission (*i.e.*, green and white papers and Commission's opinions). Others E-matters include reports on Finland's integration policy or on court cases concerning Finland in the European Court of Justice").

⁴⁷ ID., at 34, note 24 (arguing that "some E-matters are very far-reaching and important questions, while many legislative U-matters can be fairly minor technical matters") (referring to EDUSKUNTA, *EU-menettelyjen kehittäminen. EU-menettelyjen tarkistustoimikunnan mietintö* (Helsinki: Eduskunnan Kanslian Julkaisu, 2/2005)).

⁴⁸ Section 34(1) Const. provides: "The Parliament elects from among its members a Speaker and two Deputy Speakers for each parliamentary session." According to Section 34(3), the Speaker's Council is made up of the Speaker himself, the two Deputy Speakers, and the chairpersons of parliamentary Committees. This council "issues instructions on the organisation of parliamentary work" and decides what procedures the Parliament has to follow in the handling of matters.

⁴⁹ T. RAUNIO, *Finland*, in EUROPEAN PARLIAMENT - CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS, *Democratic Control in the member states of the European Council and the Euro zone summits*, Annex 2 - *In-depth reports on 12 Member States*, 14 (2013).

out in the course of a meeting, the government and parliamentary committees may get in touch straight away⁵⁰. Section 97(3) provides that competent committees may issue statements to the government by relying on the information received both before and after European Council meetings.

As noted, decision-making powers on EU matters are conferred upon the government by the Constitution of Finland. The Prime Minister is doubtless "the leader of Finland's EU policy."⁵¹ Accordingly, the formulation of national position in European Council meetings is entrusted to the Prime Minister's Office. Before the Lisbon Treaty entered into force, both the Prime Minister and the President of the Republic were deemed to be able to represent Finland in the European Council. Since late 2009, however, the Prime Minister has been Finland's representative at European Council meetings. This new institutional practice has been later recognized in the Constitution. Indeed, Section 66(2) Const., amended by Act No. 1112/2011, provides: "The Prime Minister represents Finland on the European Council. Unless the Government exceptionally decides otherwise, the Prime Minister also represents Finland in other activities of the European Union requiring the participation of the highest level of State."

The Grand Committee turns out to be the main parliamentary body responsible for *ex-ante* and *ex-post* control of European Council meetings. The Prime Minister has to provide the Grand Committee with accurate information about any European Council meeting. As already noted, the Foreign Affairs Committee is to be kept informed about matters pertaining to the CFSP. Furthermore, the Prime Minister submits a written report to the Grand Committee both before and after each European Council meeting, in addition to appearing before the Grand Committee itself. As the Prime Minister's Office stressed in 2013, "Parliament has found it appropriate that, as a rule, the Prime Minister is heard by the Grand Committee - not the plenary session - because of the Committee's central role in the national coordination system for EU affairs."⁵²

Moreover, Section 30(5) of Parliament's Rules of Procedure refers to Section 32 for the Finnish Parliament's involvement in initiatives taken by the European Council pursuant to

⁵⁰ T. RAUNIO, *Finland, in* EUROPEAN PARLIAMENT - CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS, *Democratic Control in the member states of the European Council and the Euro zone summits*, Annex 1 - *Questionnaires On The 27 Member States*, 42 (2013).

⁵¹ Government Report on EU Policy 2013, Prime Minister's Office Publications, 13/2013, 59.

⁵² *ID.*, at 60.

Article 48(7) TUE. The "general *passerelle* clause"⁵³ set out by Article 48(7) TUE requires the European Council to act unanimously and the European Parliament to give its consent. In particular, the European Council may authorise the Council of the EU to switch to qualified majority voting (QMV) when the TFEU or Title V of the TUE provide for unanimity. Military and defense matters, however, are expressly exempted. According to this clause, the Council may also be authorized to follow the ordinary legislative procedure in adopting acts subject to a special legislative procedure in the TFEU. Section 32 of Parliament's Rules of Procedure, amended by Act No. 1272/2011, provides that Article 48(7) TUE initiatives are "[to] be prepared in Committee before they are taken up for a decision in plenary session." The *Eduskunta* has expressly set forth the procedure to be followed in examining Article 48(7) TUE matters⁵⁴. Firstly, those *passerelle*-related proposals are disclosed in the plenary session. Secondly, the *Eduskunta* calls for one or more sector committees to prepare a report and submit it to the plenary upon its completion. Thirdly, the plenary makes the final decision, by a simple majority vote, and then transmits it to the EU institutions.

At times, debates on the floor include matters that are to be dealt with by the European Council. Topics on the agenda of the European Council may spring up during oral question time. Besides, the Prime Minister can appear in the plenary and expound the main issues to be discussed at the forthcoming meeting, thus giving rise to a discussion. For instance, Prime Minister Mari Kiviniemi made an announcement in the Parliament before the extraordinary European Council and Euro Summit meetings held on 11 March 2011⁵⁵. Such announcements, too, can be made after a meeting was held. Prime Minister Jyrki Katainen gave an announcement after the informal European Council meeting and the related Euro Summit meeting held on 26 October 2011⁵⁶. The Prime Minister may also issue reports and statements anytime before an European Council meeting. In addition, Members of Parliament are allowed to raise interpellations about European Council meetings. Both Prime Minister's statements and interpellations entail plenary debates and a vote of confidence on the government. Political pressures, some of them even coming from the majority party, have been put on the government to further debates on the floor through announcements and statements since the beginning of the euro crisis⁵⁷. Section 57(4) of Parliament's Rules of

⁵³ See, e.g., GREAT BRITAIN - HOUSE OF COMMONS, EUROPEAN SCRUTINY COMMITTEE, *The EU Bill: Restrictions on Treaties and Decisions relating to the EU*, Fifteenth Report of Session 2010-11, 8.

⁵⁴ Thirteenth Bi-annual Report of COSAC on EU Practices and Procedures (May 2010) - Annex, 138.

⁵⁵ On that occasion, the heads of state and government of EU member states mainly gathered to discuss the troubled situation in Libya.

⁵⁶ See RAUNIO, *Finland*, Annex 1, *supra*, note 50, at 43-44.

⁵⁷ *ID.*, at 44.

Procedure, amended by Act No. 71/2011, provides: "Once the debate on a government statement or report or an interpellation has begun, the matter shall not be deferred. The provisions on deferral do not apply to the Prime Minister's announcements or to topical debates."

By and large, the Finnish Parliament has increased its scrutiny of government conduct in the EU since the euro zone crisis sprang up. The pivotal role played by the Parliament in drafting national positions on EU matters and the importance of cooperation between the *Eduskunta* and the government have never been doubted⁵⁸. Since the financial crisis reached the whole European Union and euro area countries in particular, however, the Parliament has demanded more involvement. As observed, "the Eurozone problems have certainly politicized EU in Finland,"⁵⁹ and debates in the plenary dealing with such issues have become more frequent than ever before. Furthermore, the Parliament has pointed out that its need for complete information is not limited to European Council meetings. The government is to acquaint the *Eduskunta* with the topics to be discussed whenever European leaders gather, whether formally or informally. Indeed, prime ministers and finance ministers of the euro area have been meeting "in various combinations"⁶⁰ and making prominent decisions to tackle, above all, growth standstill⁶¹. On several occasions, however, the Finnish government kept some negotiations at EU level confidential for a limited period of time. In those cases, the government essentially argued that unlimited flow of information from the government to the Parliament could undermine Finland's capacity of influencing decisions on the euro zone⁶². In the end, parliamentary committees' documents, too, can be withheld from disclosure "if divulging information about them would cause significant harm to Finland's international relations or to capital or financial markets."⁶³

The Cabinet Committee on European Union Affairs has a pivotal role in ensuring coordination between ministers. Ministers have to prepare EU matters and the Committee enables them to reach a compromise in the formulation of Finland's stance. The Committee is chaired by the Prime Minister and made up of several ministers. Each matter to be

⁵⁸ See, e.g., Government Report on EU Policy, Prime Minister's Office Publications, 20/2009, 37.

⁵⁹ RAUNIO, *Finland*, Annex 2, *supra*, note 49, at 14.

⁶⁰ *Id.*

⁶¹ See K. HEFFTLER - V. KREILINGER - O. ROZENBERG - W. WESSELS, *National parliaments: their emerging control over the European Council*, Notre Europe - Jacques Delors Institute, Policy Paper No. 89, March 2013, 4 ("Especially the Euro summits have turned more and more into an emerging economic government").

⁶² See Section 24 of *Laki viranomaisten toiminnan julkisuudesta* [Act on the Openness of Government Activities] (Act No. 621/1999) (regulating secrecy of official documents in Finland).

⁶³ Section 43a(2) of Parliament's Rules of Procedure.

discussed in the Committee is presented by the minister whose competence includes such matter. The Parliament is to be consulted whenever matters to be dealt with fall within its remit. Therefore, a high degree of co-ordination between this Committee and the Grand Committee - or the Foreign Affairs Committee for CFSP issues - is needed. Such harmonization, indeed, is required by Sections 96 and 97 Const. The Grand Committee usually transmits its position to the government before the Council of the EU begins examining the matter to which the Grand Committee's statement pertains. In so doing, the Grand Committee can take into account other member states' stand on that matter and has more chances to guide the government's conduct in the Council. In other words, the Finnish government is more likely to follow the instructions received when the Grand Committee's final opinion precedes the beginning of the Council's decision-making process⁶⁴. The Grand Committee and specialized committees also hold meetings with civil servants to grasp some details about the way EU matters are handled within ministries⁶⁵. In addition, the Cabinet Committee on European Union Affairs has to work in coordination with the President of the Republic on CFSP matters⁶⁶.

F. The *Eduskunta*'s relation with COSAC and access to IPEX database

The Conference of the Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC)⁶⁷ is an institutionalized multilateral forum for members of national parliaments of the EU member states and Members of the European Parliament (MEPs). COSAC meets regularly twice a year, even though extraordinary meetings may be held, as well. The fundamental aim of COSAC meetings is to favor exchange of information and cooperation between national parliaments and the European Parliament. Members of different legislative assemblies can share data and information concerning the handling of EU matters at national level. Besides, regular contact between MPs and MEPs may result in better implementation of EU legislation and more effective harmonization among EU member states. Indeed, COSAC is not just a tool for conveying information about domestic

⁶⁴ See RAUNIO - TILIKAINEN, *Finland in the European Union*, *supra*, note 27, at 81.

⁶⁵ ID. (pointing out that "middle-level civil servants have a central role in the preparation and processing of European legislation in Finland").

⁶⁶ See Government Report on EU Policy 2013, *supra*, note 51, at 60.

⁶⁷ COSAC is a French acronym for "Conférence des organes spécialisés dans les affaires communautaires et européennes des parlements de l'Union européenne." The Conference, originally Conference of Community and European Affairs Committees of Parliaments of the European Union, was established in 1989. In particular, the first COSAC meeting was held in the National Assembly of the French Republic on 16-17 November 1989. COSAC was created upon proposal of Laurent Fabius, then President of France's National Assembly.

and supranational law. As the Rules of Procedure adopted in 2011 by the XLV COSAC⁶⁸ state, "COSAC enables a regular exchange of views, without prejudicing the competences of the parliamentary bodies of the European Union."⁶⁹ Thus, examples of best practice regarding access to documents by MPs and parliamentary scrutiny of EU matters can readily circulate. According to Section 3(1) of COSAC Rules of Procedure, each national parliament is represented in the COSAC by not more than "six Members of its Committee(s) for Union Affairs." Furthermore, a delegation of six MEPs represents the European Parliament in the Conference. The recent establishment of a similar conference pertaining to CFSP and common security and defense policy (CSDP)⁷⁰ suggests that COSAC is deemed to play "a crucial role in ensuring regular and effective inter-institutional dialogue between the national level and the EU level."⁷¹

Over the years, the *Eduskunta* has rarely turned to Finnish MEPs to mould its positions on EU matters and prepare statements and reports. Finnish MEPs⁷² are not even entitled to attend Grand Committee meetings, although they may be asked to give testimony before the Committee. The EU Secretariat of the *Eduskunta*, however, has to keep the MEPs up-to-date about the agenda and press releases of the Grand Committee. Minutes of the Committee's meetings are also forwarded to the MEPs upon request. Besides, a seminar jointly held by the Grand Committee and Finnish MEPs is supposed to function as an occasion for dialogue and exchange of views between them⁷³. Nevertheless, high attendance at that seminar, which takes place twice a year - in the autumn and spring, is unusual. By and large, the *Eduskunta* has traditionally been reluctant to accept Finnish MEPs' involvement in its business, "the main reason being that the MPs do not see MEPs as useful sources of

⁶⁸ Rules of Procedure of the Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (O.J. 2011 C 229/1). These Rules of Procedure were adopted on 29-31 May 2011 in Budapest. They replace the Rules of Procedure issued by the XXXVIII COSAC on 14-16 October 2007 in Estoril.

⁶⁹ Section 1(1), COSAC Rules of Procedure.

⁷⁰ In Warsaw on 20-21 April 2012, the EU Speakers Conference set up an Interparliamentary Conference for the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP). The EU Speakers came to an agreement on the structure and functioning of the Conference, which held its first meeting in Nicosia on 9-10 September 2012. On that occasion, the Rules of Procedure of the Interparliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy were adopted (the Rules of Procedure are available at <http://www.cyparliament2012.eu/easyconsole.cfm/id/349>).

⁷¹ *The Seimas hosts the jubilee 50th COSAC Meeting*, 28 October 2013, available at <http://www.lrs.lt/intl/presidency.show?theme=501&lang=2&doc=1736> (statement of Loreta Graužinienė, Speaker of the Seimas of the Republic of Lithuania).

⁷² The same person cannot simultaneously serve as a MP and a MEP. Section 28(1) Const. provides that a MP elected to the European Parliament is suspended from office as a member of the *Eduskunta*. The representative is to be replaced with a deputy of his or hers during the tenure of office as a Finnish MEP.

⁷³ See RAUNIO, *The Finnish Eduskunta*, *supra*, note 28, at 39 (noting that the joint seminar, partly due to its relatively short duration - normally a couple of hours, "is more a social occasion than a forum for exchanging detailed policy information").

information or as an effective channel to influence EU decision-making."⁷⁴ As a result, COSAC meetings and resolutions have seldom caught MPs' attention and stirred up debates on the floor. Moreover, the government, especially the Prime Minister, acts as the main intermediary between the *Eduskunta* and the EU institutions. Ergo, Finnish MEPs do not find themselves at the heart of information flow from supranational to national level and vice versa. Yet, Finnish MEPs' scarce relations with the *Eduskunta* tend to be offset by the former's ties to their party. In other words, Finnish MEPs will probably report on their activities to the party leader and discuss issues with the Grand Committee's members belonging to the same party⁷⁵. It has also been noted that Finland's representatives in the European Parliament usually cast votes in accordance with the stance taken by their respective parliamentary group⁷⁶.

Inter-parliamentary cooperation is also fostered by IPEX, an electronic database. IPEX makes available on the web draft legislative proposals and other documents coming from the EU institutions as well as national parliaments' material and experiences⁷⁷. The IPEX database and national parliaments' liaison offices in Brussels are the sources national parliaments turn to the most to gain information from other parliaments. A 2012 COSAC report found that IPEX "is being used by staff from a large majority of Parliaments on a daily or weekly basis."⁷⁸ The *Eduskunta* has stated that its staff consults the IPEX database nearly once a week, whereas MPs seldom access the platform⁷⁹. Most of Finnish MPs regard IPEX as a useful tool which yet needs some improvements⁸⁰. The *Eduskunta* usually publishes on IPEX its statements concerning EU matters as soon as those statements are issued⁸¹. In its replies to a questionnaire recently presented to EU member states' national parliaments, the *Eduskunta* has defined both COSAC and IPEX as "[just] partially effective" tools for inter-parliamentary cooperation⁸².

⁷⁴ ID., at 39-40.

⁷⁵ ID., at 39.

⁷⁶ See N. AYLOTT - M. BLOMGREN - T. BERGMAN, *Political Parties in Multilevel Politics: The Nordic Countries Compared*, 113 (Palgrave Macmillan, 2013) (pointing out that during the sixth term of the elected European Parliament (2004-2009), Finnish MEPs' votes followed the majority of their parliamentary groups in 93 per cent of the cases).

⁷⁷ See GERMAN BUNDESTAG, Annexe 6 - *IPEX Priorities in 2010*, 1 ("Alongside information-sharing about specific proposals for European legislation, the sharing of experiences as regards access to information and the relationship between parliament and government is becoming increasingly important").

⁷⁸ Seventeenth Bi-annual Report of COSAC on EU Practices and Procedures, 1 (April 2012), available at <http://www.cosac.eu/documents/bi-annual-reports-of-cosac/d3-17br.pdf>.

⁷⁹ See Seventeenth Bi-annual Report of COSAC - Annex, *supra*, note 31, at 8-9.

⁸⁰ ID., at 12.

⁸¹ ID., at 13.

⁸² Twentieth Bi-annual Report of COSAC on EU Practices and Procedures (Oct 2013) - Annex, 130.

G. Control of subsidiarity

1. National parliaments of EU member states and the early warning system

Without a doubt, national parliaments have gained importance at EU level since the Lisbon Treaty entered into force. In December 2007, they were characterized as "the greatest winners" emerging from negotiations on the Treaty⁸³. Enhancing national parliaments' role has been regarded as appropriate compensation for their loss of domestic powers in the European integration process⁸⁴. The early warning system (EWS) is laid down in the Protocol on the application of the principles of subsidiarity and proportionality (Protocol No. 2 to the Lisbon Treaty) and consists in an *ex-ante* subsidiarity control mechanism having national parliaments at its core⁸⁵. Protocol No. 2 is closely connected with the Protocol on the role of national parliaments in the European Union (Protocol No. 1 to the Lisbon Treaty). As a result, the two protocols "establish a dual system"⁸⁶ depending on national parliaments to assess draft EU legislation's compliance with the principle of subsidiarity. The notion of subsidiarity, set out in Article 5 TEU⁸⁷, was summed up in 2013 by the Dutch government as follows: "[A]t European level only when necessary, at national level whenever possible."⁸⁸ This notion has been at the forefront of debates on EU matters lately, as it used to be nearly two decades ago⁸⁹.

⁸³ *National parliaments' role in EU affairs improved by new Reform Treaty*, Fourth joint meeting on the future of Europe at the EP, Brussels, 4-5 December 2007, available at http://www.eu-un.europa.eu/articles/en/article_7592_en.htm (statement of Jaime Gama, Speaker of the Portuguese Assembleia da Republica).

⁸⁴ See J.V. LOUIS, *National parliaments and the principle of subsidiarity - legal options and practical limits*, E.C.L. Review 2008, 4(3) 429, 434 (referring to M. CARTABIA, *Prospects for national parliaments in EU affairs*, in G. AMATO - H. BRIBOSIA - B. DE WITTE (eds.), *Genèse et Destinée de la Constitution européenne - Genesis and Destiny of the European Constitution*, 1096 (Brussels, Bruylant, 2007)).

⁸⁵ ID. (describing the early warning system as "a solution of compromise" among a range of proposals aimed at strengthening the subsidiarity control of EU legislation and granting national parliaments a prominent position).

⁸⁶ ID., at 435.

⁸⁷ Article 5(3) TEU provides: "Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level."

⁸⁸ GOVERNMENT OF THE NETHERLANDS, *Testing European legislation for subsidiarity and proportionality – Dutch list of points for action*, 3 (2013), available at <http://www.government.nl/documents-and-publications/notes/2013/06/21/testing-european-legislation-for-subsidiarity-and-proportionality-dutch-list-of-points-for-action.html>.

⁸⁹ S. BLOCKMANS - J. HOEVENAARS - A. SCHOUT - J.M. WIERSMA, *From Subsidiarity to Better EU Governance: A Practical Reform Agenda for the EU*, CEPS essay No. 10, 8 April 2014, 2 (pointing out that the first wave of discussion over the concept of subsidiarity took place in the 1990s, and currently European scholars are debating on the concept once again). The main

Draft legislative acts are transmitted to national parliaments by the responsible EU institution, and parliaments may call upon the EWS whenever they suspect the principle of subsidiarity to be violated. In particular, each national parliament or each chamber of national parliaments, in the case of bicameral systems, is empowered to prepare a reasoned opinion stating why a certain EU proposal does not comply with the principle of subsidiarity. Such reasoned opinion is to be sent to the Presidents of the European Parliament, the Council, and the Commission within eight weeks from transmission of the draft legislative act to national parliaments. Article 7 of Protocol No. 2 to the Lisbon Treaty provides for two different procedures. The so-called "yellow card" procedure is regulated by Article 7(2). A draft legislative act "must be reviewed" if breach of subsidiarity is detected by a third of EU member states' national parliaments. The threshold goes down to a quarter of the votes bestowed upon national parliaments when the legislative text pertains to justice, freedom and security area. The author of the draft - in most cases, the European Commission - may keep, amend, or withdraw its original proposal. Whatever the decision, the Commission has to set out reasons for its choice. The "orange card" mechanism, instead, is laid down in Article 7(3) and concerns only acts to be adopted under the ordinary legislative procedure, i.e., by codecision of the European Parliament and the Council. Reasoned opinions on the non-compliance with the principle of subsidiarity which represent at least a simple majority of the votes of national parliaments force the Commission to review its draft act. If the Commission still wants to proceed with its original proposal, it has to issue - in turn - a reasoned opinion explaining why the draft legislative act is considered to abide by the principle of subsidiarity. The Commission's reasoned opinion and the reasoned opinions by national parliaments are to be submitted "to the Union legislator . . ." The Parliament and the Council have to decide on the existence of subsidiarity breach before dealing with the merits of the proposal. If the EU legislator, "by a majority of 55% of the members of the Council or a majority of the votes cast in the European Parliament," upholds national parliaments' reasoned opinions, the proposal will be scrapped.

2. The Grand Committee's scrutiny of subsidiarity

issues scholarship is focusing on are "the deepening of European integration and the growing popular concerns this has provoked regarding democratic legitimacy, the perception of centralisation and the threat of an omnipresent EU." ID.

In a 2005 report, the *Eduskunta* outlined the way in which it should appraise compliance with the principle of subsidiarity by proposed EU legislation⁹⁰. The stance then taken by the Finnish Parliament is still worthy of note. In 2005, EU member states were cognizant of the "yellow card" procedure, which had been included in the Treaty Establishing a Constitution for Europe (TECE)⁹¹. Therefore, the matter concerning national parliaments' role in monitoring the principle of subsidiarity at EU level had already been brought up at the time negotiations on the Lisbon Treaty started. The report mentioned above clarified that the scrutiny of draft legislative acts in the light of subsidiarity fell within the Grand Committee's remit, and it still does. The Foreign Affairs Committee cannot call upon either the yellow or the orange card procedure, since the adoption of legislative acts is excluded for all matters concerning the common foreign and security policy by Article 31(1) TEU. CFSP and CSDP are subject to a different decision-making process: "the Lisbon Treaty did not abolish the intergovernmental nature of the CFSP/CSDP."⁹² The 2005 report, however, devised a system in which the Grand Committee would act as a sort of intermediary between sector committees and the plenary. Thus, the Grand Committee would not be the only parliamentary body involved in the control of subsidiarity. Specialized committees would be charged with assessing draft legislative acts in the first instance. The Grand Committee "would normally draw on the inputs of sector committees" in deciding whether "to raise an objection on subsidiarity grounds . . ."⁹³ In case the Grand Committee agreed with a specialized committee upon a proposal's non-compliance with the principle of subsidiarity⁹⁴, the former would turn to the plenary by issuing a report on the matter.

By and large, the framework of subsidiarity control set out in the 2005 report turns out to be consistent with the relations between the Parliament and the government on EU matters in Finland. As the report pointed out, "[i]t would be in accordance with the Finnish

⁹⁰ EDUSKUNTA, *Improving EU Scrutiny: Report of the Committee to assess EU scrutiny procedures*, Eduskunnan kanslian julkaisu, 4/2005. That report was issued by a special committee of experts, appointed by the Speaker's Council of the *Eduskunta* on 21 November 2003.

⁹¹ See P. DE WILDE, *Why the Early Warning Mechanism does not Alleviate the Democratic Deficit*, OPAL Online Paper No. 6/2012, 3. See also T. KOOPMANS, *Subsidiarity, politics and the judiciary*, E.C.L. Review 2005, 1(1), 112, 114 (noting that the Protocol concerning the application of the principles of subsidiarity and proportionality, annexed to the proposed EU Constitution, was aimed "at introducing a role for the national parliaments into the decision-making process of the European Union").

⁹² N. GHAZARYAN, *Pre and Post-Lisbon Institutional Trends in the EU's neighbourhood*, in P.J. CARDWELL (ed.), *EU External Relations Law and Policy in the Post-Lisbon Era*, 207 (The Hague: Hasser Press, 2012).

⁹³ EDUSKUNTA, *Improving EU Scrutiny*, *supra*, note 90, at 36.

⁹⁴ ID. (stating that EU proposals challenged on the basis of subsidiarity would be put on the Grand Committee's agenda "only on the suggestion of a member or of a sector committee"). Deadlines - the report added - might also be set for that kind of suggestions. ID.

system for the Grand Committee to consult with the government on subsidiarity issues."⁹⁵ The system of subsidiarity scrutiny is now laid down in Section 30 (3-4) of Parliament's Rules of Procedure, as amended by Act No. 1023/2009, and in the Rules of Procedure of the Grand Committee. The *Eduskunta* has held that the tasks entrusted to national parliaments by the Lisbon Treaty did not call for the Finnish Constitution to be amended⁹⁶. The Parliament has also argued that the control of draft legislative acts' compliance with the principle of subsidiarity "will not be of great significance to the Eduskunta's activities."⁹⁷ The scrutiny of subsidiarity - it has been observed - boils down to pinpointing "the appropriate decision-making level" and does not extend to the merits of EU proposals⁹⁸. The Grand Committee's core function is broader than the subsidiarity control: to participate in determining Finnish policy on EU matters, pursuant to Sections 96 and 97 Const⁹⁹. Accordingly, the *Eduskunta* has clarified that draft legislative acts are scrutinized in the light of subsidiarity only if some MPs demand this kind of sifting¹⁰⁰.

Article 4 of Protocol No. 1 to the Lisbon Treaty grants national parliaments an eight-week period to assess observance of the principle of subsidiarity by proposed EU legislation. The *Eduskunta's* EU Secretariat has to transmit electronically EU proposals to the Grand Committee, the competent sector committees, and the regional parliament of the Åland Islands. The Rules of Procedure of the Grand Committee allow specialized committees and Åland's Parliament to request, within the first six weeks, a draft act's control of subsidiarity. A member of the Grand Committee is authorized to call for such scrutiny, as well. The Grand Committee decides, by a majority vote, whether to conduct the scrutiny or not. Nevertheless, examination in the light of subsidiarity is mandatory whenever objections are raised by the Parliament of the Åland Islands. Given the eight-week limit for subsidiarity control of proposed EU acts, the Grand Committee has at least two weeks to appraise compliance with the principle of subsidiarity and hear the government on the issue. The Committee then prepares a report which "either concludes that there is no subsidiarity problem or . . . contains the draft text of a reasoned opinion [detecting breach of subsidiarity]."¹⁰¹ This report is submitted to the plenary session, which is to make the final decision on the matter by a simple majority vote. Whether the *Eduskunta* supports the

⁹⁵ ID.

⁹⁶ See Thirteenth Bi-annual Report of COSAC - Annex, *supra*, note 54, at 134.

⁹⁷ ID., at 135 (referring to SuVL 2/2008 vp).

⁹⁸ ID.

⁹⁹ ID. (referring to SuVL 2/2008 vp and SuVM 1/2009 vp).

¹⁰⁰ ID.

¹⁰¹ ID., at 135-36.

Committee's findings or not, the final decision is sent to the EU institutions along with the Grand Committee's report. Abidance by the principle of subsidiarity will not be examined further if the Parliament does not issue any reasoned opinion over the eight-week period. The *Eduskunta* has repeatedly stated that eight weeks are sufficient for the Grand Committee to assess compliance with the principle of subsidiarity¹⁰². The framework of subsidiarity control, however, has been deemed to be "ineffective" in ensuring EU democratic legitimacy and holding the EU institutions accountable to the Finnish Parliament¹⁰³. In addition, the *Eduskunta* has noted that in the overall system resulting from the Lisbon Treaty COSAC meetings are capable of improving the performance of subsidiarity control. Accordingly, the topic of subsidiarity - the *Eduskunta* has maintained - ought to be "a recurring element on the COSAC agenda, possibly as an exchange of best practices."¹⁰⁴

H. Finland amid recent stabilization and economic governance measures

1. Confidentiality of recent meetings aimed at tackling the financial crisis

In recent years, the heads of state or government and competent ministers of EU member states have intensified their activities and held a large number of meetings, often informal, to tackle the financial crisis. Meetings and debates, focused especially on the euro area member states' sovereign debt and economic growth, have resulted in "tak[ing] salient measures highly relevant for national parliaments."¹⁰⁵ Both the euro zone and non-euro zone countries depend on their political leaders to meet on a regular basis. Yet, the need for coordination is stronger for the national economies sharing a common currency. In any case, it is difficult for national parliaments to effectively influence or even oversee negotiations during European Council and Euro Summit meetings, where heads of state or government gather¹⁰⁶. Those forums are characterized by a good deal of informality and confidentiality¹⁰⁷, often required by the compelling interest in coming to arrangements¹⁰⁸. The need for

¹⁰² ID.; Sixteenth Bi-annual Report of COSAC on EU Practices and Procedures (October 2011) - Annex, 58.

¹⁰³ Twentieth Bi-annual Report of COSAC - Annex, *supra*, note 82, ID.

¹⁰⁴ Thirteenth Bi-annual Report of COSAC - Annex, *supra*, note 54, at 141.

¹⁰⁵ HEFFTLER - KREILINGER - ROZENBERG - WESSELS, *National parliaments*, *supra*, note 61, ID.

¹⁰⁶ ID., at 3-4 (stressing that national parliaments' role in the EU was molded so that they could control ministers' activity in the Council of the EU rather than relations between heads of state or government.)

¹⁰⁷ ID., at 4 (referring particularly to European Council meetings and noting that they are "under rule of professional secrecy," as demonstrated by the fact that "[f]ew public documents are distributed before [each meeting]").

¹⁰⁸ ID. ("The governance [of European Council meetings] can be qualified as "performative" since many summits took place in a tense context, with suspense and surprise after night sessions").

flexibility and secrecy also distinguishes the Eurogroup and - to some extent - the Ecofin Council, i.e., forums bringing together finance ministers¹⁰⁹. Luncheons, for instance, turn out to be a venue for compromise and dispute settlement at times¹¹⁰.

In its 2012 statement addressing the future development of economic and monetary union, the Grand Committee criticized the limited transparency of EU decision-making processes during the crisis¹¹¹. In particular, the Grand Committee manifested its concern for the secrecy surrounding the preparation of measures to be discussed at European Council, Euro summit, and Eurogroup meetings. On most occasions, proposals aimed at combating the euro zone crisis - the Committee pointed out - were disclosed to the public only after the final decision on them had been made. The Committee argued that keeping public debate on those proposals to a minimum appeared to be hardly consistent with European law in general. The Lisbon Treaty and EU legislation, indeed, "have been adopted in a fundamentally democratic procedure."¹¹² Therefore, the whole set of solutions aimed at combating the financial crisis¹¹³ may be challenged on grounds of democratic legitimacy, "as

¹⁰⁹ The Eurogroup is composed of the finance ministers of euro area countries. The Economic and Financial Affairs Council (Ecofin), instead, is a standing configuration of the Council of the European Union and gathers the economics and finance ministers of the 28 European Union member states.

¹¹⁰ See U. PUEITZER, *The Eurogroup: How a Secretive Circle of Finance Ministers Shape European Economic Governance*, 85 (Manchester University Press, 2006) ("It is on the occasion of these so-called ECOFIN luncheons that ministers seek to overcome deadlock on pending Council decisions through "backroom deals"").

¹¹¹ Statement of the Grand Committee SuVL 4/2012. *Banking Union and the Future of EMU*.

¹¹² ID., at 9.

¹¹³ Measures taken to tackle the crisis are usually divided into two categories: new legal mechanisms and amendments to EU pre-existing rules. Among the former are the European Financial Stabilisation Mechanism (EFSM), the European Financial Stability Facility (EFSF), the European Stability Mechanism (ESM), and the whole set of provisions contained in the Treaty on Stability, Coordination and Governance (TSCG). At the extraordinary Ecofin meeting held on 9 May 2010, the EU finance ministers and the European Commission decided on a comprehensive package of measures to safeguard financial stability in Europe. Those measures included the EFSM, which was established on the basis of Article 122(2) TFEU. Euro zone countries also agreed upon the creation of the EFSF, a temporary loan instrument aimed at granting financial assistance to "euro-area Member States in difficulties caused by exceptional circumstances beyond [their] control . . ." EFSF Framework Agreement, 1. On 17 December 2010, the European Council stipulated that a permanent financial crisis resolution mechanism for euro zone countries, the ESM, would be set up by amending Article 136 TFEU. A European Council decision of 25 March 2011 (2011/199/EU) made the amendment by adding a new paragraph to Article 136. The Treaty establishing the European Stability Mechanism was signed by euro area member states on 2 February 2012 and entered into force on 27 September 2012 for 16 signatories including Finland. The ESM is an international organization taking over the functions formerly entrusted to EFSM and EFSF. The ESM, indeed, issues debt instruments to provide loans and other forms of financial assistance to euro area member states applying for a bailout. The ESM is located in Luxembourg and its maximum lending capacity amounts to €500 billion. The ESM itself has stated that it reached its target level of €80 billion paid-in capital on 1 May 2014, as the ESM Members transferred the final tranche of payment. The TSCG, instead, was signed by all EU member states, except the Czech Republic and the United Kingdom, on 2 March 2012. At the time, Croatia had not acceded to the EU yet, so it could not be among the signatories. The TSCG is an intergovernmental treaty which entered into force on 1 January 2013. Its provisions integrate and affect EU legislation especially on fiscal, budgetary, and economic matters, even though the Treaty formally lies outside the EU legal framework. In addition, a different series of measures to tackle the crisis have consisted in amending EU rules adopted following the

regular procedures have been waived . . ." ¹¹⁴ As pointed out, "[t]here is a world of a difference with the Finnish culture of open government," ¹¹⁵ recognized in the Constitution¹¹⁶. The Grand Committee publishes on the Parliament's website most of the documents reporting legislative-executive relations on EU matters, thus abiding by a general principle of transparency. Nevertheless, the Grand Committee have been impugned for withholding part of its decisions from disclosure. The Grand Committee has taken the censure seriously and recently avowed that a larger number of its deliberations should be made publicly available on the Internet. Making scrutiny of EU matters more transparent, indeed, "would reinforce the democratic legitimacy of parliamentary system and bring citizens closer to the structure of representative democracy."¹¹⁷

2. The Constitutional Law Committee's key role in assessing stabilization and economic governance measures

The key role played by the Constitutional Law Committee in examining the stabilization and economic governance mechanisms adopted to tackle the crisis demonstrates the Finnish Parliament's deep involvement in EU matters. Section 35(2) Const. provides that the Constitutional Law Committee, the Foreign Affairs Committee, and the Finance Committee must be made up of at least seventeen permanent members¹¹⁸. The Constitutional Law Committee has been characterized as "the most central constitutional body of Finland."¹¹⁹ Unlike most of EU member states, indeed, Finland does not have a separate constitutional

Stability and Growth Pact (SGP). The SGP established a system for coordination and monitoring of fiscal policies conducted by EU member states. A preventive part, whose legal basis is given by Article 121 TFEU, and a corrective part, laid down in Article 126 TFEU, make up the SGP. In 2010, the Commission proposed amendments to both parts. The so-called "six-pack," consisting of five regulations and one directive, entered into force in December 2011. It is aimed at strengthening the purposes of SGP. In the meanwhile, 23 EU member states - besides euro area countries, Bulgaria, Denmark, Latvia, Lithuania, Poland, and Romania - signed the Euro Plus Pact in March 2011. This Pact's main goal is to improve economic policy coordination, thereby boosting competitiveness. Furthermore, in November 2011 the Commission proposed two further regulations, the "two-pack," which entered into force in all euro zone countries on 30 May 2013. According to those regulations, euro area member states are obliged to submit their draft budgets to the Commission and undergo enhanced surveillance should they suffer from deep recession.

¹¹⁴ Statement of the Grand Committee SuVL 4/2012, *supra*, note 109, at 9.

¹¹⁵ LEINO - SALMINEN, *The euro crisis and its constitutional consequences for Finland*, *supra*, note 6, at 461.

¹¹⁶ Section 12(2) Const. states: "Documents and recordings in the possession of the authorities are public, unless their publication has for compelling reasons been specifically restricted by an Act. Everyone has the right of access to public documents and recordings."

¹¹⁷ Report of the Grand Committee 1/2014, *supra*, note 1, at 33.

¹¹⁸ Currently, the Constitutional Law Committee and the Foreign Affairs Committee have 17 permanent members and 9 alternate members. The Finance Committee, instead, is made up of 21 members plus 19 substitutes.

¹¹⁹ LEINO - SALMINEN, *The euro crisis and its constitutional consequences for Finland*, *supra*, note 6, at 460.

court. Furthermore, ordinary courts "play a secondary role in the review of the constitutionality of legislation."¹²⁰ Section 74 Const. empowers the Constitutional Law Committee to assess the compatibility of legislation, including EU provisions and international obligations, with the Finnish Constitution¹²¹. Therefore, "an essentially judicial function"¹²² is vested in that Committee. Commonly, its opinions are considered to have great weight and "treated as binding on parliament and authorities."¹²³

By and large, the Constitutional Law Committee has deemed the stabilization and economic governance measures taken in response to the crisis to be compatible with the Constitution. The financial stability mechanisms recently introduced, indeed, have not been regarded as curtailing Finland's national sovereignty incisively. In its *ex-ante* constitutional review, the Constitutional Law Committee has examined, first of all, Finland's range of envisaged liabilities resulting from the EFSF Framework Agreement and the ESM Treaty. It has been noted that the most prominent decisions concerning the Members' guarantee liabilities within the EFSF were to be made by unanimity. As stressed above several times, the Grand Committee enjoys the constitutional power to participate actively in the formulation of national policy on EU matters. Accordingly, the Grand Committee had the right to express its view and influence the government on those major decisions and on any guarantee granted. The Finnish Parliament's involvement has been deemed to be "sufficient from a constitutional point of view."¹²⁴ The Constitutional Law Committee has held that both the ESFS Framework Agreement and the ESM Treaty did not result in a significant transfer of competence to the European Union¹²⁵. Therefore, a two-third majority vote was not required to have the *Eduskunta* approve and bring into force the international obligations deriving from the ESFS and ESM¹²⁶.

¹²⁰ OJANEN, *EU Law and the Response of the Constitutional Law Committee of the Finnish Parliament*, *supra*, note 13, at 204.

¹²¹ Section 74 Const. provides: "The Constitutional Law Committee shall issue statements on the constitutionality of legislative proposals and other matters brought for its consideration, as well as on their relation to international human rights treaties."

¹²² LEINO - SALMINEN, *The euro crisis and its constitutional consequences for Finland*, *supra*, note 6, at 459.

¹²³ *ID.*, at 460.

¹²⁴ K. TUORI, *The European Financial Crisis – Constitutional Aspects and Implications*, EUI Working Paper LAW 2012/28, 40 (referring to Reports of the Constitutional Law Committee PeVL 5 and 14/2011).

¹²⁵ Statement of the Constitutional Law Committee 5/2011 vp, Statement of the Constitutional Law Committee 13/2012 vp and Statement of the Constitutional Law Committee 37/2012 vp.

¹²⁶ The decision amending Article 136 TFEU was approved by the *Eduskunta* on 9 May 2012 and signed by the President of the Republic of Finland on 25 May 2012. The Finnish Parliament passed the act implementing the ESM Treaty on 21 June 2012.

Essentially, the Constitutional Law Committee has scrutinized the ESM Treaty on two counts: compatibility with the budgetary power of the Parliament and restriction of Finnish sovereignty. Finland's actual capability of meeting its financial and fiscal obligations under the Constitution has been taken into account, as well. Finland's subscription to the ESM's authorized capital stock amounts to nearly €12,5 billion. Had Finland been obliged to honor this liability in a single installment, the *Eduskunta's* budgetary power and Finnish sovereignty would have been violated. Indeed, such sum equates to more than a quarter of the annual government budget. The Constitutional Law Committee, however, has pointed out that the ESM's capital structure is made up of €80 billion paid-in capital and €620 billion callable capital. The ESM's lending capacity depends on the paid-in capital, whose payment is each Member's liability deriving directly from the ESM Treaty¹²⁷. Furthermore, that payment was made in several installments. The final tranche has been transferred by the ESM Members recently¹²⁸. ESM Board of Governors is to make major decisions concerning both the Members' liabilities and other key matters, such as the granting of financial assistance and its conditions. Those decisions have to be made by mutual agreement. The Board of Governors is composed of the finance ministers of the euro zone, in addition to the European Commissioner for Economic and Monetary Affairs and the ECB President as observers. Article 4(3) of ESM Treaty provides: "The adoption of a decision by mutual agreement requires the unanimity of the members participating in the vote. Abstentions do not prevent the adoption of a decision by mutual agreement." In other words, each ESM member state possesses a veto power. Given the legislative-executive relations in Finland, the Finnish Parliament is capable of influencing the government's position in the Board of Governors. Therefore, the *Eduskunta* - the Constitutional Law Committee has concluded - is not deprived of its constitutional powers, and no significant breach of Finnish national sovereignty can be detected. Moreover, compliance with commitments entered into by Finland, especially those deriving from the ESM Treaty, will not undermine the country's capability to meet its obligations established in the Constitution¹²⁹.

By the same token, the Treaty on Stability, Coordination and Governance has been deemed by the Constitutional Law Committee not to affect notably either the Parliament's

¹²⁷ Finland's part of ESM's paid-in capital adds up to nearly €1,4 billion.

¹²⁸ See, *supra*, note 111.

¹²⁹ TUORI, *The European Financial Crisis*, *supra*, note 124, at 41 (referring to Reports of the Constitutional Law Committee PeVL 22 and 25/2011, and PeVL 13/2012). The Author also stresses that the final report issued by the Constitutional Law Committee in June 2012 contains an overall assessment of Finland's financial and fiscal commitments within the euro zone. The 2012 report, indeed, appraises Finland's liabilities resulting from the ESM Treaty as well as those formerly entered into pursuant to the Greek rescue package and the EFSF Framework Agreement. ID.

powers or Finnish sovereignty. In particular, the Committee has pointed out that the Treaty, commonly known as "Fiscal Compact," does not enhance the EU institutions' competence¹³⁰. Accordingly, the TSCG does not entail a significant transfer of authority calling for a two-third majority vote in the *Eduskunta*¹³¹. The Treaty, which applies entirely to the euro area member states, targets the signatories¹³². As noted, "the Fiscal Compact underlines member states' own responsibility for their fiscal and budgetary politics within the EMU framework."¹³³ The main purposes are set forth in Article 1(1) TSCG: "to foster budgetary discipline . . ., to strengthen the coordination of [the contracting parties'] economic policies and to improve the governance of the euro area . . ." The contracting parties, above all, have committed to implementing a "balanced budget rule"¹³⁴ in their national legislation and ensuring permanent compliance with the rule¹³⁵. As Article 3(1) stipulates, such fiscal rule requires each country's general budget to be in balance or in surplus. Furthermore, the contracting parties have to provide for an automatically triggered correction mechanism at national level "in the event of significant observed deviations from [their] medium-term objective or the adjustment path towards it."

On the one hand, the Constitutional Law Committee has conceded that the Fiscal Compact further strengthens the Stability and Growth Pact and following EU legislation especially on budgetary matters. On the other hand, the Committee has considered the TSCG not to bring about any significant breach of the *Eduskunta*'s budgetary power. Professor Leino has advocated the Committee's findings since "the obligation to conform to a balanced budget rule as such existed previously and the main contribution of the Fiscal Compact is to simply provide national guarantees for its implementation."¹³⁶ Moreover, the Grand Committee has recently stated that "whether intergovernmental or community-based, the credibility of any system for fiscal stability will depend on whether participating states abide by the rules and the markets can verify this."¹³⁷ Act No. 869/2012 implemented as binding law the Fiscal Compact's provisions having 'legislative' nature¹³⁸. This Act provided

¹³⁰ See Statement of the Constitutional Law Committee 37/2012 vp. See, also, Minutes of the Constitutional Law Committee 49/2012 vp.

¹³¹ See Report of the Finance Committee 38/2012 VaVM 38/2012 vp.

¹³² See, *supra*, note 111. Article 1(2) TSCG refers to Article 14 for the Treaty's application to non-euro zone member states of the EU.

¹³³ LEINO - SALMINEN, *The euro crisis and its constitutional consequences for Finland*, *supra*, note 6, at 472.

¹³⁴ Preamble to TSCG, 1.

¹³⁵ See Article 3(2) TSCG.

¹³⁶ LEINO - SALMINEN, *The euro crisis and its constitutional consequences for Finland*, *supra*, note 6, at 473.

¹³⁷ Report of the Grand Committee 1/2014, *supra* note 1, at 19.

¹³⁸ *Talous- ja rahaliiton vakaudesta, yhteensovittamisesta sekä ohjauksesta ja hallinnasta tehdyn sopimuksen lainsäädännön alaan kuuluvien määräysten voimaansaattamisesta ja sopimuksen soveltamisesta sekä julkisen talouden monivuotisia kehyksiä koskevista vaatimuksista* [Act on

for - *inter alia* - the balanced budget rule and laid down a correction mechanism including three stages. The Finnish correction mechanism assigns an important role to the *Eduskunta*, which is to be fully informed by the government and participates in decision making. It has been maintained that Finland's correction mechanism "allocates a considerable responsibility" to the Finnish Parliament¹³⁹.

Conclusion

The *Eduskunta* turns out to be at the core of EU matters' scrutiny in Finland. The overarching framework of parliamentary committees, laid down in the Constitution and specified by the Parliament's Rules of Procedure, enables the system to work smoothly. The Grand Committee enjoys a major role in examining EU legislative proposals and influencing the government's positions on EU matters. The Foreign Affairs Committee deals with issues falling within the common foreign and security policy. The Constitutional Law Committee, instead, is charged with assessing the constitutionality of intergovernmental decisions and EU legislation. One of the Committee's main concerns is to make sure that the *Eduskunta's* remit is not undermined, as appraisal of measures taken by the EU member states and institutions throughout the crisis has demonstrated. As a result, the Finnish Parliament is actually capable of overseeing the government's conduct and contributes to molding the Prime Minister and ministers' stance on matters to be addressed at EU level. The government is constitutionally forced to further the *Eduskunta's* involvement in EU decision making by transmitting comprehensive information to the Parliament.

The Parliament's prerogatives in EU policy preparation and the government's accountability to the Parliament itself ensure "the democratic legitimacy of Finnish EU policy."¹⁴⁰ Democracy, in turn, is closely related to transparency. The Grand Committee has recently stressed that it is not allowed by the Constitution to grant the public broad access to its meetings, which are normally held behind closed doors¹⁴¹. Nevertheless, the Committee has also pointed out that the Constitution and the Parliament's Rules of Procedure "provide

the Implementation of the Provisions of a Legislative Nature in the Treaty on the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union and etc.], Act No. 869 of 2012.

¹³⁹ LEINO - SALMINEN, *The euro crisis and its constitutional consequences for Finland*, *supra*, note 6, at 474.

¹⁴⁰ Report of the Grand Committee 1/2014, *supra*, note 1, at 32.

¹⁴¹ ID., at 33.

numerous opportunities for debating EU business in the plenary."¹⁴² The Grand Committee has suggested increasing the number of plenary debates on EU matters, including matters discussed at European Council or Eurogroup meetings. Whether EU proposals and related issues are just scrutinized within parliamentary committees or taken up in the plenary, the *Eduskunta's* participation in formulating national positions on EU matters is essential to the Finnish constitutional system.

¹⁴² ID. (noting that the Speaker's Conference can always arrange public debates on matters dealt with by the Grand Committee or the Foreign Affairs Committee). Furthermore, the reports lists some parliamentary procedures and instruments resulting in debates on the floor - "interpellations, Government reports and White Papers, Prime Minister's Announcements, Question Hour and Topical Debates . . ." ID.