# Inter-parliamentary Cooperation in the EU and outside the Union: Distinctive Features and Limits of the European Experience

by

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**Abstract**

The article draws comparisons between inter-parliamentary cooperation in the European Union and at the international level. It recognises that, notwithstanding a strong international imprint, inter-parliamentary relations in the EU have gradually experienced somewhat distinctive pushes, deeply embedded in the unique constitutional arrangement of the Union. On the one hand, the composite nature of EU constitutionalism, and its impact on parliaments' relationship with the democratic oversight rationale, have exercised a major influence on the aims and scope of inter-parliamentary cooperation. On the other hand, from the organisational point of view, the distinctive structure of parliamentary representation in the EU has pushed inter-parliamentary arrangements into a multi-layered design, consisting of a large variety of vertical formats. The article argues that inter-parliamentary cooperation in the EU is expected to act as a *sui generis* practice when compared to apparently similar forms of transnational dialogue amongst parliaments. In theory, at least, the EU sets ideal conditions for fulfilling an authentic collective parliamentary dimension, instrumental to the democratic oversight of the executives. Instead, focusing on the practice, the full potential of EU inter-parliamentarism is not yet fulfilled, for two set of reasons: the unresolved ambiguities over its contribution to parliamentary democracy and the lack of a real capacity to depart from the formats of international parliamentary institutions.

**Key-words**

inter-parliamentary cooperation in the EU, international parliamentarism, collective parliamentary oversight

# 1. The rise of international parliamentarism and the consolidation of inter-parliamentary cooperation in the EU

Inter-parliamentary cooperation is not an invention of the European Union. The intensification of bi-lateral and especially multi-lateral relations amongst parliaments has represented one of the main responses to challenges of globalisation developed by parliamentary assemblies.

At least until the 21st century, international relations had traditionally been conceived of as inter-governmental and grounded on diplomatic bureaucracy. For a long time, parliaments had been marginal actors in the international arena. However, some rather weak forms of international inter-parliamentary cooperation developed from the end of the XIX century, when the Inter-parliamentary Union was created. In the last three decades, these experiences have grown in number and importance (Šabič 2008; de Puig 2008; Posdorf 2008; Decaro and Lupo 2009; Arndt 2012; Cofelice 2012; Costa et al 2013; Šabič 2013; de Vrieze 2015). This outcome was the product of a variety of factors. These relate to substantial changes in the geopolitical context that, after the end of the Cold War, led to new global phenomena; and to the rise of international relations as one fundamental field of action for national parliaments. Because of these transformations, 'understanding parliaments as purely domestic institutions immune from international integrative force is no longer tenable' (Jančić 2015b: 197 ff).

To qualify the ever-increasing growth in international parliamentary relations, various terminologies have been proposed in literature. The use of the expression 'parliamentary diplomacy' (Cutler 2006; Weisglas and de Boer 2007; de Puig 2008, 22 ff.; Malamud and Stavridis 2011) has spread widely to identify the tools and procedures used to carry out the fundamental strategies of the 'external' activity of parliaments. A new term has latterly been coined, 'parlomacy' (Fiott 2011), although it has obtained hardly any success. Other metaphors, based on the idea of the 'dialogue' or 'conversation' amongst parliaments, have emerged (Inter-parliamentary Union 2003), thus implicitly coupling the inter-parliamentary dimension with apparently similar experiences of 'interjudicial' dialogue (Hogg and Bushell 1997; Tremblay 2005) or administrative cooperation (Martinico 2016: 39 ff.). In a broader perspective, the rise in international parliamentary relations has been framed within

'transnational parliamentarism'[I] (see also Raube and Fonck in this Special Issue), whose main manifestation lies in the creation of International Parliamentary Institutions (IPIs), regular forums for multilateral deliberations, either attached to an international organisation or itself constituting one, in which at least three states or transgovernmental units are represented by parliamentarians (Cutler 2006: 83).

This wide range of labels, often used to describe extremely diversified forms of inter-parliamentary relations, maximise the risk of confusion. At the same time, the temptation to approach these phenomena as a form of political or parliamentary 'tourism' is fostered by the emergence of technological solutions allowing both the organisation of long-distance meetings and easy access to information on foreign and international practices (Lupo 2016: 53 ff.), right up to the creation of an e-parliament based on 'online' voting system and loose committee structure (Johansen 2007: 319 ff.).

Beyond this semantic evolution, however, it is clear that, over the decades, this field has undergone a significant evolution from the traditional practices, based on networks of contacts and relations, mostly developed bilaterally, and mainly involving parliaments' Speakers and Committees for foreign affairs (Baiocchi 2005: 676). Parliaments have witnessed an incredible expansion of multilateral inter-parliamentary relations, on several occasions supported by the creation of permanent IPIs. These entities, with many different titles, and differing in their organisation and role performed, have significantly grown in number over the last few decades.[II]

Practices developed by national parliaments in the field of international relations have provided the catalyst for the development of the inter-parliamentary dimension which connects national parliaments of EU Member States among themselves and with the European Parliament.[III]

Since its origins, the European integration process has been based on conventional legal and practical instruments of international law. The same symbols, formats and practices of diplomatic international relations were applied to EU institutions: flags, national delegations, rotating presidencies, essentially meetings in plenary to be convened once or twice per year. The only exceptions were the supranational institutions: the Commission, the Court of Justice and, even more significantly, at least after 1979, the European Parliament. However, international formats and models continued, instead, to be

used for inter-governmental bodies (but with a strong role given to preparatory technical meetings, as in the case of COREPER) and also for inter-parliamentary cooperation.

Notwithstanding this strong international imprint, inter-parliamentary relations in the EU have found a rather distinctive institutional framework in the constitutional arrangement of the Union; this has gradually influenced the formal and informal design of the dialogue between representative assemblies.

In the first decades of European integration, inter-parliamentary dialogue was implicit in the original structure of the European Parliament (EP), composed, at it is well-known, of representatives of national parliaments. Apart from the continuous interaction within the EP, inter-parliamentary relations were mostly carried out bilaterally or through occasional (and rather 'ceremonial') multi-lateral meetings.

The introduction of direct elections for the EP, agreed in 1976 and implemented from 1979, paved the way for a different approach to inter-parliamentary relations as a multi-lateral dimension supporting precise institutional mandates. This shift was initiated by the progressive institutionalisation of the (smaller format) of the Speakers Conference started in 1975. It was then continued by the attempts to settle some kind of permanent coordination among European Affairs Committees, which concluded with the establishment of the Conference of Parliamentary Committees for Foreign Affairs of Parliaments of the European Union (COSAC) in 1989. The approach was confirmed by two subsequent inter-parliamentary experiences, settled *una tantum*: the participation of the EP and national parliaments in the European Convention, which was called in 1999 by the Cologne European Council to draft the Charter of Fundamental Rights of the European Union, and then in the Convention on the Future of Europe established by the European Council in December 2001, which drafted the Treaty establishing a Constitution for Europe.

Finally, in the last decade, new and more institutionalised formats have developed, providing the foundations for a sectoral dimension of inter-parliamentary cooperation, covering some core sectoral policy areas hitherto the subject of the executive's dominance. This is the case specifically for the inter-parliamentary 'sectoral conference' format (used both for foreign policy and economic governance) and for the innovative format of the Joint Parliamentary Scrutiny Group (thus far only applied to Europol).

It is in respect of this evolution that this paper assesses similarities and differences that feature inter-parliamentary cooperation both within and outside the EU. It confirms the influence that the unique nature of the EU's constitutional architecture has exercised on inter-parliamentary relations; and, at the same time, it assumes that the design of EU inter-parliamentary cooperation has not yet been fully implemented in all its parts, to satisfy the requirements of composite European constitutionalism. Based on this suggestion, the following Sections respectively assess the unique constitutional factors that make inter-parliamentary cooperation in the EU an essential dimension of the composite European Constitution (§ 2); and analyse how the particular structure of EU parliamentary representation has influenced the organisational and functional arrangement of inter-parliamentary cooperation in the EU (§ 3). Moving from the formal to the practical perspective, the focus shifts to the limits faced by the most recent EU inter-parliamentary formats, including the post-Lisbon sectoral Conferences; these are compared with the weaknesses experienced by IPIs (§ 4). Finally, the conclusions (§ 5) draw on the causes behind the failure in the full implementation of the European inter-parliamentary experience that do not entirely depend on the persistence of the internationally-oriented design of its formats.

## 2. The distinctive constitutional factors featuring inter-parliamentary cooperation in the composite European constitution

### 2.1. The polycentric paradigm

Inter-parliamentary cooperation is deeply embedded in the 'polycentric' paradigm (Besselink 2006: 117 ff.) that structures the composite European Constitution (Besselink 2007). According to this paradigm, the EU should be viewed not only as the result of separate 'levels' – as the 'multilevel' paradigm suggests – but mainly as a constitutional order[IV] that is more truly a composite order, a product of polycentric rather than hierarchical relationships. This is what mainly differentiates the inter-parliamentary dimension in the EU from other apparently similar transnational parliamentary practices.

International Parliamentary Institutions may have a formal legal status, however this only refers to a status that is operationalised through acts of formal recognition that institutionally connect the IPI to an international organisation (Rocabert et al 2014: 7 f.). A

far more complex arrangement supports EU inter-parliamentary cooperation: the latter cannot be explained outside the composite European Constitution, comprising not only the constitutional law of the EU treaties and of secondary legislation, but also the constitutional law of the Member States. Under the 'polycentric' paradigm (Besselink 2006: 119 ff.; Id, 2016: 23 ff.), the EU and national institutions are viewed as forming part of one constitutional order. Therefore, it has been assumed that inter-parliamentary cooperation is 'not just a marginal element of the activity of every national parliament of the EU, but a vital dimension of the Euro-national parliamentary system' (Fasone and Lupo 2016: 11).

The constitutional nature of inter-parliamentary cooperation in the EU is shaped by three quasi-unique factors, respectively dealing with its acting parties, its relationship with the executive branch of government, and its expected impact on the democratic legitimacy of the EU.

As for the acting parties, 'cooperation' within the EU involves not only national parliaments, but also the European Parliament, in its capacity as a supranational body (Steunenberg 2002; Judge and Earnshaw 2008; Corbett et al 2016).[V] The EP has been endowed with supervisory, budgetary and legislative powers that bear closer resemblance to those of national parliaments than to parliamentary assemblies of other international organisations (Rittberger 2003: 203 f.). This is why the EP has been recognised (Jančić 2015b: 211) as being 'the most advanced transnational assembly in the world'.

After the direct elections of 1979, the EP started to act on an equal footing in its relations with national parliaments, thus becoming a fully independent actor in the network of inter-parliamentary cooperation. This unique feature can be viewed as a strength from the point of view of the constitutional arrangement that makes the inter-parliamentary dimension an integral part of the EU's system of democratic representation. However, from these everyday attempts to operationalise inter-parliamentary dialogue, the presence of two rather differentiated categories of representative assemblies has paved the way for the emergence of two competing visions of the role of parliaments in the EU (Kreilinger 2013; Cooper 2014; Cooper 2016b: 196 ff.): centralised scrutiny (in which the EP prevails), assuming that democratic accountability of the EU executive is assured by the EP alone; joint scrutiny, advocating the intervention of parliaments at all territorial levels, in order to hold the EU executive accountable.

A second factor lies in the relationship of parliaments with the EU executive branch that is 'fragmented' (Curtin 2009), in that these act both at the national and at European level (Lupo 2016: 53 ff.). The European experience shows a unique interaction between executive actors, with a number of rules and procedures linking the national and the European level. The fragmented nature of the EU executive branch deeply affects the expectations made of representative assemblies as subjects responsible for the democratic oversight function. The traditional chain of control featuring international organisations, based on the interaction between each national parliament and its own government, is not enough to make the EU's fragmented executive(s) fully accountable. This explains why, when MPs travel and meet around the territory of the European Union, they are doing their job, that is representing their citizens, solving their issues and trying to hold accountable the executive(s) acting both in their national capitals and in Brussels.

Thirdly, on the ground of democratic legitimacy, neither the EP, nor national parliaments, acting alone, are able to hold the EU executive power accountable.

On the one hand, the European Parliament alone cannot provide an acceptable degree of democratic legitimacy to executive decision-making. Notwithstanding the increased competences gradually vested in the EP in the last thirty years, it still lacks the formal powers and tools to hold the executive(s) fully accountable (Crum and Curtin 2015).

On the other hand, European democracy still heavily relies on the legitimacy and democratic resources drawn from national parliaments (Bellamy and Kröger 2014: 437). The Lisbon Treaty itself recognises (article 10 TEU) the peculiar nature of the European representative democracy founded not exclusively on the EP, but also on the relationship among national governments, national parliaments and national electorates. However, an EU national parliament is no longer in a position to accomplish its own role fully when acting individually on the domestic scene. Uncoincidentally, Article 12 TEU, in listing the 'European powers' of national parliaments, provides that they are called upon to contribute to the 'good functioning' of the Union, acting directly on the EU scene, both individually and through cooperation.

## 2.2. The relationship with the democratic oversight rationale

Due to the insufficiency of either channel of parliamentary representation, inter-parliamentary cooperation in the EU offers a fertile theoretical ground for legitimising its

integral participation in the accountability mechanisms addressing the fragmented EU executive. This is why, compared to the international parliamentary dimension, inter-parliamentary cooperation in the EU is expected to offer three 'added values'. First, an increase in the level of information dissemination and involvement of (still mainly) national public opinions. Second, the oversight of the fragmented EU executive, which the instruments of inter-parliamentary cooperation should contribute to make more accountable. Third, the building of the precondition for a greater presence of 'political constitutionalism' in the EU (Bellamy 2007).

The first objective is probably the easiest to achieve, as participation in the different inter-parliamentary formats is in itself a way of involving national parliaments and, indirectly, public opinions in EU decision-making (Lupo 2013: 107 ff.; Hefftler et al 2015). This involvement is deemed to alleviate problems arising from the acceleration of politicisation in response to EU multiple crises: whereas the outcomes of increased politicisation at the EU and national level are still uncertain (not being clear whether this politicisation would strengthen or hinder legitimacy), inter-parliamentary cooperation may specifically help Member States in coping with recent trends of 'politics against (EU) policy' (Schmidt 2017).

The second objective affects what is now regarded as Europe's most urgent problem. To exercise their functions of oversight and political direction in regards of the EU fragmented executive, the two channels of parliamentary representation need to 'act together', on a permanent and daily basis, pooling the inputs and outputs of the relations with their own (respectively, EU and national) executives.

The third objective is undoubtedly the most ambitious and difficult to achieve, especially in the short term. The EU Constitution is the result of an elitist project and a legal construction, mainly due to the European Court of Justice (and to the Constitutional Courts of some Member States) (Weiler 2012: 268). This was possible thanks to a 'permissive consensus' that has now expired (Scicluna 2015; Glencross 2014). The failure of the Constitutional Treaty in 2005 exposed all the difficulties of a project that aimed at codifying and counterbalancing the domination of legal constitutionalism. In this context, inter-parliamentary cooperation could represent one means for having politics and politicians playing their constitutional role in designing and scrutinising EU policies.

All these challenges can be traced back to the 'democratic oversight rationale' as a distinct aim conferred on EU inter-parliamentary cooperation, and specifically on its most recent formats: the post-Lisbon Conferences and the Joint Parliamentary Scrutiny Group (see *infra* § 3) that however has just started its activity.[VI]

This rationale is not *per se* a unique prerogative of the latest inter-parliamentary formats of the European Union.

On the one hand, the democratic oversight rationale has been defined with regards to IPIs as the requirement of ensuring democratic control of executive action *vis-à-vis* increasing inter-governmentalism (Wagner 2016) and hence to provide additional democratic legitimation by operating 'in a transparent and deliberative way embedded in and responsive to the affected publics' (von Bogdandy 2012: 328). Whereas the alternative 'polemological rationale' has played a predominant role in the history of international parliamentarism (Wagner 2016),[VII] the idea of strengthening the democratic control of the governmental body through the establishment of a parliamentary body has been the real factor behind the boost in the number of IPIs (Slaughter 2004: 255). This rationale has played a certain influence at the international level where the aims of the international organisation are very broad and politically relevant, and therefore where some kind of democratic problem – a 'participatory gap' undermining the input legitimacy of policy-making (Brühl and Rittberger 2001: 22 f.) – has also been perceived (von Bogdandy 2012: 323 ff.). 'Since international organisations cannot be controlled effectively by national parliaments', it has correctly been observed that 'the only conceivable solution is the establishment of international organs with the task of exercising political control over the executive' (Schermers and Blokker 1995: 381). Accountability of international organisations is not *per se* limited to those mechanisms conventionally associated with liberal democracy, potentially counting on alternative (for instance peer or market) accountability mechanisms (Woods 2003; Benvenisti 2018). Nonetheless, mostly due to its proximity to mechanisms adopted in national constitutional systems (Habegger 2010: 188), accountability by means of the creation of a parliamentary dimension has been perceived as the most accessible and obvious solution in order to reduce the democratic problem arising from governments pooling a number of policies or delegating them to international bodies (Falk and Strauss 2001: 219; Kraft-Kasack 2008: 535). This explains why international regional organisations often have a parliamentary dimension entrusted with a democratic oversight mission,

although this dimension is sometimes described as either ineffective or useless in governance beyond the State (Bohman 2004: 315 ff.).

On the other hand, notwithstanding these international precedents, it can be argued that it is in the European Union that the democratic oversight rationale has been substantiated in inter-parliamentary relations, with the emergence of the new post-Lisbon formats. The institutional aims of these new formats do not merely coincide with those assigned to pre-existing forms of inter-parliamentary relations, that were threefold: the exchange of information and best practices between parliaments at national and European level; the effective exercise of national parliamentary competences in EU affairs (also with regard to the monitoring of the principles of subsidiarity and proportionality in the EU); the promotion of partnerships between EU parliaments and the parliaments of third countries (Conference of the Speakers 2008). In addition to these three objectives, the new inter-parliamentary formats are also entitled to evaluate the mechanisms implementing EU policies in those policy areas where the influence of the executive branch is overwhelming and oversight by representative assemblies represents a major issue of discussion (Wouters and Raube 2012). Therefore, they are expected to achieve another, more ambitious, aim: that is, to strengthen the capacity of parliaments to fulfil the oversight function and consequently to improve the democratic legitimacy of the European Union (Cooper 2014).

Both sectoral Conferences established after Lisbon show a clear connection with this institutional aim, although in rather different ways. In the case of the Conference on Stability, Economic Coordination and Governance in the European Union (SECG), based on Article 13 of the Treaty on Stability, Coordination and Governance (the 'Fiscal Compact'), the relationship with the dimension of democratic oversight is clearly stated by art. 2.1. of the RoP.[VIII] The Presidency conclusions adopted at the end of the meeting held in Vilnius on 16-17 October 2013 (para. 5) clearly highlighted that the first purpose of the Conference is '*to find the right balance between national parliaments and the European Parliament in organising the exercise of parliamentary control in the area of economic and financial governance*'. In contrast, in the case of the Conference on Common Foreign Security Policy-Common Security Defence Policy (CFSP-CSDP), based on Article 9 and 10 of Protocol No. 1 annexed to the Treaty of Lisbon, there is no formal provision that includes the oversight rationale within the institutional aims of the Conference.[IX] However, the Conclusions of the first Conference held in Pafos, 9-10 September 2012, in defining the mission of this

body, included several references to the Conference's role in assessing, reviewing and evaluating the decision-making, capacity-building and operational weaknesses of the CFSP and CSDP, therefore contributing to promoting democratic values and accountable systems of good governance.

We can therefore conclude that both Conferences have adopted the 'democratic oversight rationale' within their missions. Whereas this goal did not feature in previous inter-parliamentary practices in the EU, in the post-Lisbon era the inclusion of the democratic oversight rationale in inter-parliamentary cooperation is closely related to the launch of new sectoral formats. The novelty lies in the idea that a sectorial approach is needed to enable parliaments to collectively contribute to the democratic accountability of the decision-making process. This approach represents a real novelty, not just in the history of European parliamentarism, but also with regard to other transnational practices of international parliamentarism that rather tend to face the democratic oversight rationale in very broad and general terms.[x]

## 3. The organisational and functional arrangements of inter-parliamentary cooperation in the EU and its hallmarks

Inter-parliamentary cooperation in the EU is characterised by an extremely varied and numerous typology of formats supporting the 'dialogue' between the EP and national parliaments (Hefftler and Gattermann 2015; Fromage 2016a: 749 ff.; Lupo and Fasone 2016; Rozenberg 2017). The 'sheer density' of this network of relations, fostered by multiple, concurrent formats, has been identified as one distinctive feature of the EU (Crum and Fossum 2013: 252; see also Fromage in this Special Issue). This arrangement is deemed to be a direct consequence of the peculiar structure of European parliamentary representation, as defined by art. 10 TEU.

Also, international parliamentarism is not unidimensional in its various formats: it develops through multiple layers of inter-parliamentary cooperation, acting not just horizontally, between two or more parliaments, but also vertically (Jančić 2015: 214 ff.). On the one hand, in the same region parliaments find variable geometry relational arrangements: they interact in more multilateral forums at the same time, and additionally they engage in bilateral relations and forums, thus shaping an extended web of contacts and

exchanges. On the other hand, multilateral participation in IPIs is not *the* exclusive dimension, as inter-parliamentary relations take other forms as well. The increase in international parliamentary relations has contributed, over the decades,[XI] to give rise to three different inter-parliamentary dimensions, ranked according to the degree of institutionalisation (Griglio 2017: 195 ff.).[XII] The first dimension corresponds to 'occasional' dialogue which takes place with no fixed temporal deadlines and is voluntarily promoted by parliaments. The second dimension, defined as 'regular' dialogue, is instead identified by relations developed on regular basis by parliaments, but without a dedicated 'structure' fulfilling the role of a standing secretariat and, usually, specific procedures. Finally, the third dimension, covering 'institutionalised' dialogue, is characterised by the frequency of meetings, occurring on a regular basis, by the presence of a permanent secretariat or administrative structure and by the reliance of inter-parliamentary dialogue on codified procedures.

Whereas these inter-parliamentary dimensions may be found both at the international level and in the EU, what distinguishes European practice is that the multiple layers of cooperation act vertically within the same group of parliaments. In the EU, multilateral relations are conducted in multiple (vertical) layers between the same parliaments that can interact through many different formats. Parliaments find increasing and varied types of forums in which to cooperate both on general and on sectoral policy issues, either formally or informally, sometimes represented by their Speaker and most often by members of their different standing committees. Although horizontal asymmetries can develop from bilateral inter-parliamentary practices linking two national parliaments or one national parliament and the EP, it is the vertical stratification of the different inter-parliamentary layers between the 41 national assemblies (considering unicameral parliaments and each House of bicameral parliaments) and the European Parliament that makes the European arrangement incomparable to any other experience of transnational parliamentarism.

Specifically, 'occasional' dialogue is fostered in the EU through an extensive range of sporadic contacts, meetings and events. These can be carried out on informal basis, most often in order to support the exercise of a codified competence of national parliaments, or they can be promoted as single events by one or more parliaments. An example of the former type of relations is offered by the participation in the political dialogue and the early warning mechanism (Jančić 2017: 299 ff.; Cornell and Goldoni 2017; Granat 2018); as

contacts among representative assemblies evolve without predictable intervals, these can be tagged as a form of occasional cooperation, resulting from national parliaments' involvement in the *ex-ante* evaluation of EU draft legislation. In the last few years, there have been different attempts to reinforce and hold up this dimension, including the launch of the so called 'green card' initiative aiming at fostering national parliaments' cooperation in the very early stages of the legislative process (Fasone and Fromage 2016: 294 ff.; Jančić 2015a: 49) and the strengthening of administrative cooperation within the IPEX platform (Granat 2016: 85).

A second dimension of inter-parliamentary relations in the EU is represented by those forms of regular cooperation that are not supported by a dedicated secretariat or architecture, but are promoted on a regular basis by the European Parliament, either alone or jointly with the Parliament of the Member State holding the Presidency of the Council. The practice was initiated in the first half of 2005, under the Luxembourg Presidency, and continued under subsequent presidencies. Three main categories of meetings fall within this type of inter-parliamentary relations: the Joint Parliamentary Meetings (JPMs), the Joint Committee Meetings (JCMs) and the Inter-parliamentary Committee Meetings (ICMs). All three formats envisage regular meetings among the EP and national parliaments' representatives; their organisation entails a prominent role of the EP standing committees (Fromage 2016b: 113 ff.).

Finally, the most institutionalised of the existing formats of inter-parliamentary cooperation in the EU is represented by the permanent Conferences, whose legal foundation is usually settled at Treaty level:. Apart from COSAC and the Conference of the Speakers that have come to develop a cross-sectional role of coordination and mediation among inter-parliamentary relations (Cygan 2016: 207 ff.; Fasone 2016; Cooper 2017), this format include the two post-Lisbon sectoral Conferences and the Joint Parliamentary Scrutiny Group on Europol that is expected to become one of the most structured and advanced forums of inter-parliamentary cooperation (Kreilinger 2017).

In a broad perspective, the unique features of the EU's inter-parliamentary arrangement can therefore be appreciated in terms of frequency of meetings, variety of formats involving the same parliaments, capacity to penetrate quite specific sectoral issues, involvement of different components from participating parliaments, interaction with the executive decision-making.

## 4. On the limits faced by the post-Lisbon inter-parliamentary conferences: a comparison with IPIs

The sectoral inter-parliamentary conferences established in the post-Lisbon era rely on two apparently opposed assumptions. On the one hand, these conferences are regarded as being among the most advanced formats for inter-parliamentary cooperation that the EU has been able to develop and implement (see *infra* § 3.2.). On the other hand, if we compare the original expectations vested in the two Conferences to their practices as implemented, it is clear that the oversight rationale has not yet found its full development. The disillusionment felt with the outcomes achieved so far is reinforced by alleged weaknesses in the organisational and functional arrangements of the 'Conference model' (Cooper 2016a; Wouters and Raube 2016: 238 ff.; Lupo and Griglio 2018). Such organisational and functional weaknesses are, in the end, not too dissimilar from the ones deplored in the literature with regards to the functioning of International Parliamentary Institutions.

From the point of view of their internal composition, sectoral EU Conferences do not seem to have made many advances in countering similar restraints to those faced by delegations participating in IPIs. These are often seen as bloated, plethoric, bodies, strictly organised according to nationality and allowing for a variable composition of national delegations. In other cases, the small size of delegations, selected by parliaments on an *ad-hoc* basis that does not allow to reflect party composition, is perceived as a strong limitation (Kraft-Kasack 2008: 546). The way the CFSP-CSDP and the SECG Conferences are composed does not seem to offer a satisfactory response to the weaknesses faced by IPIs. The former is structured as a 'large' assembly, composed of 16 representatives from the EP and 6 members from each national parliament (Wouters and Raube 2016: 238 f.), although attendance figures seem to prove that NPs tend to send fewer delegates than actually allowed (Fromage 2016c: 11; Rozenberg 2017: 47 f.). The latter does not even provide a maximum number of members for each parliamentary delegation. Either way, there is no rule binding the selection of members of parliamentary delegations from committees charged with the policy area involved or providing any continuity in their attendance. The lack of specific provisions on these issues has failed to encourage the creation of

permanent delegations and therefore the entrenchment of the Conference's activity into the ordinary work of participating parliaments (see also Fromage in this Special Issue).

Another weakness regularly criticised in the practice of the two post-Lisbon Conferences relates to the frequency of their meetings, that are summoned only twice a year, based on a rather ritualistic and inflexible schedule, and to the adoption of very broad and discontinuous agendas. This arrangement does not enable the Conferences to adapt their activity to the various stages and contents of the inter-governmental decision-making process, and to structurally incorporate them in the workings of domestic parliaments (Lupo and Griglio 2018). Not too dissimilar limits have been criticised in the literature focusing on the experience of IPIs; one main shortcoming is that their work lacks in consistency and coherence and is not adequately incorporated into the activity of domestic parliaments (Jančić 2015b: 209).

Discontinuity in the presidency and the dependent arrangement of the secretariat represents another weakness of the two post-Lisbon Conferences. Their presidency is divided between national parliaments of Member States holding the rotating presidency of the EU and the EP (art. 3 RoP of the SECG Conference and of the CFSP-CSDP Conference). The lack of continuity in the presidency determines the organisation of the secretariat, that rotates between presiding parliaments, thus failing to ensure a permanent structure. This arrangement hinders the continuity in the selection of topics placed on the agenda and hence in the activity of the Conference. Likewise, the same limitations are broadly critiqued in the literature on the practice of IPIs. The deficiencies in secretariats, permanent staff and delegations are often identified as one of the reasons that prevents some assemblies and conferences from fulfilling their scrutiny potential (Kraft-Kasack 2008: 547 and 552; Habegger 2010: 195 f.).

From the functional point of view, with regard to their capacity to adopt binding decisions, exercise an influence over governmental action or capture the public interest, the CFSP-CSDP and SECG Conferences seem to replicate some of the limits faced by IPIs. Although many International Parliamentary Institutions see deliberation as their main feature, they can rarely adopt binding resolutions, and are unable to exert any pressure on the executive branch as a follow-up to their conclusions; their debates mostly go unnoticed by the public (Kraft-Kasack 2008: 548 f.). Similarly, the post-Lisbon Conferences have no other decision-making capacity beyond the adoption of non-binding conclusions that gain

little consideration, both by the executives at European and national level and by the wider public.

Focusing on the procedures, it has been noted (Lupo and Griglio 2018) that, apart from some occasional forms of 'questions and answers' with representatives of the European Commission or the Council, the post-Lisbon Conferences have mostly spent their time in debating very broad issues, deprived of any real political potential for an oversight function. Similar criticisms involve the oversight practices of many IPIs. Some tools, including the right to receive inter-governmental reports and to table questions, have been developed, either formally or informally, to support this function (Habegger 2010: 191 ff.). However, in practice, IPIs' oversight capacity is deeply affected by two external factors: namely, cooperation with other institutions and the indirect influence exercised by delegates through their domestic parliaments (Arndt 2013: par. 98).

This overview explains why, on the whole, the EU sectoral conferences have thus far not been able to fully exploit their oversight potential and to engage in a structural dialogue with the representatives of the EU fragmented executive. They have not really broken free from the general limitations faced by IPIs, which have serious difficulties in fulfilling the democratic oversight function and hardly exercise any other function apart from facilitating public debate of societal interests and strengthening transparent governance (Kraft-Kasack 2008: 552 ff.; Habegger 2010: 195 f.).

The causes of these difficulties are deep-rooted, since they lie in the persistent conflicts dividing national parliaments and the EP as to the nature, scope, and aims of the sectoral Conferences within the overall inter-parliamentary cooperation framework. We can trace these conflicting behaviours back to the competing visions inspiring, respectively, the EP and national parliaments in their approach to parliamentary scrutiny in the EU (see above § 2). Due to these competing visions, the *'multilevel parliamentary field'* (Crum and Fossum 2009) often transforms itself into a *'battlefield'* (Herranz-Surralés 2011: 29) where relations between national parliaments, on the one side, and the EP, on the other side, are driven by patterns of competition rather than of cooperation. This happens especially in those areas – such as the ones covered by the CFSP-CSDP and the SECG Conferences – falling between inter-governmental and communitarian modes of governance, in which both parliamentary levels are required to participate to hold the activity of executives to account.

This adversarial attitude has significantly influenced the organisation and functioning of the two sectoral Conferences. To prevent or alleviate conflicts, a 'damage-limitation' approach is most often embraced by the rotating Secretariats of the Conferences. In order to avoid the risk of stalemate, the latter tend to redirect agendas towards the debate of broad topics, with no clear reference to parliamentary document-based oversight (Lupo and Griglio 2018). This, therefore, explains why the sectoral Conferences have not, so far, provided the expected added value to European democracy (Fromage 2016a: 749 ff.; Maatsch and Cooper 2017: 650 f.; Rozenberg 2017: 40 f.).

## 5. Conclusions: unresolved ambiguities of the European parliamentary collective dimension

This article argues that inter-parliamentary cooperation in the EU represents a distinctive dimension if compared to transnational dialogue between parliaments. Two main sets of reasons have been discussed in support for this argument.

The first set of reasons is grounded in the composite European Constitution. These reasons deal with the presence of a supranational parliamentary institution, the European Parliament, the fragmented nature of the EU executive and the reliance of the EU democratic legitimacy on a double channel of parliamentary representation.

In other words, the relationship with the democratic oversight rationale is assumed as a distinctive feature of the EU inter-parliamentary dimension. The democratic oversight rationale is not *per se* an exclusive prerogative of inter-parliamentary cooperation in the EU and specifically of its latest formats. Inter-parliamentary cooperation also can be about strengthening democratic control and enhancing inter-governmental accountability outside the European Union. IPIs also have been viewed as *'correctives'* aiming at rectifying the imbalances produced by executive dominance in international affairs (Slaughter 2004: 105). However, it is only in the EU that this dimension has been approached on a sector-specific basis, with the purpose of creating more favourable conditions for the collective exercise of parliamentary oversight of executive decisions. Focusing on the criteria for collective actorness (Knutelská 2013: 35),[XIII] this arrangement is supposed to provide EU inter-parliamentary cooperation – at least in theory – with ideal conditions for activating its

transformative potential that turns collective action into something more than the sum of its constitutive parts.

A second set of reasons lies in the specific arrangement of inter-parliamentary cooperation in the EU, deeply entrenched in the unique structure of European parliamentary representation. A number of factors dealing with the multi-layered nature of the inter-parliamentary dimension contribute to give a special shape to EU practice.

Essentially, when balancing these arguments with the real practice of inter-parliamentary relations, the distinctive factors of the European experience turn out to be under-developed, compared with theoretical expectations. The capacity to fulfil an authentic collective dimension, instrumental to the democratic oversight of the executives, turns out to be a weak point. Inter-parliamentary cooperation remains inherently disunited: parliaments 'are unlikely to add up to a single coherent voice that can control the actual decisions adopted by the collective of governments that they scrutinise' (Crum and Fossum 2013: 3).

The prevalence of national, short-term, concerns over more long-term collective strategies explains why the post-Lisbon Conferences have been unable to progress much from the rather limited practice of IPIs.

From the organisational and functional points of view, it could be argued that inter-parliamentary cooperation is ill-equipped to fulfil the expectations raised by the EU constitutional arrangement, due the persistence of its internationally-oriented design. In this vein, one main reason behind the underlying dissatisfaction over results achieved so far derives from the incapacity of EU inter-parliamentary formats to substantially develop from the model derived from IPIs. This argument can be considered as partially true.

It is specifically true that, to cope with the existing gaps in the EU chain of democratic accountability, new and more advanced inter-parliamentary solutions are required. The reference is, above all, to the pragmatic formula of the 'document-based' inter-parliamentary scrutiny, advocated elsewhere (Lupo and Griglio 2018: 372), according to which inter-parliamentary cooperation within inter-parliamentary Conferences should be focused on 'micro-politics', supported by the activity of working groups and based on a close alignment of the Conferences' organisation, agenda and conclusions to the main stages of the EU decision-making. A not too dissimilar solution would be that of the '(inter)parliamentarism by committee' (Manzella 2012: 37; Lupo and Fasone 2016), whose

aim is 'to shift away from the plethoric 'Conference-based' interparliamentarism, shaped according to international assemblies' (Fasone 2018: 272) and to promote different working methods, based on more frequent and smaller inter-parliamentary meetings, attended by sectoral standing committees of the national parliaments and the EP, either in person or via the Internet. Parliamentary work in committee is indeed the main practice in many national chambers (Fasone 2012) since committees provide a strategic vehicle for overseeing the executive and facilitating public involvement in parliamentary decision-making (Norton 2005).

In fact, taking the overall picture into consideration, this argument can only account for a part of the alleged failures of inter-parliamentary cooperation. Searching for the constitutive reasons behind current trends, it should be concluded that the causes of this failure are rooted in the two still unresolved ambiguities that affect European parliamentarism.

The first ambiguity concerns the role of parliaments in the EU. The debate on the nature of European democracy still hinges on competing visions of the contribution that national parliaments and the European Parliament can offer to the scrutiny of the EU's fragmented executive. This ambiguity fosters disagreements on how to implement inter-parliamentary cooperation (Fasone and Lupo 2016b: 347). There are conflicting approaches between the EP, on the one side, and national parliaments, on the other, as well as between national parliaments, as to the nature, scope, format, scheduling, organisation, structure and final aim of the practice of inter-parliamentary cooperation. These conflicts prevent the fulfilment of the ambitious vision that supported the establishment of sectoral formats as a place where parliaments of the EU could exercise a sort of 'collective' oversight over the fragmented EU executive.

The second ambiguity concerns the contribution that inter-parliamentary cooperation can offer to existing channels of parliamentary representation and oversight. Specifically, it is not yet clear whether the collective dimension associated with inter-parliamentary cooperation in the EU can, in and of itself, offer an additional channel for democratic oversight; or whether, on the contrary, it is expected only to serve as an instrumental dimension to the fulfilment of the oversight function vested in the two ordinary representative channels (Lupo and Griglio 2018). A debate on the additional or instrumental oversight contribution associated to the work of IPIs can also be found in

international relations literature (Falk and Strauss 2000: 191 ff.). However, this argument raises additional concerns given the EU's architecture where, due to the role entrusted on national parliaments and the EP by the Lisbon Treaty, rather ambitious expectations have been made of the collective dimension (Cooper 2012, 441 ff.; Cygan 2012: 55 ff.; Hefftler and Wessels 2013; Cygan 2017: 716).

From a normative perspective, the relationship with collective actorness turns out to be a key factor for fulfilling the distinctive nature of the EU inter-parliamentary model. The original features of this model, grounded on the European composite constitution, can only be appreciated within an authentic collective dimension. This purpose can be fulfilled in many different ways, working around what should be 'collectivised' – whether it is only the dissemination of information and space for debate or in addition the exercise of crucial parliamentary functions of political direction and oversight – and defining how this collective work could be related to the domestic activity of national parliaments and the EP. In other words, the fulfilment of a collective parliamentary dimension relies on the existence of procedural links able to connect the activity carried out by each parliament, either acting individually or cooperating within the inter-parliamentary framework, with the fragmented European executive. This perspective represents the only feasible way to progress from the idea that inter-parliamentary relations often serve as 'a weapon of the weak' (Crum and Fossum 2013: 260), structuring the collective parliamentary dimension of the EU as a real system (Lupo 2014).

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[I] On the notion of transnationalism and its connection with internationalism, see Huntington 1973: 333 ff.

[II] Notwithstanding inherent problems in analysing and classifying the rather diversified phenomenon of IPIs, the rates of formation of IPIs have marked an increase from one single organisation existing in 1950 (the Inter-Parliamentary Union) to over 23 institutions recorded in 1999 (Cutler 2001: 210; Zlatko 2008: 259). According to Kissling (2011: 12), other 68 IPIs have been established between 1999 and 2011. Partially different rates are mentioned in Grigorescu 2015: 247 ff.

[III] Beside this 'internal' inter-parliamentary dimension, the EU experiences also an 'external' activity, supported by the network of relations connecting the EP and also national parliaments with representative assemblies from extra-EU countries (Cofelice and Stavridis 2014: 145 ff.; Stavridis and Irrera 2015). This 'external' dimension conforms to standard formats of international parliamentarism and is hence outside the remit of this work.

[IV] For the purposes of this article, we refer to the EU constitutional order as comprising both the constitutional law of EU Treaties and the constitutional law of the Member States; these two dimensions are seen as deeply integrated (Besselink 2007; Manzella and Lupo 2014) and not merely juxtaposed (Pernice 2002). In fact, the issue is still controversial in the literature. Against 'administrative' interpretations of EU

law (Majone 1994; Somek 2010: 267 ff.), many authors have recognised the existence of a European constitutional dimension; however, some of them argue that what the EU possesses is at best a 'weak' constitutionalism (Lindseth 2001: 145 ff.) or a 'parasitic legitimacy' derived from the more robust constitutionalism of the Member States (Tuori 2015: 4 and 36)

[V] It is not possible in this contribution to recall the long and intense debate on the EP's acting capacity as an IPI. On this point, see Cofelice and Stavridis 2014

[VI] After the first meeting, held in October, the Spring meeting is expected to adopt the RoP of the Group. For more details, see Cooper in this Special Issue.

[VII] The main driving force behind the rise of international parliamentarism lies in the idea that inter-parliamentary cooperation as a place for debate would turn out to be a 'mitigation' factor, thus contributing to peace-keeping. This 'polemological' rationale did not disappear after the second World War, but re-emerged specifically after the end of the Cold War.

[VIII] According to art. 2.1. RoP, the Conference is entitled both to provide a framework for debate and exchange of information and best practices and to *'ensuring democratic accountability in the area of economic governance and budgetary policy in the EU, particularly in the EMU, taking into account the social dimension and without prejudice to the competences of EU Parliaments'* (Art. 2.1. RoP).

[IX] See Para 1, 2, 4, 5 and 7 of the Conclusions and, in the Premise, the acknowledgement '*of the need, in respect of the EU CFSP and CSDP, to ensure parliamentary scrutiny of the political and budgetary decisions taken at national and European level'*.

[X] In some of the IPI classifications available, the supervisory function is adopted as one of the leading criteria. Specifically, Cutler, 2011, 30 f distinguishes between: congresses (occasional meetings without permanent secretariat); assemblies (regular meetings with limited secretariat or informal organisation); parliaments (a permanent body based on an institutionalised secretariat that undertakes rule-supervisory activities); legislatures (a permanent body with an institutionalised organisation that not only undertakes a variety of programmatic activities arising from rule creation and supervision but also proposes laws for adoption by member states).

[XI] Fasone 2009: 160 ff. distinguishes among two distinct forms of inter-parliamentary cooperation: the permanent forms of cooperation, summoned on regular basis, as in the case of the Conference of the Speakers and COSAC; the incidental forms of cooperation, promoted *una tantum*.

[XII] A classification according to the stages of institutional development is followed by Cutler 2011: 30.

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