Contemporary challenges facing Parliament
Mutations in time, representativeness, transparency and accountability

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Working paper 2020:1
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Introduction

Parliaments, the “central institution of democracy”,¹ have to adapt to the constant mutations and aspirations of the society in which they evolve. One of the challenges European contemporary parliaments must face is the acceleration of time.² For it changes the perspectives on and perceptions we have of time, combining quite confusingly the present moment, which is favoured by the information and communication society, and the longue durée necessarily pursued by political and social institutions such as the Parliament.

The phenomenon of the contraction of time contributes to a widespread tension in Parliaments between, on the one hand, the urgent need (exacerbated by the process of globalization) to produce, while under the constant scrutiny of the media, standards for the executive branch and, on the other hand, the need to make time available for parliamentarians to properly deliberate. A further tension that needs highlighting is between the functions of “representation” and “government”, often sources of confusion and even misunderstandings by citizens in contemporary democracies.

The acceleration of time characteristic of contemporary societies has an impact on all principal parliamentary functions: legislation, providing governmental oversight and scrutiny, as well as representing society. These particular issues are analysed in chapter 1 through a comparative prism of five European countries (France, Belgium, Germany, Italy and UK) set against the backdrop of the European Parliament. When applied to the functions recognised by representative parliamentary democracies, this comparative prism makes it possible to highlight certain differences in terms of how they relate to time, depending on the legal and political systems in place.

Among other challenges facing contemporary parliaments is the aspiration to ensure higher levels of not only representativity but transparency and accountability among elected officials. Representativity surrounding elected officials means not least that the composition of parliament should reflect the diversity of society. This requires, in turn, that conditions are put in

¹ Parliament and Democracy in the twenty-first century – A guide to good practice, David Beetham, published 2006 by the Inter-parliamentary Union, p. vii
² This phenomenon of the contraction of time and its underlying factors are very well described by the German sociologist Hartmut Rosa in his famous book Dictatorship of Emergency.
place to make sure that general elections generate high voter turnout, as well as making sure that those persons both competent and reflective of society as a whole have the opportunity to take up a seat within the parliamentary chambers. The aspiration for a higher degree of transparency and accountability surrounding MPs’ political work, something that forms part of a global as well an European trend, aims at mitigating external influences on politicians’ decision-making and forms of judgement. These aspects will be examined in chapter two, with specific focus on the Swedish Parliament, the Riksdag. Sweden appears to be a country with a high voter turnout in parliamentary elections and has, at least in quantitative terms, high level of representativeness. The second chapter thus enquires into both the organisational and technical factors accounting for the good scores. Are these factors more about the conditions under which elections are held? Is it because national and local elections are held on the same day? And what financial mechanisms have been put in place to ensure that Parliament reflects the composition of society, i.e. those mechanisms that enable everyone, regardless of background and living conditions, to stand as a parliamentary candidate and thus to “jump in and out” of politics without the need to take financial risks? As the chapter will explore, in shaping these mechanisms the Swedish legislator has sought to find the right balance between improving as well as standardising MPs’ pay and benefits, in order not to exacerbate levels of mistrust felt by citizens against MPs. Finally, when it concerns those rules that aim at guaranteeing transparency and accountability and preventing corruption, the findings will show a certain tension between the Swedish traditional transparency framework and European requirements.
At a time when the great contemporary democracies are experiencing a double crisis, both in terms of representation as well as the methods and spaces open to people to express their political voice, as well as in a context where time seems to have accelerated for each and every one of us, it seems important to engage in a theoretical and empirical reflection on how the notion of time – from Latin *tempus, temporis* – interacts with one of the institutions placed at the heart of the construction of modern and contemporary democracies: parliament. Over and above their original, organic or material diversity, parliaments of contemporary constitutional democracies share a certain number of essential characteristics, making an exercise in comparison salient. These cases fall within a framework of common historical models, some of which are very old: the United Kingdom, the United States of America and France. Their functions are also similar: to make laws, to represent the nation or the people and, to oversee the government of the day. Likewise, each parliament is – depending on specific constitutional and political details – situated in a more or less extensive relationship of interaction with other powers: executive and adjudicative (in the broad sense of the term). Equally, they all have a complex internal institutional organisation: presidency, vice-presidency, conference of presidents, bureau, session, permanent or non-permanent parliamentary committees, delegations, quaestor and administrative departments (a list that applies to France alone). The sources of parliamentary law are largely identical: the
constitution, the law, the assemblies’ rules of procedure, practice and parliamentary custom, precedents and even certain categories of norms of a non-legal nature, such as Constitutional conventions in the United Kingdom. Likewise, societal factors (e.g. economic, social, ethical, technical) by which contemporary parliaments are confronted are very often similar, an outcome of them increasingly falling within a globalised legal and even institutional system, both at regional and international levels. Finally, within this context of globalisation, they are confronted with transnational parliamentary or quasi-parliamentary experimentations and processes, both regional (in the context of the EU, for example) and international (in the context of the United Nations).

The notion of time marks in an evident manner, both singular and common, the life of these representative institutions within the democratic world. Its mode of existence is chiefly binary: cosmic or psychological, objective or subjective, substantial or accidental, linear or cyclical, qualitative or quantitative, existential or operative. Various dimensions classically intersect with physical time (that is, the time of Newton and Einstein, Langevin and Planck), historical time (of historical chronology, traces and narrative), philosophical time (long studied by the most renowned thinkers such as Aristotle, Descartes, Kant, Husserl, Bergson, Deleuze, Arendt and Ricoeur), social time, and not forgetting legal time, or even sacred or primordial time. Each of these dimensions of time have in common a reference to a form of relation (a number of factual sequences subject to transformations or even mutations), making it possible thereby to distinguish a “before” and “after”, and not to reduce its substance to a simple objective flux or even to any instrumental measure. This characteristic therefore entails thinking about the relation rather than thinking about the substance, which, in our area of research (the parliamentary institution), means thinking about time in relation both to (plural but limited) space and

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to other institutions. The various dimensions that time comprises are sources of temporalities\textsuperscript{11} such as instant, duration (durée), rhythm, past, present and future. The legal forms of temporality applied to parliament are plural. They refer to a double dimension, which, when taking an interest in the parliamentarian (deputies, senators, lords, MPs), the parliament as a composite organ, the parliamentary political group, the majority or the opposition, shows itself to be both individual and collective. Both these dimensions are also found in questions concerning the mandate and the legislature; the (permanent or limited) sessions; the sitting days and hours; the agenda; the deadlines; the (ordinary and extraordinary) procedures, the debate, the speaking time, the – legal or political – deliberation of the ballot or oversight exercised over the parliamentary activity and particularly over its main activity, increasingly subject to the constraints of a society demanding speed: making law as the democratic expression of the will of the nation. These forms adopted by parliamentary temporalities themselves fall within plural spaces, whether these are institutionalised spaces (such as the chambers (e.g. parliamentary sessions), committees, delegations, bureaus, the conference of presidents, the quaestor, the representatives’ constituencies) or purely factual spaces (such as in the corridors of the assemblies, the bars and restaurant lounges, not forgetting today the dematerialised spaces of social media that often in an obscure manner compete with the confined space of the parliamentary chamber, and thus becomes a source of confusion not only for the citizen but also for the member of parliament in his or her perception of the process of deliberation and of the various parliamentary functions.

This study is only the incomplete reflection of a general comparative study conducted in France between 2015 and 2017.\textsuperscript{12} It falls within a geo-constitutional framework limited to five national parliamentary systems (France, Italy, Belgium, Germany and the United Kingdom), all of which have in common bicameralism and a transnational parliamentary system with the European Union. The European Union is characterised both by the absence of a sovereign or sovereignty other than that of the states that


\textsuperscript{12} This has been the object of a two-day conference in the Senate in the National Assembly in December 2016, the documents of which have been recently published. See : Emmanuel Cartier et Gilles Toulemonde, dir., Le Parlement et le temps. Approche comparée, coll/ “Colloques&Essais” LGDJ, Paris, 2017.
comprise it, in addition to a double logic of governance – federal and con-
federal – and a geographical fragmentation of places that exercise public
power between Strasbourg, Brussels and Luxembourg, and to which un-
doubtedly must be added the seat of the national public powers of the mem-
ber states themselves, specifically their parliaments that are expressly
associated with the exercise of the European Union’s powers and the imple-
mentation of its law. The study is currently being extended to include all 27
member states of the European Union, plus the UK according to the
importance of this constitutional patern.

Among the five national systems studied here, two relate to federal states
(Germany and Belgium) and three to unitary states (decentralised for
France and regional for Italy and the United Kingdom). Further, two of
these systems represent constitutional models with an ancient history
marked by a certain continuity (France and above all the United Kingdom).
The methodological framework of this study calls for multidisciplinarity by
combining at the same time law, and particularly comparative law (consti-
tutional, parliamentary, European), with political science (or sociology of
institutions and political sociology). This binary framework does in fact
make it possible to conduct a pertinent and complementary analysis both of
the legal temporalities regulating the functions of parliaments and the poli-
tical and social temporalities governing these very functions. The present
paper will follow a strictly legal analysis.13

*Durée* as a structuring marker for parliamentary activity

Time is made up of a double declension: time is to be considered both as
duration (*durée*) and as the instant with respect to a punctual event, what
the Greeks understood by its double attachment to two protecting deities,
*chronos* and *kairos*.14 Further, duration (*durée*) corresponds to a succession
of instants attached to a certain continuity that confers the mark of time on
them. Studying these declensions of time involves both a synchronic
approach (analysis of a given instant) and a diachronic approach (analysis
of duration, of evolution). Duration also refers to a sequence of time, i.e. a

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13 For a combined analysis, see ibid.
14 To which they also add another, lesser-known but still important deity in the perception of time
measurable time, beyond the instant, combining the past, present and future in accordance with a principle of continuity. This declension of time assumes a beginning and an end without which duration (durée) could not be measured. More than any other democratic institution, it is parliament that appears to be the product of a long and extended period of time, with this prolonged duration precisely marking out its identity and defining how it carries out its functions with respect to the activities associated with it (I). Moreover, in carrying out its three main functions (legislating, holding the government to account, representing), its further aim is to inscribe itself and the acts it produces within this long temporal sequence (II). This time is not simple but is often composed – and even composite – with the executive, who is of an entirely different nature, and, even, sometimes with that of the judge, particularly a constitutional judge. Accordingly, this is combinatorial time.

I. Inscription of Parliament in the long durée of History

This long duration constitutes the parliament’s identity from which its activity unfolds, an identity which is at the same time (i) institutional, (ii) normative, as well as (iii) political.

A. An institutional identity inscribed within duration

The French parliament – like its Belgian, Italian and German counterparts as well as ‘the mother of all parliaments’, the British parliament – has its roots and identity in a long historical sequence, despite the many constitutional changes that have marked the systems analysed, particularly in the case of France. The National Assembly thus bears the name given to the first assembly of the États généraux in June 1789 before being abandoned, briefly readopted in 1848 and then re-established after the Liberation in 1946.15 The Senate bears the prestigious name of the republican16 then imperial Roman assembly that survived the fall of the Western Empire17 and was readopted by the high chambers of the French First and Second Empires and kept by the second chamber of the Third Republic. While the

16 Which was already in existence under the Roman Kingdom, Michel Humbert, Institutions politiques et sociales de l’Antiquité, Dalloz, 1999, pp. 217ff.
17 Until 552 for the Western Roman Empire and even for the Byzantine Empire (where it bore the name of Boulede) until its fall in 1453, ibid., p. 460.
constitution of the Fourth Republic preferred the name more in keeping with its new (purely consultative) function as the ‘Council of the Republic’, the councillors continued to call themselves senators\(^{18}\) and the appellation of Senate itself subsisted alongside the texts before the 1958 constitution restored official value to it with the attributions that went with it. The long duration highlights both the names and the places for exercising parliamentary activity. Thus, the Palais Bourbon has been the seat of the assembly since 1798, with two circumstantial interruptions (between 1871 and 1879 and between 1940 and 1945). And the Palais du Luxembourg has been the seat of the Senate since Year VIII. The same is true at Westminster for the House of Commons (since 1332) and the House of Lords (since 1215), the Italian Senate in the Palazzo Madama (since 1853) and Chamber of Deputies in the Palazzo Montecitorio (since 1870), the Belgian Senate and Chamber of Representatives in the Palais de la Nation (since 1831), the Bundesrat in the former Prussian House of Lords (since 1899) and the Bundestag in the Reichstag building (since 1894).

This historical continuity does not stop at either the names or the seat of parliamentary institutions. It also concerns part of the norms applicable to their internal organisation and functioning.

B. A normative identity inscribed within Duration
It is the principle of autonomy that governs the mode of internal organisation of parliamentary bodies with more or less important control over their own works and over the temporalities that are applied to them, in tandem with executive bodies, which in the cases of the United Kingdom, Italy, Germany and the European Parliament are stronger than in France since 1958. In this sense, it is a time composed – insofar as the executive’s time, both its nature and its rhythm, are those of the actuality, i.e. the present – of reaction and instantaneity, while parliament’s time is by its nature and in principle that of the length within which its main functions are inscribed, its crucial functions consisting of legislating.

Besides their rules of procedure, which may comprise certain rules inherited from the first assemblies, such as article 54 of the Rules of Procedure of the National Assembly, a legacy of the rules of procedure of the 1789 Assembly, there are non-codified rules such as uses, traditions and precedents, independent of the constitutional order, which bear witness to this

\(^{18}\) Appellation officialised and formalised by the texts from 1947.
relation with duration, which, despite more or less advanced attempts at rationalising parliamentary activity, both in the production of the law and in holding the government to account, on a daily basis permeates our democratic assemblies both in France and in the five other systems studied. This characteristic is undoubtedly what confers to parliamentary mechanisms not only their flexibility but also their resistance to the onslaught of time. Accordingly, this characteristic enables parliamentary mechanics to be daily inscribed within an instituting duration which in concrete terms reflects both the activity of parliamentarians and the functions of the parliament.

C. The inscription of a human and political identity upon duration
Beyond the institutions and norms that govern its existence and functions, there are also men and women (in the case of women, more or less belatedly depending on the states) who bear witness to this inscription within a long temporal sequence. As indicated at the Palais Bourbon in the Casimir Perier room and in the Palais du Luxembourg, it is the gallery of busts that bear witness to this, that is, the statues and busts of deputies Albert de Mun, Jean Jaurès, Mirabeau, Bailly, Portalis and Tronchet and senators Jules Simon, Henri Wallon and Victor Schoelcher, along with the references made to their speeches and works by generations of the Nation’s parliamentarians.

There is, in addition, a certain continuity in the present political composition of these parliaments (i.e. the political parties), that is, the same political families (despite the occasional name change) dominating parliamentary politics for many centuries, settling for a rotation of power (Belgium,

19 Respectively 1918 in Germany, 1928 in the United Kingdom, 1944 in France, 1945 in Italy and 1948 in Belgium.
20 For a historical look at the topic, focused on the Third Republic, see the report by Jean-Marc Guislin, in Emmanuel Cartier et Gilles Toulemonde, dir., Le Parlement et le temps, op., cit.
France, Germany, United Kingdom, European Parliament). Only in Italy is this no longer the case.

II. Parliament as an initiator of a long durée in the exercise of its functions

It is in its three main functions that parliament is at the origin of the production of a long historical sequence that marks its day-to-day activity: those of (i) national representation; (ii) the law, and (iii) holding the government to account.

A. Representing the nation
Charged with, to use Barnave’s words, ‘vouloir pour la nation’ (‘the will of the nation’), in accordance with both a more or less direct mode of representation and, depending on the forms of the state concerned, in combining a more or less strong territorial dimension (federal for two of them, unitary for the other three), the parliamentary chambers and their members inscribe their own functions within a long historical sequence. First of all, they do so by appeal to a notional and ideal duration, namely the nation which, by definition, is marked by a principle of continuity that transcends changes in constitution or even regime change. Secondly, a no less notional, but a more limited, duration: that of the mandate (on an individual level) and of the legislature (on a collective level). On this we will not dwell too much insofar as they are dealt with specifically in the contributions of part two of the work carried out in our European project.22 The clock of representative democracy is regulated by elections, i.e. by the electoral calendar. In France, the Constitutional Council also ensures that the electoral regime, which comes under the law (article 34C), does not call into question the right enjoyed by citizens to exercise their franchise with ‘périodicité raisonnable’ (‘reasonable frequency’),23 a formula found in international and regional human rights instruments.24 The length associated with the man-

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22 See, about The parliamentary mandate and time, in Emmanuel Cartier et Gilles Toulemonde, dir., Le Parlement et le temps, op., cit., Part 2, and Annex 1 and 2 of the present paper.
24 In particular, the ECHR in its additional protocol No 1, article 3 on the Right to free elections: ‘The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.’, but also the UN International Covenant on Civil and Political Rights, article 25 of which provides that ‘Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions […]’
date and the legislature is protected in each system by rules of immunity and inviolabilities, of which each chamber is the guardian and to which it is viscerally attached in the name of the separation of powers.25 With the exception of Germany, where the mandate of Bundestag deputies is four years, the mandate of the deputies of the other four states’ second chambers is five years, as is that of MEPs. Excepting the cases of the Bundesrat and the House of Lords, which strictly speaking do not have a legislative role, both the upper chambers of the systems analysed have a mandate with the same duration as the lower chamber (Italy and Belgium) with a concomitant full renewal. In France, senators still have a longer mandate than that of the deputies (but, since 2008, only by one year) and have a partial renewal, another length factor. With the European Union, where 82% of member states have bicameral systems, only the French and Czech senates have such a regime, while the European average is between four and five years.

The bicameral systems studied (with the exception of the United Kingdom and Germany by reason of the specificity of the second chamber’s mandate) therefore establish for half of them the concomitance of the length of both chambers’ legislatures. Belgium is the system that has taken this alignment of legislatures the furthest insofar as the constitution extends it to regional and community legislatures, taking as its standard the length of the mandate of MEPs.26 It is also interesting to note the coupling and even the concomitance of certain mandates with that of the executive when the latter is elected and accordingly exercises a genuine mandate. This has been the case since 2002 for the French National Assembly with the President of the Republic. This is also the case with the German federal chancellery with respect to the Bundestag and for the President of the European Commission appointed for five years after being confirmed by the European Parliament. But this is not the case either for the President of the Federal Republic of Germany (elected for five years) or for the President

b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; http://www.coe.int/en/web/conventions (consulted on 21 October 2016) and http://www.ohchr.org/FR (consulted on 21 October 2016).

25 The National Assembly instituted these rules very quickly by a decree of 23 June 1789, in the name of the independence of the elected representatives with respect to the executive, see Eugène Pierre, Traité de droit politique, électoral et parlementaire, 1st ed., Librairies-Imprimeries réunies, 1893, 1231 pp., cited by Pierre Avril and Jean Gicquel, Droit parlementaire, 4th ed., Lextenso, p. 49.

26 On the chambers’ mandates in the 28 member states of the EU, see Table in the Appendix to this contribution.
of the Italian Republic (elected for seven years), and of course not for Belgium and the United Kingdom, both of which have a monarch and a prime minister appointed by the monarch. Up until 2002, in France there was a discontinuity between the length of the legislature and that of the government, while the United Kingdom has recently seen the legislature and the mandate of members of the House of Commons subject to a strict term of five years, following the adoption in 2011 by the UK Parliament of the Fixed-term Parliaments Act. The chamber is now dissolved automatically after five years, thereby ending the legislature in a periodic manner.27

On a more individual level, the fact that there is no limitation regarding the succession of mandates within the same chamber or from one chamber to another (usually from the lower to the upper chamber), as well as the marginal presence of a lifetime mandate in certain systems (United Kingdom and Italy), strengthen the mandate’s inscription within a long historical sequence. Added to this is the growing professionalisation of parliamentarians’ functions, something that is increasingly difficult to overcome in an ever more complex and technical world. This duration associated both with the mandate and with the legislature must nonetheless be relativised by the use that can be made of the dissolution law, which, with the exception of the EU, exists in each of the state systems studied and is exercised in accordance with more or less restrictive modalities. The United Kingdom saw the Prime Minister’s prerogatives in the matter heavily reduced with the Fixed-term Parliaments Act, which carries out a real and first historical rationalisation of this procedure of which the Prime Minister made discretionary use, enabling him or her to choose the term of the MPs’ mandate depending on the economic environment most favourable to him or her. Belgium has the most restrictive system of dissolution, combining early, automatic or decreed dissolution, which may or may not be associated with a political crisis. This reconfiguration of parliamentary temporality was at the heart of the complex process that led to the validation of the Brexit agreement by Westminster and the difficulties encountered by the successive governments of Theresa May and Boris Johnson. The vote of the agreement will be successful only after 3 years, following two self-dissolutions of the House of Commons. Italy has the only system where the execu-

tive has a right of dissolution, applying equally to both chambers. In France, the reform of the five-year presidency, combined with the reorganisation of the legislative timetable, is intended to reduce the assumptions of recourse to the right to dissolve the lower chamber, in favour of guaranteed periodic sequences.

While longer parliamentary durations can be interrupted by dissolution, it can also be extended (but also shortened) by the fortunately exceptional practice in our part of the world of proroguing parliament. Historically, France has seen a number of episodes of this type, under the Third Republic28 but also of course more recently in 2002, to reverse the electoral timetable between presidential and legislative elections following the constitutional reform of the five-year presidency. This procedure was validated by the Constitutional Council insofar as it resulted from a ‘general interest’, on an exceptional and transitional basis (i.e. limited in time), regarding the National Assembly29 then the Senate30 and, finally, for French people based outside France.31 Furthermore, the Council only exercises control over these procedures for amending our representatives’ mandate when an apparent error in judgement has occurred, thereby referring to the classical formula of the reserve of opportunity, according to which ‘the Constitutional Council does not have a general power to judge and make decisions as Parliament does. Furthermore, it is important to ensure that these measures do not call into question the electors’ franchise, which must be capable of being exercised with ‘reasonable regularity’.32

The picture here would be incomplete if we did not mention the question of concurrent local and national mandates. Of the five national systems studied, only France has concurrent mandates running.33 The aim of the law

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28 Thus the deputies’ mandate had been prorogued for three months in 1874, one month in 1877, six months in 1893 and up to 20 months in 1918 due to the war, Mattei Dogan, ‘La stabilité du personnel parlementaire sous la Troisième République’, *Revue française de science politique*, 1953, 2, pp. 319–348.
31 CC, Decision No 2013–671 DC of 6 June 2013, Law proroguing the mandate of the members of the Assemblée des Français de l’étranger (Assembly of French Citizens Abroad), Rec., p. 806.
32 Ibid.
of 14 February 2014, which came into force on 1 January 2017, was, to reduce the legal necessity of concurrent mandates, so as to enable parliamentarians to focus on their parliamentary mandates more than they do currently. Thus, this addresses not only the length but also the rhythm of parliamentary activity, hitherto impaired by the time devoted by the nation’s elected representatives to local mandates.

B. Making law: between the illusion of the long durée and the dictatorship of the present

1. The illusion of the long durée
Portalis had been able to write in his Preliminary Address on the First French Civil Code that ‘la perpétuité est dans le vœu des lois’ (‘perpetuity is the wish of the laws’). This is because the right, and in particular the law, maintains ‘un rapport au temps le plus possible distinct du temps contingent, distinct aussi du temps social immédiat’ (‘a relation with time [which is] the most distinct possible from contingent time, also distinct from immediate social time’),34 a relationship where the norm would not be ‘affectée par l’écoulement du temps’ (‘affected by the passage of time’).35 This idea, which may be based both on the symbolic force of the law (its sacred origin before being secularised but still associated with the expression of a sovereignty)36 and on the principle of legal security associated with it today, is also found both in the Roman-Germanic tradition and in the common law tradition.37 The law, ‘expression de la volonté générale’ (‘expression of the general will’), fruit of reason, thus stands as a monument built to last and to be perpetuated.

2. The dictatorship of the present
The image is appealing and undoubtedly also motivating for the legislator but sadly it no longer corresponds or does not correspond to the reality of legislative work, which is continuously being overhauled, adapted, reformed

34 Jacques Comaille, A quoi nous sert le droit?, Folio, 2015, p. 47.
and instrumentalised in favour of a temporality which is no longer that of durée but that of the instant: an overvaluation of the present, of urgency, of contingency. In his book, *Accélération*, Hartmut Rosa talks of a hegemonic presentism. To the accelerations in technical innovation and social change should now be added an acceleration of the rhythm of individual life reflected in ‘*l’augmentation de la fréquence des épisodes d’action par unité de temps*’ (‘the increase in the frequency of episodes of action per unit of time’). The author sees in this triptych the likely end of politics, condemned to an inevitable desynchronisation between its own (long) modalities of deliberation and the much faster processes of social change.\(^{38}\) This ‘*dictature du présent*’ (‘dictatorship of the present’) and of the instantaneousness, brought about by the information and communication society, is not alien to our chambers and further contributes not only to modifying the temporality of exercising the parliamentary function but also the spaces in which it is exercised via the use of social media by our representatives in all places, both in session and in committee, opening up to a chosen audience (web users) and media of all types the space of deliberation and for the first time enabling indirect exercise of control of the individual activity of its elected representatives, at the risk of further calling into question the very nature of their mandate: representative and non-imperative. The law in principle makes it possible to counterbalance this movement and to enable the state to remain ‘*maître des horloges*’ (‘master of the clocks’), despite the scrambling of the categories of time induced by this contemporary acceleration. The legal constraints weighing on the legislative function of parliaments are in fact numerous and of variable intensity, relying on different sources, written or unwritten, legal or political. The parliament’s time, particularly in exercising its legislative function, is largely defined by the law. This concerns calendar time, cyclical time, rhythm in general with respect to more or less long parliamentary sessions (except for parliaments sitting permanently as in Italy), which have become almost permanent everywhere and particularly in the systems that we have studied, suspended by more or less short parliamentary holidays, framed by the parliamentary return and, as in the United Kingdom, by the Queen’s Speech.\(^{39}\)

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39 See on The British parliament and time, the report by Vanéssa Barbe, in Emmanuel Cartier et Gilles Toulemonde, dir., *Le Parlement et le temps*, op., cit.
3. The competition of endogenous and exogenous temporalities
Furthermore, the time associated with producing legislation results in the parliamentary system from the articulation of two endogenous temporalities, which can sometimes be contradictory: that of the government, marked by the requirement of effectiveness and speed, inscribed within the present; that of parliament, inscribed within the future, marked by a requirement for clarity and sincerity in parliamentary debate (implying a certain serenity that only long durations make possible). This parliamentary temporality is also marked by the search for compromise between political groups and sometimes even within the majority group, as well as, in bicameral systems, where the second chamber is more or less conservative and thus, depending on the systems at stake, serves as a blockage against new legislation (as is the case in Italy, Germany and Belgium, to varying degrees).

This temporalisation of parliament’s legislative function is exercised both in session and in committee (which enables a certain continuity in parliamentary work beyond the sitting and the session) but also, de facto, in the corridors of the assemblies, at the bar or even on social media. In each of the systems studied it combines what are known as extraordinary procedures, covering effectiveness and speed, at the initiative of the executive (accelerated procedures and delegations of powers in favour of the executive) and what are known as ordinary procedures enabling parliament to fully and serenely exercise its office by even sometimes requiring it to take its time as in France since the constitutional revision of 23 July 2008 for examining pieces of legislation in public session. There is a notable trend in each system, including the European system, towards the development of, or even the abuse of accelerated procedures, to the detriment of both the debate and the quality of legislation, with respect to both formal terms.

41 To which are added the rules known as the ‘entonnoir’ (‘funnel’) and ‘cavaliers législatifs’ (‘legislative riders’) released by the Constitutional Council, which considerably impact the exercise of parliamentarians’ right of amendment. The funnel rule, whose origins go back to the parliamentary practice of the Third Republic (formalised in the rules of the chamber of deputies in 1935), was also established indirectly by the constitutional revision of 23 July 2008. The new article 45(1) of the Constitution provides that: ‘all amendments which have a link, even an indirect one, with the text that was tabled or transmitted, shall be admissible on first reading’, see Damien Chamussy, ‘La procédure parlementaire et le Conseil constitutionnel’, NCCC, No 38, January 2013 (Dossier: The Constitutional Council and the Parliament) http://www.conseil-constitutionnel.fr (consulted on 20 October 2016).
(unclear or inconsistent drafting) and material terms (no possibility of having obtained real consensus on the content). Producing a consensus is necessary for the proper functioning of a democratic society and social peace and parliament remains the space in which consensus is ideally and legally produced in accordance with an adapted temporality.

Added to these endogenous temporalities is an exogenous temporality: that of the European Union and in particular its acts of derived law which impose on the legislator the need to transpose them into domestic law within a certain period. The same can be said about deadlines concerning oversight by national parliaments on the principle of subsidiarity used by EU institutions via the Commission or the CJEU. However, a number of legal factors make it possible to modulate the effects of these competing temporalities and to inscribe the parliament’s legislative function within a long duration without it affecting the quality in either the production of laws or in the deliberation behind the laws.

4. Legal modulation factors
Even though, in France, the United Kingdom and even Belgium, certain laws are known as ‘monocameral’, according to which priority is given, occasionally or generally, to the lower chamber, legislation often operates through a bicameral logic, which essentially involves a shuttling of political deliberation between two parliamentary chambers. In the case of ‘perfect’ bicameralism as in Italy, the slowdown in the legislative procedure is constant and burdensome. It must be added here that Belgium and the EU also have a unique legal constraint among the systems studied, associated with the multilingualism that entails translating all legislation into its official languages.

The second factor is limited to rationalised parliamentarism and its effect on the control of time and on the effectiveness of parliamentary

43 See on The Belgian parliament and time, the report by Marc Verdussen, in Emmanuel Cartier et Gilles Toulemonde, dir., Le Parlement et le temps, op., cit.
44 See on The Italian parliament and time, the report by Massimo Lucciani and Inés Cioli, in Emmanuel Cartier et Gilles Toulemonde, dir., Le Parlement et le temps, op., cit.
45 Translation times for the EU are two to three weeks.
functions. This effect is very low in the United Kingdom but is offset by the control that the Prime Minister and his or her government can exercise over the majority of those in the House of Commons. The two houses have also developed numerous internal rules and practices that strictly establish the time that is to be devoted to the adoption of laws. France is the system in which external constraints to parliament are strongest. The 2008 constitutional revision strengthened these constraints at the constitutional and organic level. The preventive oversight necessarily exercised by the Constitutional Council over the chambers’ rules of procedure, and occasionally and optionally on the clarity and sincerity of the parliamentary debates, strengthens this degree of constraint, which further represents an unprecedented example among the systems studied. The regime of the sessions – ordinary, extraordinary, in full right –, each assembly’s agenda, the regime of sittings, the times before discussion of pieces of legislation before each chamber and the maximum number of permanent committees are largely determined or predetermined by the constitution. In Italy, the absence of rationalised parliamentarism is reflected in a genuine autonomy of the programming of each of the chambers’ working times. The same goes for Germany. Belgium has a more advanced but inferior constitutional framework when compared to France.

The third legal factor surrounding temporal modulations in the production of law is associated with the effect of constitutional justice. This factor, which does not concern the United Kingdom, obviously leads parliamentarians to include the requirements of constitutionality arising from their own written constitution and the interpretation made of it by their constitutional court at the time of either a priori oversight (as is the case in France) and/or a posteriori oversight (in Italy, Belgium, Germany and France). A posteriori oversight also leads the legislator to prolong his

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46 See on *The British parliament and time*, the report by Vanessa Barbe, in Emmanuel Cartier et Gilles Toulemonde, dir., *Le Parlement et le temps*, op., cit.
47 See on *The Italian parliament and time*, the report by Massimo Lucciani and Inès Cioli, in Emmanuel Cartier et Gilles Toulemonde, dir., *Le Parlement et le temps*, op., cit.
48 See on *The German parliament and time*, the report by Céline Vintzel, in Emmanuel Cartier et Gilles Toulemonde, dir., *Le Parlement et le temps*, op., cit.
49 See on *The Belgian parliament and time*, the report by Marc Verdussen, in Emmanuel Cartier et Gilles Toulemonde, dir., *Le Parlement et le temps*, op., cit.
50 Pauline Türk, ‘Quel rôle pour le parlement dans le mécanisme de la Question prioritaire de constitutionnalité?’, *LPA*, No 239, 29 November 2012, p. 5; see also in advance the thesis being drafted by Valentine Martin, *La QPC vue du parlement. Contribution à l’étude des conséquences du contrôle à postériori sur le travail parlementaire*, (Lille 2 Droit et Santé thesis, under the supervision...
relationship with the law beyond its initial production, with the legislator having in some way to ensure the ‘after-sales service’ of the pieces of legislation that have been produced, marked by a defect of unconstitutionality which, unlike defects of unconventionality and euro-incompatibility, authorises the judge to abrogate the piece of legislation and call into question some of its past effects. This prolongation of legislative time may also be constrained by a deadline for reviewing the law declared unconstitutional set by the constitutional judge himself. Thus, the average deadline that the Constitutional Council allows the legislator to amend a legislative provision declared unconstitutional with deferred abrogation was, at 1 July 2016, 10 months. However, this length of time varies depending on the type of legislative provision censured. It should also be noted that the average deadline is well below what is practised for example by the German Constitutional Court (21 months with a maximum deadline of 61 months in 2006), and above that practised by its Belgian counterpart (nine months with a maximum deadline of 17 months).51

The fourth factor is associated with the effect of legislative drafting and more generally with the quality requirements of the legislative norm. This point concerns all the systems studied, including and above all the European system, of which some of the techniques may be categorised as ‘techniques de légistique durables’ (‘durable legislative drafting techniques’), making it possible to prolong the life of specific piece of legislation.52 Thus, this means that legislative assessments conducted systematically or occasionally by certain parliamentary offices – or any review clauses included in certain laws such as bioethical laws in France,53 experimentation laws, the requirement for prior consultation or organisation of a prior public debate,


\[\text{51 For a comparative analysis of the deadlines allowed the legislator in exercising these powers of modulation by the Belgian and German Constitutional Courts until 2006, see Christian Behrendt, \textit{Le juge constitutionnel un législateur-cadre positif. Une analyse comparative en droit français, belge et allemand}, Bruylant, Brussels, 2006, pp. 370–375.}\]


\[\text{53 See Manon Dosen, \textit{L’adaptation de la loi dans le temps: l’exemple des clauses de révision des lois de bioéthique}, intermediate research report under the supervision of Emmanuel Cartier, Lille 2, 2015, 32 pp.}\]
etc. – participate both in the relativisation of the legislative norm that is inscribed within a short time period, and in its planned follow-up, obliging the parliament to periodically return to its work to adapt and improve it, i.e. enabling it to be inscribed within a longer historical time, one that is no longer defined *ab initio* but is redefined periodically.

The fifth and final factor is associated with parliamentary culture. This differs widely in the six systems studied. In contradistinction to a culture of cooperation and compromise in the United Kingdom and Germany is a culture of confrontation in France, Italy and to a certain extent Belgium. Also playing a vital role is the existence of party discipline. While this is very strong in the United Kingdom and Germany and in the European Parliament, it is less evident or even non-existent in Italy and Belgium, and only relative so in France on account of the stable majority and the political structuring of parties (at least up until the most recent presidential election). In Germany, the Bundestag is designed to be a ‘working parliament’ where alliances and compromises prevail at all times over dissension and obstruction. Added to this is undoubtedly the culture of assessment and oversight, which, in France, has reached a consistent level under the Fifth Republic, particularly with the mandatory oversight of the chambers’ rules of procedure by the Constitutional Council and the constraints imposed on both the legislator and the government in the matter of producing law, in accordance with the constitutional revision of 23 July 2008.

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54 Laure La Raudière (de), Régis Juanico, *Mieux légiférer, mieux évaluer: quinze propositions pour améliorer la fabrique de la loi*, information report from the mission of the conference of presidents on legislative simplification, 9 October 2014, pp. 139–142.

55 See the various reports for each of the five national systems studied in Emmanuel Cartier et Gilles Toulemonde, dir., *Le Parlement et le temps*, op., cit.

56 On these cultural differences, sometimes a blocking factor in interparliamentary cooperation within the EU, see Philippe Lauvaux, Arnel Le Divellec, *Les grandes démocratie contemporaines*, PUF, 4th ed., 2015, 1064 pp., and on the specific case of British and French parliamentary culture, Marta Latek, ‘Le poids des traditions parlementaires nationales dans le développement de la coopération interparlementaire. La participation française et britannique à la COSAC’, *Politique européenne*, 2003/1, No 9, pp. 180ff.

57 See on *The German parliament and time*, the report by Céline Vintzel, in Emmanuel Cartier et Gilles Toulemonde, dir., *Le Parlement et le temps*, op., cit.

58 With in particular the mandatory impact studies for all bills, with the exception of the cases specified by the organic law of 15 April 2009, article 8 of which provides that ‘These documents define the objectives pursued by the bill, list the possible options outside the intervention of new rules of law and expose the reasons for the recourse to new legislation’, organic law No 2009–403 of 15 April 2009 on application of articles 34–1, 39 and 44 of the Constitution, *JORF*, 16 April 2009, p. 6528. These studies are assessed (having regard to their completeness and adequacy), first by the Council of State at the same time as the bill accompanying it, then by the Conference of Presidents.
Beyond the length devoted to the law both in its initial production and in its monitoring or review phase, it is in the parliamentary space and its sequencing where the essentials are located: through the temporal division between, on the one hand, the more technical and effective committee work, and, on the other, the session work taking place in the parliamentary chambers themselves, which is subject more to political positioning and to the pronounced divisions that exist in parliament between the ruling party and the opposition. While Germany and Italy have rules of procedure going as far as delegating the legislative function to committees, the European Parliament resorts to even faster processes such as trialogues and the United Kingdom gives the committees a crucial place; France, however, still lags behind on this point. In fact, the purpose of the 2008 revision was in particular ‘mieux et moins légiférer en séance’ (‘to legislate better and to do so less in sessions’) in favour of work in committee whose legislative role has been strengthened both by the fact that, on the one hand, deliberation in the parliamentary chambers now often takes place on the basis of committee’s texts and, on the other hand, that the right to amend the law is exercised both in session and in committee. In France, both the Senate and the National Assembly bear witness to a long duration, still too great, of legislative discussions and repetitive interventions with a constant number of amendments in session, combined with the increase in texts lodged not only by the government and opposition sides but also by parliamentary groups (in the context of their reserved spaces), despite sharing the agenda and despite the everyday acceptance in the National Assembly of the planned legislative time. What can thus be seen is the sizeable lengthening of the duration of general discussions and the concentration of debates on the first articles of the laws under discussion. Added to this is the growing

of the first assembly referred to via the blocking procedure specified in article 39(4)(C), and finally by the Constitutional Council as part of the oversight specified in article 39(C) or, unlike what might seem to result from parliamentary work, as part of the a priori oversight of the law specified in article 61(C). For the first assumption, see CC, Decision No 2014–12 FNR of 1 July 2014, submission of the bill on delimitation of the regions, regional and departmental elections and amending the electoral timetable, JORF, 3 July 2014, p. 11023. For the second assumption, see CC, Decision No 2013–683 DC of 16 January 2014, Loi garantissant l’avenir et la justice du système de retraites, JORF, 21 January 2014, p. 1066.

59 For a recent study in the context of our team, see Beverley Toudic, Les procédures rapides court-circuitant la démocratie au parlement européen; les trilogues, intermediate research report under the supervision of Emmanuel Cartier, Lille 2, 2016, 22 pp.

recourse to the accelerated procedure (more than 65% of texts in 2015 and 53.59% of the texts during the 2019–2020 session), which do not enable committees to have access to the deadlines of six and four weeks specified by the constitution for examining texts and making it more difficult to meet the two-week deadline between examination of the text in committee and in public session specified by both chambers’ rules of procedure. Furthermore, certain categories of laws subject to strict deadlines such as finance laws and social security financing laws, both in France and in the five other systems analysed, which impose a constraining rhythm that often distorts the equilibrium between the players in the legislative process. In France, the shuttle system, combined with the obligation to lodge the finance bill in the bureau of the National Assembly until a fairly late date, leaves the Senate an extremely tight deadline for examining the additional articles introduced by the National Assembly. The same goes for the year-end supplementary budgets. Added to this is a context where urgency is presumed favourable to frequent recourse to the accelerated procedure and to the meeting of the joint committee after a first reading by the Senate. Two contradictory logics are therefore established. That of the continuity of the state, which imposes an examination of and vote on the bill before the year-end and that of the quality of the democratic debate in respect of any of the most important pieces of legislation for the life of the nation. The

61 See Annabel Le Moal, La procédure accélérée. Quel sens et quel usage?, op. cit., particularly the tables in the appendix. See too, for recent statistics http://www2.assemblee-nationale.fr/15/statistiques-de-l-activite-parlementaire#_ftn1 (consulted on 10 March 2020).


63 The finance bill (exempt from impact study) must thus be lodged in France by the first Tuesday of October preceding the end of the year of execution of the state’s budget and discussion of the text (in accordance with article 39(C)) may henceforth take place only in the 70-day period remaining before the end of the year, see on Le temps des lois financières, the report by Aurélien Baudu, in Emmanuel Cartier et Gilles Toulemonde, dir., Le Parlement et le temps, op., cit.

64 Principle of continuity of the state, which led the Constitutional Council in December 1979 to decide to validate the prorogation by the government of revenue specified in the preceding year’s budget, having fully prevented promulgation of the year’s finance law on account of its frustration of the procedure specified by the order on the organic law of 2 January 1959 on finance laws. As Louis Favoreu noted, ‘Annulment of the finance law by the Constitutional Council created an exceptional situation that had been specified neither by the Constitution nor the organic law. It was not possible to vote again on the bill between 24 and 31 December, the deadline being too short’, Louis Favoreu and Loïc Philip, Les grandes décisions du Conseil constitutionnel, Dalloz, 1999, p. 396, CC, Decisions No 79–110 of 24 December 1979, Finance law for 1980, and No 79–111 of 30 December 1979, Law authorising the Government to continue to collect existing imposts and taxes in 1980, Official Journal of 31 December 1979, JORF of 26 and 31 December 1979.
European Union is a case apart in relation to the state-based systems analysed here. Since 1988, the Union’s budget has been subject to multi-year planning, now five-yearly, which also results in the European Parliament having to inscribe its action within a budgetary framework defined by the preceding legislator. Other laws are inscribed within a temporality of their own depending on their object or form. There are thus constitutional laws which are by definition inscribed within a long temporal sequence, which no longer permits recourse to certain procedures, thereby making it possible to accelerate the time for producing the law and supposes a consensus on the basis of a qualified majority or a procedure sometimes involving the people as in France or Italy. In the case of Belgium, under article 195(C) (which dates from the constitution of 1831), both chambers, having jointly declared that it was appropriate to revise the Constitution, are dissolved as of right to be replaced by a new legislature, which has to rule on the constitutional revision with a qualified majority.

C. Holding the government to account
This is the function specific to any parliamentary regime but also, to a lesser extent, to the presidential regime in which parliament exercises permanent oversight over the executive’s activities without nonetheless incurring its political responsibility. The systems analysed in this study do not, however, include any example of a presidential regime. This function is of course exercised within the length insofar as it concerns, on a day-to-day basis, public policies conducted by the government and its administration. This function assumes an expertise capacity and taking a step back. This function is nonetheless frequently abandoned by parliaments, given the importance occupied by the legislative function. This function is exercised on the basis of various media (oral and written), often very ancient, and in different spaces. The first and most visible is the space of the hemicycle and the public sitting, subject to sequencing of the agenda and the session, with questions to the government (written and oral), recommendations and comments, which may or may not be followed by the lodging and vote on a motion of censure in accordance with the modalities, which vary depending on the systems studied. The second is the space of parliamentary committees of enquiry, ancient institutions fundamentally attached to the birth of

the parliamentary regime, which, though temporary, enable work falling within a longer time to be spread out over several months, or even over a parliamentary year with more or less sizeable resources depending on the systems studied. The French system is the one with the most limits in the matter since committees of enquiry, despite the substantial powers allotted to them (strengthened in 1977 and 2008), cannot inscribe their work within the long time unlike their foreign counterparts. Thus their function ends once the report has been lodged and by expiry of a six-month period starting from the vote on the resolution that created them. In addition, they can be reconstituted with the same object before expiry of a 12-month period starting from the end of their assignment. Permanent committees (whose maximum number per assembly was raised from six to eight by the constitutional revision of 23 July 2008) may nonetheless take over a matter examined by a committee of enquiry and, as the case may be, complete its investigations. In France, as in the four other systems analysed, committees play a vital role in holding the government to account. For this, they have recourse to different oversight techniques which have been gradually strengthened by pieces of legislation. Thus, the technique of hearings and in particular hearing ministers is now very frequently used. They may also create temporary information assignments, which are common to a number of committees or individual and may be seen as confiding the powers of investigation of committees of enquiry for a determined assignment and a length not exceeding six months (four months before 1977). Added to this is the existence of assessment and oversight assignments inspired by British parliamentary law, particularly as regards the finance committee and the cultural, family and social committee, which involve the Court of Auditors in their work in accordance with the Constitution’s provision on assessing public policies. Since 2004, permanent committees’ assignments have been prolonged in time with the obligation, for laws requiring publication of the regulatory texts, for the rapporteur of the committee in question, to present to the competent committee, at the end of a six-month period following entry into force of the law, an application report indicating not only the

66 In particular, after the strengthening of their prerogatives and the publicity of their hearings, with consecration of a drawing right in favour of the opposition and minority groups.

67 Article 51–2 of the constitutional law of 23 July 2008 provides that, for exercising oversight and assessment missions, ‘committees of enquiry may be created within each assembly in order to obtain, under the conditions specified by law, items of information’.
monitoring of the regulatory texts but also assessment of the law text voted by parliament.68

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Such a reflection of parliament and time placed under the double prism of interdisciplinarity and comparative law is now necessary in the context of our contemporary constitutional democracies, which are being increasingly affected by this social acceleration – a phenomenon that is very well described by Hartmut Rosa. Time seems to be the new challenge of our democracies, which must be capable of transforming themselves without being lost in the flux of a change that would make them forgo the quality of democratic debate and the decline necessitating determination of the general interest both in the process of drafting the law and in the oversight exercised by our representatives over the activity of governments. Europe, at a time when it is seeking a new, more democratic path with a Parliament which has seen its prerogatives strengthened by the Lisbon Treaty and its acts promoted to the level of ‘legislative’ acts, cannot gloss over this reflection from the standpoint of comparative law. Only academics can, with the necessary hindsight and time, carry out this vital work involving reflection and analysis, which requires going all the way to the end of the process, creating structured networks and adopting a common methodology. Such is the ambition of the project from which this article arises and which is not only in the context of all the member states of the European Union but also beyond, particularly on the American continent. Currently, the European teams work on the impact of the health crisis on the functioning of each Parliament.

68 On all these questions and their development, see Pauline Türk, Le contrôle parlementaire en France, LGDJ, 2011, pp. 145–166.
Analysis of some key characteristics of a democratic parliament: Representativeness, transparency and accountability in Swedish Parliament

PATRICIA JONASON

It is the principal task of members of Parliament (MPs) to ensure that the will of the people is expressed in the decisions they take. This necessitates that MPs are representative of the people, which in turn requires that elections provide the right conditions for high voter turnout. Respecting the will of the people also requires that MPs are representative of their electorat in socioeconomics terms while working conditions offered to MPs must be sufficiently good to attract people from all walks of life. A further necessary condition is to guarantee that the decisions MPs make are consistent with voter’s wishes; this means ensuring that MPs act in a manner that conforms to their office and are protected from improper influence. This requires in turn a robust legal transparency framework.

1 The expression “key characteristics of a democratic parliament” is taken from Parliament and Democracy in the twenty-first century – A guide to good practice, David Beetham, published 2006 by the Inter-parliamentary Union, p. 7. According to Beetham a democratic parliament is one that is: representative; transparent; accessible; accountable and effective. In this paper only two of these aspects will be focussed on, namely representativeness and transparency. Note that when the guide uses the term transparency, it is referring to a quality of the parliament itself and means “a parliament that is open to the nation and transparent in the conduct of its business”. Here the word transparency will be used referring to the mechanisms making the MPs themselves transparent, by means of the right of access to information and the obligation to register assets and gifts. This characteristic is handled by the guide as a facet of accountability.

2 Associate Professor in Public Law at Södertörn University.

3 Some authors mean that socioeconomic factors have not so much “significance […] for the opinions and influences of Riksdag members”, See P. Esaiasson, S. Holmberg, Representation from above – Members of Parliament and representative democracy in Sweden, 1996, p. 20. The same authors acknowledge however that “[G]ood social representativeness can be seen as a value in itself”, p. 21.
This paper focuses on the Swedish Parliament, the Riksdag. The following conditions provided by the Swedish legal order for ensuring the democratic character of the domestic Parliament will be examined: how elections are run (I), MPs’ pay and benefits (II), and the safeguards to protect MPs from influences that are inconsistent with their office (III).

I. Organisational and technical solutions: designed to encourage high voter turnout in parliamentary elections

High voter turnout is essential for a representative democracy and for parliamentary legitimacy. With a participation rate of 87.2% during the last elections in September 2018, and a score of over 80% in recent decades, Sweden is thus a country that scores highly regarding voter turnout. The voting rate, however, varies depending on socio-economic groups. Graduates, employed people, executives, and “couples” are more likely to vote than people without a degree, the unemployed, workers, and people who live alone.

Although there are certainly sociological and political factors to explain the high voter turnout in Swedish elections, these issues will not be examined here. Instead, we shall analyse the technical and organisational factors that may contribute to Sweden’s score: firstly, the polling arrangements (A) secondly, the fact that national and local elections are held at the same time (B).

1 The Riksdag which has been unicameral since 1971, has 349 MPs elected by direct universal suffrage, drawn from 29 constituencies. 310 out of the 349 seats are “fixed” seats and the remaining 39 are “compensatory” seats. The 310 “fixed” seats, attached to constituencies, are apportioned according to the number of votes cast in the constituency while the “compensatory” seats are used to adjust the correlation between the number of persons registered and the number of mandates. The system is based on proportional representation. The seats are apportioned between the political parties which obtain at least 4% of the votes at the national level. However, below this threshold, a political party is allocated fixed seats in constituencies where it obtains at least 12% of the votes. The 39 “compensatory” seats are divided between the parties that receive at least 4% of the cast at the national level.

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Universal suffrage was introduced in 1906, though women were only given the vote in 1921. The mode of election, the conditions of voting and eligibility as well as the distribution of mandates between constituencies and political parties are set out in the Constitution, the Instrument of Government of 1974 (Regeringsformen (1974: 152)). The conduct of elections, in particular, is provided for by the Electoral Act (vallagen (2005: 837)).

2 The participation rate was at its lowest (80.1%) in the 2002 elections. It was 85.8% for the elections in 2014. If we go back further, record participation rate was as high as 91.8% in 1976.

3 For example, according to a study conducted in 2014 among the 28 Member States of the European Union, Sweden ranked fifth. See the website of the Swedish Institute for Statistics, www.scb.se.
A. The conditions under which voting is held
One likely reason for high voter turnout may be due to the conditions under which elections are held.

On the actual day of voting, polling stations are open usually from 8 a.m. to 8 p.m.; this is not so exceptional compared to other countries. However, an important difference is how voters can vote up to eighteen days prior to polling day. Not only this, voters can choose to change their vote up to polling day, with the last vote cast being the one that counts. This system may encourage people to vote before polling day, instead of waiting until the last minute before making up their minds (and forgetting to vote).

The choice of premises for voting in advance may also play a role in higher voter turnout. The premises, designated by town councils, are often town libraries, college halls (e.g. Royal Institute of Technology in Stockholm) or bus stations, that is, they are places familiar to certain categories of people.4 These places seem to be chosen in order to attract specific cohorts of voter – e.g. young people at KTH; travellers who might otherwise be absent during the day of the election itself. Shopping malls are also selected to house polling stations. Besides the fact that a large number of pre-voting stations exist that are open for almost three weeks before polling day, the formalities for voting are quite easy. There is no need to present a voter card; an ID card containing the personal identification number (personnummer) is sufficient. Swedes who live abroad can vote from a consulate, an Embassy or by email.

B. The same date for both national and local elections: A political solution that probably increases voter turnout
Another reason for high voter turnout for national elections might be that parliamentary elections, consisting of one-round of elections every four years, on the second Sunday of September, are held simultaneously with municipal and regional elections. This system, launched by the Riksdag in 1918, was first assessed in 1967.5 To be more precise, when the issue of the

4 They were traditionally placed in post offices and libraries. Post offices are nevertheless disappearing from the urban townscape.
5 The introduction of a common election day was a compromise for compensating the abolishment of the first indirectly elected chamber of the Riksdag. Indeed, instead of being realized by endorsing the County Councils with the power to elect a third of the MPs, as the Social Democrat party wished, the compromise turned out to consist of gathering together the dates for the parliamentary and the local elections. See DN debatt 9/9–2019 ”Avskaffa gemensamma valdagen för att stärka svensk demokrati” Olle Wästberg. For a detailed historical review of the introduction of the
influence on the voter turnout of a common election day is dealt with, it is primarily its positive impact on the number of voters for local elections that is mentioned. One may found nevertheless comments which even refer to the positive impact on national elections, such as “the common election day keeps election turnouts high both in Parliamentary and local elections”.

The elections for the Riksdag and for municipal and county councils are held at the same polling stations, simultaneously. The ballots and envelopes, presented in different colours depending of the type of election (parliamentary, county council or municipal council), are laid out side by side on a board at the polling station. The voter deposits the ballot papers for which s/he is eligible – i.e. three ballot papers if the voter is entitled to vote in national elections and county council and municipal council elections, two if the voter is only entitled to vote in local elections. Eligibility for voting in national elections and local elections is different, except for age requirement; voters must be aged 18 on polling day for all elections. Voters in parliamentary elections must be Swedish citizens residing or having resided in Sweden. On the contrary, there is no condition of nationality for voting in local elections, and anyone who is registered on the Swedish population register and who is of Swedish, Norwegian or Icelandic nationality or an EU citizen is entitled to vote in these elections. People of other nationalities must have been registered in Sweden for three consecutive years before polling day.

The fact that both national and local elections take place simultaneously, and thus elections cycles are simply every four years (without taking European Parliament elections into account), motivates citizens to vote when they have the opportunity to do so.

II. MPs’ pay and benefits: a balancing act between improvement and standardization

common election day see SOU 2001:65, pp. 19–36, Från skilda valdagar till gemensam valdag (meaning “Separate elections days and elections in Spring”), Hanna Kjellgren.
6 That the issue is tackled from the perspective of the local elections is unsurprising. The discussions about having a common elections day – or not – have focused principally on the question of the impact of a common – or separate – elections day for local democracy. See for example in the report SOU 2001:65 entitled Skilda valdagar och vårval.

7 SOU 2001:65, p. 158, En vitaliserad kommunal demokrati, Stefan Szücs. The same comment ends nevertheless with: “the more in a municipality vote in the parliamentary elections, the more vote also in the local elections”. See also SOU 2001:65, p. 135.

8 Besides the remuneration and safeguards that come into play when the term ends, MPs are also entitled to a disability pension, a survivor’s pension paid to the surviving spouse and insurance.
It is essential in a democracy to have a parliament composed of talented people who are representative of voters. It is particularly important that MP’s remuneration gives everyone, regardless of his/her background and living conditions, the opportunity to stand for public office. The Swedish legislator therefore ensures that MPs are paid satisfactorily in order to encourage people who are talented, competent and socially representative to become MPs. However, the legislator has had to be careful not to further contribute to a climate of mistrust surrounding MP’s when deciding upon present remuneration levels, bearing in mind that people like the idea of being governed by people with similar working conditions to themselves.

The challenge facing the legislator is to ensure that such conditions encourage talented and socially representative people standing for parliament without offering: (i) exorbitant pay for; (ii) a too generous system of benefits once their time as an MP ends, and (iii) excessive pensions.

Here, it will be a good idea to examine the historical development of the legal framework addressing MP remuneration before addressing different aspects of the compensation package from which MPs benefit.

The pay of Swedish MPs was first recorded in the Act of the Riksdag of 1866. The principle of remuneration is now enshrined in the Act of the Riksdag of 2014 (Riksdagsordningen (2014: 801). Chapter 5, Section 2 of this Act states that members of the Riksdag are entitled to payment from public funds for their role as members of parliament. The substantive rules concerning remuneration, which were previously included in the Act of the Riksdag, were transferred to a Compensation Act in 1941. This Compensation Act has since been replaced several times: in 1971, 1988, and also in 1994, by the Act on the Economic Conditions for the Members of the Riksdag.

Moreover, MPs receive travel allowances for travel to and from Sweden and housing. Additionally, the legislation supporting the work of MPs and political parties in the Riksdag, provides a system of public subsidies to the political parties in the Riksdag.

9 Riksdagsstyrelsens framställning till Riksdagen 2012/13 :RS7 Omställningsstöd för riksgadsledamöter, p. 36. This opinion was expressed in the context of the reform of the Aid awarded to MPs at the end of their term.

10 The issue of recruitment and financial conditions is also a recurrent one concerning local politicians. The challenge is nevertheless formulated in another way. In this particular case the measures that the central power wishes to take in order to improve a representative recruitment may be in conflict with the principle of local self-government. See P. Jonason, La rémunération du travail politique en Suède in La rémunération du travail politique en Europe, Berger-Levrault, 2019.

11 Ersättningsstadga (1971:1197) för riksdagens ledamöter.

12 Lag (1988:589) om ersättning m.m. till riksdagens ledamöter.
This latter Act was most recently replaced by the Act (2016:1108) on the Compensation of the Members of the Riksdag that came into force on 1 January 2017. The new Act brings together (while adjusting certain points) the rules on financial and material conditions which were previously scattered in several legislative, regulatory or infra-regulatory texts such as the Act (1994:1065) on the Economic Conditions of the Members of the Riksdag (which included inter alia provisions on reimbursement for travel, per diems, technical equipment, old age pensions, disability pension and surviving spouse’s pension), the guidelines (2001:2) on business travel, the regulation (2005:9) on offices and residences, and the regulation (2012:1) on travel abroad of the parliamentary committees and of the European affairs committee.

A. The salaries of MPs

MPs pay is divided into two parts: a remuneration for their parliamentary functions and a remuneration for non-parliamentary functions in Parliament and other Riksdag-related institutions.

The remuneration of members of the Riksdag for their parliamentary functions

The salaries of MPs were for a long time low. However, at the end of the 1990s, there was a change of policy with a period of significant and uninterrupted increases in the pay of MPs. Justification for the increases was the special role MPs play in the democratic system, the work they do and the conditions in which they do it. The large differences between Swedish MPs salaries and salaries of local and regional councillors and the differences between the salary of the Swedish MPs and their foreign counterparts has been pointed out too. Last but not least, the goal to have MPs come from all walks of life was another argument for increasing MPs’ salaries.

13 Lag om ekonomiska villkor för riksdagens ledamöter.
14 Lag om ersättning till riksdagsledamöter.
15 The aim of this last reform was to introduce a more uniform and more clear legal framework that moreover would allow a simplification in the administration of different remunerations and compensations for MPs. See Utredningen om översyn av riksdagsledamöternas ekonomiska villkor.
16 Verksamhetsredogörelse Riksdagensarvodesnämnd 2017, Redogörelse 2017/18:RAR1, p. 3.
17 Ibid.
18 Ibid.
The Act (2016:1108) on the Compensation of the Members of the Riksdag states that members of the Riksdag receive a monthly salary that is set by the Riksdag’s Remuneration Committee. The committee takes into account general changes in wages in the labour market when deciding salaries.

Although there is no requirement for an annual increase in MPs’ salary, salaries have been raised significantly over the last 30 years, rising from SEK 26,500 (EUR 2,540) in 1994 to SEK 66,900 (or about EUR 6,425) per month. Although the increase and current salary levels may be justified by the particular nature of a MPs’ job and the way it is performed – theoretically 24 hours a day, 7 days a week, 365 days a year – this increase is disproportionately higher compared to the average salary of a Swedish citizen. This situation has been criticized by some, such as the Green Party, which in 2004 called for a reduction of SEK 10,000 per month in MPs’ pay. The reasons put forward by the party was that MPs’ pay were now aligned with the highest salaries of civil servants (judges) and not with the average salaries of the citizens they are meant to represent. The risk was that this would further aggravate a sense of distrust that the public has about their MPs. The party also claimed that the increased in pay had not attracted talented people (a main justification for increasing the salaries in the first place), and suggested that people were in fact becoming MPs purely for financial reasons and not out of political conviction.

In connection to MPs’ salaries being disproportionately higher than the salaries of the average citizen, it is interesting to note that some parties have set up their own system for MPs to pay a part of their salary to their political party. Thus, the Left party (vänsterpartiet) has introduced a “party” tax in order to align the salaries of the party’s MPs to the average wage of citizens (a gross monthly salary of SEK 33,700 in 2017, i.e. approximately 3,230 EUR). The charge is levied on the consenting MP’s salary to ensure that

19 The Riksdagensarvodesnämnd is an independent authority in the Swedish Parliament.
20 The committee’s decision is prepared by the secretary of the committee, who collects data on the contracts concluded on the labour market and on statistics on the evolution of wages. The decision on compensation is not subject to appeal.
21 The increase in salary between 1994 and 2017 (when the salary was SEK 65000) has been 131%. The increase is 146.8% if we take into account the fact that in 1999 what was understood as a kind of a reserve income (“reimbursement of expenses”) was transformed into remuneration: See Verksamhetsredogörelse Riksdagensarvodesnämnd 2017, Redogörelse 2017/18:RAR1, p.8.
22 Motion till Riksdagen 2004/05 :KS37 Gustav Fridolin.
23 https://www.scb.se/hitta-statistik/sverige-i-siffror/utbildning-jobb-och-pengar/medelloner-i-sverige/
his/her remuneration\textsuperscript{24} corresponds to the average salary once both income tax and the party tax have been deducted.\textsuperscript{25}

Besides regulating the salary of the MPs for their ordinary parliamentary tasks, the \textit{Act of the Compensation of the Members of the Riksdag} also provides a salary supplement, which is expressed as a percentage for certain parliamentary functions by MPs. Thus, the vice-president of the Riksdag is entitled to a supplement of 30\% of the remuneration of a normal MP while the President of a Commission and of European Affairs Committee receive a 20\% increase on top of their salaries; further, the Vice president of a Parliamentary Committee and the Committee on European Union Affairs are entitled to a 15\% supplement. The 2016 Act states that the President of the Riksdag is entitled to remuneration which corresponds to the Prime Minister’s. The amount of this remuneration, fixed by the Cabinet Ministers’ Salary Committee,\textsuperscript{26} is currently SEK 172,000 per month (about EUR 16,500).

\textit{The remuneration of the members of the Riksdag for non-parliamentary functions}

The law also provides for a supplement to MPs’ salary for certain official but non-parliamentary functions. The \textit{Act (1989: 185) on remuneration in the Riksdag, its authorities and bodies} lays down a certain number of positions for which it lists a remuneration expressed as a percentage of the basic salary of a member of the Riksdag. For instance, MPs who are members of the Nordic Council delegation receive a 4\% increase in their remuneration when they officiate as the chair of this delegation, and an increase of 1\% for any other position taken up therein. Another example, the Chairman of the Council of the Bank of Sweden, receives an increase of 27.55\%, the vice president an increase of 23\%, ordinary members an increase of 14\% and substitutes for ordinary members an increase of 3.5\% of their salary.

\textbf{B. Post-mandate protection systems}

The aspiration to recruit suitable people as MPs is also given as a justification for why support mechanisms exist for helping MPs return to work

\textsuperscript{24} Net remuneration is SEK 27,700 (i.e. SEK 36,500 gross) after taxes and the "party" tax.

\textsuperscript{25} The administration of the Riksdag is responsible for levying the party tax from the MPs concerned and paying it to the political parties.

\textsuperscript{26} Statsrådsarvodesnämnden.
when they are no longer MPs. The latest reform (2014) in this area however, which replaced an income guarantee scheme with a system of aid for reconversion, has brought the parliamentary system, which in certain respects is excessive compared to the system that applies to employees, closer to the ordinary system. While there are good reasons for not leaving an MP without financial assistance at the end of his/her term in office, the principle that everyone must support themselves by work must also apply to elected officials. However, although the law specified that the compensation guarantee scheme, which applied before the conversion aid system, was not designed to provide for an MP’s long term needs, the system was nonetheless open to abuse. For instance, someone who had been an MP for six years and aged 50 or over could benefit from the guarantee of remuneration until retirement. Therefore, changes were made in order to avoid the risk of abuse and to align the parliamentary system with regular wage-earners. The new system comprises measures for re-employment, such as those existing on the labour market (training, etc.), and short-term financial assistance, mainly intended to help MPs transition towards his/her return to active life.

Therefore, the two systems have run in parallel with one another since the 2014 reform came into force. While the old income guarantee scheme applies to the members of the Riksdag elected before 2014, the system of aids for conversion applies to MPs elected since the 2014 elections.

Here is a brief description of the two systems.

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27 The committee in charge of the reform points out, in support of a system of aid when the person ceases being an MP, that if the mandate of members of the Riksdag cannot be considered as a job in the formal sense of the term, the fact remains that people who leave a job or their business activity to work as an MP can be considered to have changed their job, and may encounter difficulties in returning to their previous job, especially if their political mandate had been long. Riksdagsstyrelsens framställning till Riksdagen 2012/13: RS7 Omställningsstöd för riksgadsledamöter, p. 35.


30 Section 1 of Chapter 13 of the Act on the Economic Conditions of the Members of the Riksdag (1994: 1065). The provision in question became Section 1a after a reform by Act (2013: 761) which introduced the system of aids for conversion.

31 A first evaluation carried out over the period 1 May 2014–15 April 2016 shows that of the 24 MPs who used the conversion aid scheme (of whom 12 have benefited from training aids), half found work. Riksdagsförvaltningen, Uppföljning av omställningsstödet för övergång till förvärvsarbete, Dnr 2322–2015/16, Annexe 1, p. 6.
The income guarantee scheme, which applies to members of the Riksdag elected before 2014, concerns MPs who leave the Riksdag before the age of 65 and who have served at least three consecutive years. When MPs have served for less than six years, the income is guaranteed for one year, regardless of age. For MPs who have held parliamentary office for more than 6 years, the duration of the guarantee differs according to age: the guarantee is for two years for MPs under 40, and five years for those who are between 40 and 50 years old. MPs over 50 receive a salary until they turn 65. The year after their mandate ends, all MPs who benefit from the income guarantee receive 80% of their remuneration, whatever the duration of their mandate. Afterwards the extent of their guaranteed income varies according to the number of years an MP has spent in the Riksdag, according to the following table:

### The income guarantee scheme

<table>
<thead>
<tr>
<th>Length of the parliamentary mandate</th>
<th>Percentage of the salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 years</td>
<td>33%</td>
</tr>
<tr>
<td>7 years</td>
<td>38.5%</td>
</tr>
<tr>
<td>8 years</td>
<td>44%</td>
</tr>
<tr>
<td>9 years</td>
<td>49.5%</td>
</tr>
<tr>
<td>10 years</td>
<td>55%</td>
</tr>
<tr>
<td>11 years</td>
<td>60.5%</td>
</tr>
<tr>
<td>12 years and +</td>
<td>66%</td>
</tr>
</tbody>
</table>

The new system of aid for conversion consists of two parts. One part is a support system for MPs returning to work, including counselling and training. The second part is for financial assistance, where the duration of such assistance depends on the number of years of one’s parliamentary mandate, as shown in the table below.
The system of aid for conversion

<table>
<thead>
<tr>
<th>Length of the parliamentary mandate</th>
<th>Length of the payment of aid for conversion</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 year at least (consecutively)</td>
<td>3 months</td>
</tr>
<tr>
<td>2 years (in total)</td>
<td>6 months</td>
</tr>
<tr>
<td>4 years (in total)</td>
<td>12 months</td>
</tr>
<tr>
<td>9 years (in total)</td>
<td>24 months</td>
</tr>
</tbody>
</table>

Financial assistance for conversion is short-term, in contrast to the income guarantee system. An exception to this is for MPs over 55 who have served as parliamentarians for eight years or more. In this case, the law provides for the possibility of extending the financial assistance from year to year in special cases, such as prolonged absence from the labour market or sickness.

C. Pension rules

Tensions also exist in the field of pensions; on the one hand, the aspiration to create attractive conditions for MPs and, on the other, the recognition that working conditions should be more closely aligned those existing in the world of regular employment. The last pension reform, which MPs receive in addition to their general pension, serves as an interesting illustration. The pension reform of 2010 aimed, at one and the same time, at improving the material conditions for members of the Riksdag, particularly young MPs, and better aligning the pension system of MPs with regular employees. The first aspiration has led to measures such as accounting for pension rights irrespective of the age of MPs. The will to normalize the material conditions of MPs has resulted in some of the special rules being suppressed. Thus, the possibility of any MP acquiring a right to a full pension after twelve years has disappeared. Concerning the acquisition of pension rights, the legislator has used a civil servant’s pension (based on him or her working between 23 and 65 years) as a benchmark. The legislator has, however, provided for MPs receiving this level of pension after 30 years of office. This therefore partly compensates for the potential loss in salary and its negative impact (depreciation) on pension rights when a MP returns to the labour market. This measure shows that the legislator considers it important to protect an MP’s pension rights.
Efforts, then, have been made to make the financial conditions attractive for Swedish MPs, by introducing a comfortable salary and allowing MPs to “jump in and out” of politics without this having a detrimental impact on their pension. Mechanisms for helping those MPs whose mandates end have also been considered.

We will now examine the representativity of Riksdag (specifically with respect to the backgrounds of MPs). However, to clarify, representativeness is not considered in connection to the financial measures we have just analysed.32

**The representativity of MPs**

The MPs’ representativeness of the diversity of society as a whole is a condition for ensuring a truly representative democracy. Does the composition of the chamber correspond (socially, culturally, with respect to gender, age, etc.) to those the MPs are supposed to represent?

The sociological criteria I have accessed to assess the representativity of MPs concerns gender (statistics for the legislatures 2014–2018 and 2018–2022), age, place of birth (Sweden or abroad), the level of education of MPs (statistics for the legislature 2014–2018) and their original sector of activity (statistics for the legislature 2010–2014).33

Regarding gender, the Swedish Parliament was composed of 56.4% men and 43.6% women on polling day in 2014. The distribution of men and women varies greatly from one party to another. For example, while the left-wing party (Vänsterpartiet) was represented by 42.9% men and 57.1% women, of the far-right party (the Swedish Democrats, Sverigedemokraterna) seats, 77.6% were held by men and 22.4% by women. The party which won the most votes in the 2014 elections, the Social Democrat Party (Arbetarepartiet-Socialdemokraterna), had 53.1% men and 46.9% women.34

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32 Unfortunately, we are unable to measure the impact of the abovementioned measures on the representativity of the Riksdag.

33 **Politikers Yrken 2010/11 – En undersökning av riksdagsledamöternas yrkesbakgrund efter riksdagsvalet 2010** Utdrag av rapporten för Sveriges riksdag Eskil Engnér.

34 This corresponds to a known phenomenon: “[…] the scholarship on gender and party recruitment bears out that parties with left-wing ideologies traditionally attach more importance to guaranteeing social justice and social equality and are therefore more likely to include traditionally disadvantaged groups compared with right-wings parties […]” see Karen Celis and Silvia Erzeel in The Complementarity Advantage: Parties, Representativeness and Newcomers’s Access to Power, Parliamentary Affairs, Vol. 70, Issue 1, 1 January 2017, p. 43–61.
For the last legislature (2018–2022) the score on polling day, 9th September 2018, was 53.9% men and 46.1% women.

The following data for the previous Parliament (2014–2018) concerning age (2014–2018) will now be presented: 10.6% of MPs were aged between 18 and 29 on polling day, while voters in the same age group represented 19% of the population; 49% of MPs were aged 30 to 49 compared to 31.4% of the voters; 37.8% of MPs were aged between 50 and 64 years old compared to 23.4% of voters. Finally, 2.6% of MPs were 65 years and over, compared to 26.3% among the voters.

Concerning the place where MPs were born, the statistics are as follows for the legislature 2014–2018: 8.3% of MPs were born abroad while 12% of people registered on electoral lists were born abroad. 35

Concerning the level of education, on polling day for the legislature 2014–2018, 4.6% of MPs did not have a high school education compared to 12% of the population36 without a high school education; 23.6% had left school after high school (gymnasiet) compared to 44% in the population; 25% of MPs had attended higher education for three years after high school compared to 43% of the population, and 46.8% of MPs had studied more than 3 years after high school compared to 27% of the population.37

Concerning the original sector of employment the statistics for the legislature 2010–2014, show that 33% of MPs were civil servants,38 29% held a political mandate,39 20% were employed in the private sector, 10–12% were self-employed entrepreneurs and 5–6% fell outside these categories.40 If we combine the professions and activities financed by the public sector, a category which Eskil Engnér called “the political sector”41, the number reaches 62%. By comparison, the statistics for the population as a whole are as follows: while the labour market employs 4.4 million people, 3 million,

35 However, there is a gradual increase in the number of MPs born outside Sweden. In 1990, they constituted 2% of MPs (see www.scb.se) while in 2010, 8% were born abroad. The under-representation of the foreign-born is logically more important when we consider the totality of the foreign-born population, that is, those born abroad but having Swedish nationality, and therefore the right to vote and the persons without the right to vote due to lack of Swedish citizenship.
36 Between 25 and 64 years old.
37 The proportion of MPs who do not have a high school education is decreasing.
38 A slight decrease in comparison to legislature 2002–2006 where the score was 37%.
39 A slight increase in comparison to legislature 2002–2006 where the score was 26%.
40 Politikers Yrken 2010/11 – En undersökning av riksdagsledamötarnas yrkesbakgrund efter riksdagsvalet 2010 Utdrag av rapporten för Sveriges riksdag Eskil Engnér, p. 16.
41 idem, p. 17.
i.e. 68% are employed by the private sector and 1.3 million, i.e. 29.5%, are employed by the public sector.\textsuperscript{42}

While MPs’ representativity in terms of gender is quite balanced and even increasing, we notice that things are not as simple with respect to age. Those between 30 to 49 years and 50 to 69 years are overrepresented while the youngest and oldest members of the electorate are underrepresented among the members of the Riksdag. On the whole, MPs have a higher level of education than the average of the population\textsuperscript{43} and a higher proportion come from the political sector compared to the rest of the population.\textsuperscript{44}

III. The anti-corruption framework: beyond the traditional Swedish transparency framework

Another crucial condition for the proper exercise of Parliamentary power and a properly functioning democracy is protecting MPs from improper external influence.

There are many mechanisms for protecting MPs from outside interference, thereby preventing them from acting in a way that conflicts with their office and the common good.

One of these mechanisms is the freedom of information or the right to access official documents. Sweden was the first country in the world to adopt rules on freedom of information in the 17th century. These rules apply to all public records detained by public authorities, including Parliament, and form the basis of Sweden’s culture of anticorruption.

Apart from rules on freedom of information, a fundamental pillar of Swedish democracy, (A) there are a set of rules specifically intended to protect MPs from external influences. These are: (B) rules on conflict of interests (disqualification); (C) the obligation to register gifts and (D) the regime of declaration of assets.

Before analysing these mechanisms, it is interesting to consider the corruption context in Sweden. In fact Sweden is ranked as one of the countries

\textsuperscript{42} https://www.scb.se/hitta-statistik/sverige-i-siffror/utbildning-jobb-och-pengar/yrken-i-sverige/ersity.

\textsuperscript{43} Its confirms the general trend: “Generally, candidates and MPs have a higher socioeconomic status and more education than the population at large […]” Werner J. Patetzelt, Recruitment and retention in Western European Parliaments, Legislative Studies quarterly, Vol. 24, N°2 (May 1999), pp. 239–279, Washington University, p. 245.

\textsuperscript{44} https://www.scb.se/hitta-statistik/sverige-i-siffror/utbildning-jobb-och-pengar/utbildningsnivani-sverige/
with the lowest levels of corruption, and public perception of the level of corruption is very low. This may be largely explained by the long established right to freedom of information and to the robust principle of transparency in the work of public authorities. However there appears to be “a ‘certain naivety’ about the phenomenon of corruption and its occurrence in Sweden”. The author of this remark is the Group of States against Corruption (GRECO), a body founded in 1999 by the Council of Europe and tasked with “monitor[ing] the compliance of its 49 member states with the Council of Europe’s anticorruption instruments”. The above remark was expressed in the context of the fourth evaluation round by the GRECO. Launched in January 2012, this evaluation round dealt with corruption, and prevention with respect to MPs, judges and prosecutors.

An analysis of the documents produced during the fourth evaluation round show that GRECO was not entirely satisfied with the existing Swedish legal framework and thus accordingly asked the Swedish authorities for improvements. As we will see when examining the anti-corruption

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45 According to the Democracy Index 2018, Sweden was among the top 5 with 9.39 after Norway (9.87) and Iceland (9.58) and before New Zealand (9.26) and Denmark (9.22).
46 According to Special Eurobarometer 397 CORRUPTION REPORT. Fieldwork: February–March 2013 Publication: February 2014 “The Nordic countries are the only three Member States where the majority of those surveyed think that corruption is rare in their country – Sweden (54%), Finland (64%) and Denmark (75%)”, p. 6.
47 GRECO Evaluation report, p. 4.
48 GRECO, Fourth evaluation round, Corruption, prevention in respect of members of parliament, judges and prosecutors, Greco Eval IV Rep (2013) 1E, p. 50.
49 The three first rounds dealt with the independence of the judiciary (First Evaluation Round), Public administration (Second Evaluation Round), and the incriminations of corruption (Third Evaluation Round).
50 The evaluation round consisted of different stages. First GRECO submitted an Evaluation Questionnaire (Greco Eval IV (2013) 1E) to Sweden. Second, from the answers to the questionnaire, data collected from civil society among others as well as from information gathered through an on-site visit to Sweden, GRECO wrote a report addressed to the Swedish authorities containing a description of the relevant anti-corruption mechanisms in place as well as recommendations on how they could be improved (Evaluation Report). Third, after having given Sweden time to carry out improvements, GRECO wrote a new report (Compliance Report) assessing the progresses made in terms of compliance as well as the recommendations still to be implemented. During the last phase, similar to the third, GRECO wrote a concluding compliance report (Second Compliance Report Greco RC4(2017)21) in which it is stated that “the adoption of the Second Compliance Report terminates the Fourth Round compliance procedure in respect of Sweden”, Second Compliance Report, p. 6. Meanwhile, of the eight recommendations of the GRECO six had been satisfactorily implemented or dealt with in a satisfactory manner whereas two had been partly implemented. Second Compliance Report, p. 6.
mechanisms existing in Sweden for MPs, the impact of GRECO’s recom-
mandations on the Swedish framework is tangible.

One of the GRECO’s general achievements is Sweden having drafted and
adopted a Code of Conduct for the members of the Riksdag.51 The Code,
accompanied by a guide, reminds the members of the Riksdag that they are
the primary representatives of the people and that their office is based on
the trust that citizens express by casting their vote in general elections.52 The
Code, which “summarises the central legal framework and values for the
office of the MPs” and “constitutes a common ethical ground” for this of-

The procedure for drafting and adopting a Code of Conduct in Sweden
was as follows: a parliamentary working group was set up in November
201353 in order to fulfil GRECO’s recommendation on the enactment of a
Code of Conduct. The Group gave a final report on November 2014,54
which concluded that two legislative changes were required for the code to
apply, namely to amend the Act (1996:810) on the Registration of the Com-
mitments and Economic involvement of Members of the Riksdag by extend-
ing its scope of application to debts, and by introducing a system to register
gifts.55

The Code, which was adopted in December 2016 by the Speaker of the
Riksdag, the three Deputy speakers (the Riksdag Presiding Officers) and by
the leaders of all eight parties represented in Parliament, came into force on
1 January 2017, i.e. on the same date that the abovementioned required
legal amendments were put into effect.

A. Broad and well rooted freedom of information rules
Freedom of information i.e. the right for the public to access information
held by public authorities is an effective and transparent mechanism for
ensuring that public officials, including MPs, act in accordance with their
office and remain uninfluenced by outside interests. Freedom of informa-

51 GRECO is satisfied with the Code itself but less satisfied with the enforcement mechanisms of the
Code. The supervision is the responsibility of the speaker, deputy speakers and the party group
leaders (Guide, p.19) but GRECO regrets no “stronger mechanism, capable of imposing sanctions,
to ensure its enforcement”. Second Compliance Report, p. 6.
52 Code of Conduct for the Members of the Riksdag, p. 5.
55 See in Konstitutionsutskottets betänkande 2016/17:KU9.
...tion prevents corruption in two ways. Firstly, the rules surrounding the freedom of information encourage MPs to respect the law and not to operate outside public interest. Secondly, freedom of information increases public accountability by giving the public, including the media, insight into how public officials work and handle public money.

The right to access official documents was established in 1766 in Sweden, making Sweden a precursor long before other countries adopted freedom of information legislation. The long history of this right in Sweden means that there is a deep tradition of transparency and openness in the country’s public sector including among the MPs.56

The right is not only a long-established right but it is also an effective right. This is due to different factors. Freedom of information, which obliges public authorities to disclose documents after a request, has been made by the public,57 is strongly protected by law. The right is guaranteed and regulated in detail at the constitutional level (by the Freedom of the Press Act, Chapter 2).58 Furthermore, the scope of the right is *ratione materiae* broad and encompasses all kinds of information held by public authorities, including personal information.59 The scope of the right is also wide *ratione personae* because the concept of public authorities is interpreted widely and includes *inter alia* the Riksdag. Besides the symbolic and practical importance of the high normative rank of the right60 and the right’s broad scope of application,61 it is also interpreted broadly.62 Furthermore,

56 The framework of the right of access to official documents applies not only to the public entities as defined by the Instrument of government i.e. the Government, the central and municipal government and the courts but also to the Parliament (the Riksdag) and the local government assemblies (county councils and town council assemblies). Those entities are indeed expressly equated to public authorities by the Freedom of the Press Act and by the Public Access to Information and Secrecy Act. For a presentation of the right of access to official documents in Sweden see Jonason, Patricia, The Swedish legal framework on the right of access to official documents in *The Right of Access to Public Information: An International Comparative Legal Survey* / [ed] Hermann-Josef Blanke ; Ricardo Perlingeiro, Heidelberg: Springer, 2018, p. 235–264.
57 Proactive disclosure is not governed by the Freedom of the Press Act.
58 Freedom of information is a constitutional right enshrined in many constitutions; however Sweden appears to be unique by the amount detail in which it is regulated.
59 Secrecy provisions may apply.
60 Not least when freedom of information conflicts with Data Protection legislation, which until the General Data Protection Regulation entered into force, was regulated in a legislative act.
61 The right is formulated broadly with respect to its scope, because the right not only applies to “public” information but also to information of a personal nature. The rule is that all documents are subject to the right, whatever the nature of the information they contain. However, this does not pre-judge the application of secrecy rules. In other aspects Swedish law is not so generous. For example, the applicant cannot choose the format for the disclosure – paper or digital.
and of equal importance,\textsuperscript{63} is that rules regarding freedom of information are efficiently applied by civil servants themselves.\textsuperscript{64}

The combination of a broad and efficient right of access to official documents alongside a climate of transparency, which is well rooted in public administration and society, alongside the frequent use made of the right, not least by the media,\textsuperscript{65} makes it a real instrument for preventing and fighting corruption. This may explain the attitude that sometimes is perceptible in debates concerning the mechanisms to protect parliamentary work from corruption, where the right of access to official documents is considered to be sufficient.\textsuperscript{66} However, GRECO does not consider the freedom of information rules to be a general panacea and has therefore worked to introduce additional mechanisms to sharpen the prevention of parliamentary corruption.

B. Disqualifying rules to prevent conflicts of interest

The rules of disqualification within the Riksdag, according to which an MP is prevented from voting on any issues he or she has a personal interest in, are important for ensuring that the “work of the Riksdag is not wrongly influenced”.\textsuperscript{67}

Some disqualification rules already existed in the \textit{Riksdag Act (1974:153)}, before Sweden joined the GRECO. These concerned two specific situations: (i) the disqualification of MPs in the chamber and (ii) the disqualification of MPs in parliamentary committees. The Act stated that “No one may be present at a meeting of the chamber when a matter is being deliberated which personally concerns her/himself or a close associate” (2:11), respectively that “no one may be present at a meeting of a committee when a matter is being deliberated which personally concerns her/himself or a close associate” (4:14).

\textsuperscript{62} Especially by the Parliamentary Ombudsman. See for example, the short time limits for public authorities replying to a request to get access to official documents or the obligation of public authorities to honor a request also when the requests are excessive.\textsuperscript{63} In fact, more than 100 countries have freedom of information legislation in place. Although many have a strong system on paper the implementation of the law is in practice deficient.\textsuperscript{64} This is not only explained by civil servants’ faith in the transparency of the administration but also by the efficient role that both the Ombudsman and the media play as watchdogs.\textsuperscript{65} See for example GRECO Evaluation Report, p. 17 which explains how MPs have an increased cautious attitude towards gifts “mainly due to media interest in such matters”.\textsuperscript{66} See for example the discussion regarding the registration of assets below (D).\textsuperscript{67} See Guide for the Code of Conduct for the Members of the Riksdag, p. 11.
GRECO criticised the Swedish legal framework for two main reasons. Firstly, the lack of rigour in the wording. “[T]he relevant provisions in their current, very general form clearly do not serve as a sufficient reference for preventing and resolving conflicts of interest of MPs, and they need to be complemented in order to prevent any confusion and to raise awareness among MPs of the issues at stake” GRECO said in its Evaluation Report.68 Secondly, the Swedish framework on disqualification was criticised for not having a “mechanism to report potential conflicts of interest” and “disclosure rules”,69 especially when Swedish law “does not place any restriction on the business and financial interests of the MPs and many of them have additional functions”.70 Sweden reinforced its disqualification framework for MPs in response to the GRECO’s criticisms, and the disqualification provisions in the *Riksdag Act (2014:801)*71 are supplemented by more detailed provisions in the *Code of Conduct* and in the associated guide. The Code defines the circle of persons whose interest constitutes a ground for disqualifying MPs in more detail. The Code states that, “a member of the Riksdag may not participate in the treatment (handling) of a matter at a meeting of the chamber if the matter personally concerns the MP, the MP’s spouse, cohabitants, parents, children, or siblings or other close associates”. The same applies to matters deliberated in parliamentary committees.

The guide, which quotes the relevant sections in the Riksdag Act, also clarifies the terms used in these provisions and in particular the definition of the term “close associate” (*närstående*). While underscoring that in general it is not possible to assess who may be considered to be a close associate beyond the categories of persons listed in the Code, the guide states that a “särbo” (partner with whom the MP does not cohabit) and persons with whom the MPs is often in close contact are considered to be “close associates”.72

68 GRECO Evaluation Report, p. 16.
71 There are new provisions with the same content since the precedent Riksdag Act has been replaced by a new Riksdag Act (2014:80). The new provisions are as follows: “No one may participate in considering a matter at a meeting of the chamber when the matter concerns himself or herself or a close associate personally” (6:19), respectively “No one may be present at the consideration of a matter at a meeting of a committee when the matter concerns himself or herself or a close associate personally” (7:21).
The guide also gives some clarification and illustrations concerning the term “personally”. The adjective means that the matter shall concern the MP directly, shall be “individualized” (“personindividualiserat”) and not concern the MP as a member of a group. If this is not the case, then the disqualification rules do not apply. The guide gives the example of an MP who is a member of the board of a public authority. In this case, the MP in question can participate in the parliamentary debates regarding the public authority’s allocations.73

The Guide also states that the interdiction to participate, laid down in the disqualification provisions, concerns the specific debate and vote and that an MP who is disqualified from participating in the chamber or on committees can have the decision placed on record.74

GRECO, which on the whole is satisfied with the rules in the Code and guide as additions to the disqualifying provisions in the Riksdag Act, nevertheless continue to be critical of Sweden for failing to introduce a requirement for an ad hoc disclosure procedure “when in the course of parliamentary proceedings a conflict between the private interests of individual members of parliament may emerge in relation to the matter into consideration”.75 According to the system in place, ad hoc disclosures are possible but only on the MP’s own accord.

If one reads between the lines it appears that Sweden’s reluctance to establish such a system is due to the Swedish authorities’ goal of preserving the freedom of expression of MPs.76 The strong attachment to MPs’ freedom of expression is reflected by the provisions in the guide to the Code of Conduct, which state that the members of the Riksdag have an unconditional right to express themselves in all matters to be decided upon and that the rules on disqualification constitute an exception of the freedom of expression of the Riksdag as set out in the Constitution.77

C. Registration of gifts

73 Idem, p. 11.
74 Protokoll in Swedish.
75 GRECO Evaluation Report, p. 16.
76 The Swedish authorities informed the GRECO that the parliamentary Working Group, when drafting the Code of Conduct considered that the conflict of interest provisions contained in the Riksdag Act were appropriate to ensure a proper balance between, firstly MPs’ rights to express themselves in matters to be decided and, secondly, that MPs did not obtain inappropriate benefits from their positions. Compliance report, p. 3 and 4.
77 Guide, p. 11.
Another mechanism for ensuring that the work of an MP is not influenced by external factors and interests is to regulate the gifts that a member of parliament receives. A system for the registration of gifts from abroad for the speaker of the Riksdag has existed since Autumn 2007, although it did not apply to other MPs.

When it evaluated the Swedish anti-corruption legislation for MPs, during Autumn 2012, GRECO concluded that “it is apparently not usual for MPs [in Sweden] to be offered and to accept gifts” and that “MPs are very cautious and have, over years, even become more reluctant to accept even minor gifts or other advantages such as invitations, mainly due to media interest in such matters”. GRECO’s experience was nevertheless that the “rules regarding the thresholds for the determination on whether a gift was acceptable or not had been different between the political parties of affiliation” and that “several persons interviewed were of the opinion that clear rules on gifts would be beneficial both to MPs themselves and to gift-givers”.

Sweden began to reflect on the status of gifts, but no new rules had been enacted when GRECO’s first compliance report was published in October 2013. Noting the legislative work by the Swedish authorities on the issue, GRECO nonetheless gave detailed recommendations: “rules on gifts and other advantages – including advantages in kind – be developed for members of parliament and made easily accessible to the public; they should, in particular, determine what kinds of gifts and other advantages may be acceptable and define what conduct is expected of members of parliament who are given or offered such advantages.”

The first step by the Swedish authorities to implement these recommendations was to lay down rules on gifts in the Code of conduct drafted in 2014. GRECO was satisfied by the measures taken by Sweden when the Code was formally adopted in December 2016. The Code of conduct came

78 The name of the donor, the country, the recipient and the date of the gift being received, had to be registered, see 2016/17: KU9, p. 4.
80 Ibid
81 Ibid
82 GRECO Evaluation Report, p. 17 and 18.
83 See in Compliance Report, Sweden, p. 2.
84 When the code was not formally adopted and the GRECO concluded that “these documents are publicly accessible and would provide an appropriate response to the recommendation, had they been adequately legitimised through a formal adoption or the like. It follows that these commend-
into force on 1 January 2017\textsuperscript{85}, that is, on the date the \textit{Act (2016:1117) on Registration and Processing of Gifts received by Members of the Riksdag} came into force.\textsuperscript{86}

The rules on gifts are now found in four sets of “legislation”.

i. They appear in the \textit{Riksdag Act}, which, in a new provision (5.2.2), introduced in 2016,\textsuperscript{87} states that “Provisions on registration and processing of gifts are to be found in the Act (2016:1117) on Registration and Processing of Gifts received by Members of the Riksdag”.

ii. The rules on gifts are laid down in the abovementioned \textit{Act (2016:1117) on Registration and Processing of Gifts received by Members of the Riksdag}. This Act is nevertheless a hybrid act. Its purpose is to “make it possible for the Riksdag Administration to process personal data in order to perform a register containing information on gifts received by MPs and to protect privacy within such a processing” (Section 1). It is therefore Sweden’s legal framework for compliance with data protection legislation (Section 5). It complements the General Data Protection Regulation (GDPR) and lays down the legal basis for registration. The Act designates the Riksdag’s administrative department as the data controller for the processing of the register (Section 6) and specifies the purpose of processing of personal information, i.e. it is the processing necessary for giving aggregated information on any gifts an MP receives in his/her role as a member of the Riksdag. Another purpose of the processing is for the the Riksdag Administration to comply with legal requirements to disclose information.

iii. Besides the data protection aspect, the Act also has a normative aspect, since it states that the Riksdag’s administration should keep a register containing all information pertaining to gifts received by MPs (Section 2) and lays down the obligation of MPs to notify gifts for registration, apart from gifts of minimal value (Section 8). Such a notification must be made no later than two weeks after an MP

\textsuperscript{85} In Second Compliance Report Sweden, p. 2.
\textsuperscript{86} Lag (2016:1117) om registrering och hantering av gåvor mottagna av riksdagsledamöter.
\textsuperscript{87} By means of Lag (2016:1119).
has received the gift. The Act also lists the information to be contained in the register: the name of the MP who received the gift, the name of the giver, the context in which the gift was received, what the gift is, where the gift is stored or if it has been destroyed (Section 11). It also states that each gift registered shall be recorded with a serial number and that the gift shall, when possible, be marked with this number (Section 11). Additionally, the Act states that the gift shall be stored or placed in a manner such as it can be best used within the activities of the Riksdag (Section 13).

iv. Provisions on gifts are also to be found in the Code of Conduct. The Code reiterates the obligation for MPs who receive a gift in their official capacity to add this to the gifts register; gifts without any, or with little, value are exempted. The Code specifies that notification has to be made in writing to the Internal Services Department – at the latest two weeks after any gift is received.

v. The Guide containing comments on the various aspects of the Code give further explanations, such as how to distinguish between a gift received by a MP as a private person or as a representative for a party, on the one hand, and in his/her capacity as a representative for the Parliament, on the other. The Guide also stresses that receiving a gift on one’s own account may be considered as a bribe and, on this specific point, refers to the part of the Code dealing with bribes for further guidelines.

GRECO appeared to be satisfied with the way the Swedish authorities implemented its recommendations. Nevertheless the Swedish legal instruments do not go as far as the GRECO would have liked, i.e. that “not only tangible objects but also other types of advantages – such as hospitality, reimbursement of travel and accommodation expenses by third parties or invitations to cultural or sports events – need to be addressed”. However, the provisions concerning gifts in the Code of Conduct do refer to bribes in the same code, which should at least partly cover the issue of advantages in kind.

D. Declaration of assets, income, liabilities and interests

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89 Ibid
90 GRECO Evaluation Report, p. 17.
Sweden has had a system of anti-corruption rules for the Riksdag, in the form of a system of asset declarations, since the mid-1990s, i.e. before joining GRECO and also before joining the UN Convention Against Corruption (UNCAC) from 2003. The Act (1996:810) on the registration of the commitments and economic involvement of members of the Riksdag requires MPs to declare information to the Riksdag Administration within four weeks of the first meeting in the Riksdag after elections. This information concerns inter alia MPs’ other paid employment, the businesses or property owned partly or entirely by them, their membership of a board or position as the auditor of a stock company. Even if there is nothing to declare, this information must be provided. If an MP does not list his/her assets within the required timeframe the speaker of the Riksdag shall, by a meeting of the chamber, inform the MP of his/her obligation to supply the required information.

Although it was initially voluntary, by 2018 the asset declaration became mandatory.

Moreover, the scope ratione materiae of the information which comes under this obligation has, under the pressure of GRECO, been extended to include the debts of MPs. The Group of States Against Corruption of the Council of Europe wanted the scope ratione personae of the obligations to cover the assets of the spouses of MPs but Sweden refused to implement this particular reform.

The Swedish tradition of freedom of information means that the discussion on introducing a system to register financial interests and the reforms to such a system is viewed in a particular way. The existence of the principle of openness has been used as an argument in favour of setting up a

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91 This convention, which, as of June 2018, was ratified by 186 parties, contains the obligation for parties to lay down provisions on asset disclosure in their legal order. Sweden signed the UNCAC on December 9, 2003 and ratified it on September 25, 2007.
94 The voluntary nature of the declaration was questioned as being illusory. We can read in a motion introduced by the Moderate Party “It might be questioned […] whether a declaration would be considered to be voluntary, considering that those who do not want to register their assets risk being criticised for this in the media”, see 1995/96:KU13, p.9.
registration system, commensurate with the Swedish transparency tradition, as well as an argument for not further developing a transparency framework, as the existence of a robust right is considered to be sufficient and/or potentially detrimental for privacy.\footnote{1995/96:KU13, p.10.} The introduction and reform of a system for registration of assets has also raised concerns over the privacy of both MPs and others.

\textit{The introduction of the system of assets registration: a national initiative}

Issues surrounding both transparency and privacy were raised at the preparatory stage of the Swedish legislative procedure introducing rules for the registration of assets. The parliamentary committee pushing for the registration of MPs’ economic commitments and interests described the system laying down an “open and easy accessible overview about the MP’s interests, inter alia of economic nature” as “a further development of the well enshrined principle of the freedom of information”.\footnote{1995/96:KU13, p.10.} Moreover, the committee countered a motion by a MP against the proposal, who argued that the information to be declared was already “accessible in different kinds of registers”, by underlining that as the information was in “\textit{different registers [for the time being]” it was not easily accessible.\footnote{Idem, p.11.}

There was also intense debate over privacy. One MP was strongly against establishing a register of MPs’ assets, arguing that this would “be a serious infringement of MPs’ privacy”. The same MP also argued further that the infringement of privacy would also affect the MPs’ family members, business partners, principals and clients.\footnote{1995/96:KU13, p.9.} The proposal’s promoters considered that the privacy objections were genuine and recognised that the protection of MPs’ privacy had \textit{“to be on a high level”}.\footnote{Idem, p.10.} Nevertheless they stated that “in an open society it must be accepted that MPs as people holding public...
office have to accept a little more scrutiny than the general public”. In the end the first version of the Act (1996:810) on the Registration of the Commitments and Economic Involvements of Members of the Riksdag contained a non-binding requirement for MPs to register their assets.

When GRECO examined the Swedish system of MPs registration of assets within the fourth Evaluation round it was not entirely satisfied with the system that had been put in place. The body of the Council of Europe in particular criticised the non-inclusion of the assets of spouses and dependent family members in the register. GRECO also criticised the lack of detailed information (quantitative data on MPs’ financial and economic interests) as well as information on debts. The two categories of criticism had different results: Sweden did not extend the obligation to register MPs’ spouses, but nonetheless widened the scope of the obligation to register to MPs’ debts.

The extension of the ratione personae scope to spouses and dependent family members: a measure sought by GRECO which was rejected

GRECO recommended to the Swedish authorities to extend the obligation to register assets to the spouses and dependent family members of the MPs. The reason relied on by the GRECO in support of this was that the purpose of the rules on registering financial interests and commitments “may be circumvented by transferring property to such persons or that the system for the prevention of conflicts of interests involving ‘close associates’ (e.g. relatives) is undermined”. This argument did not convince the Swedish authorities who refused to extend the registration rules to spouses and dependent family members, reiterating their view “that the respect for individual privacy outweighs the public interest for such transparency as far as spouses and dependent family members are concerned.”

GRECO is aware of the specificities of the freedom of information rights enshrined in the Swedish legal system. It is aware inter alia that everyone

101 Ibidem
103 Ibidem
105 Compliance Report Sweden, p. 5. The working group set up in December 2006 by the Riksdag administration to discuss questions related to the declaration of assets still considered, as it had done for the preparatory works for the 1996 Act, that information on assets of relatives should not be declared. See Konstitutionsutskottets betraktande 2007/08:KU2 Registreringen av riksdagsledamöters uttaganden m.m, p. 8.
has the right to obtain a copy of the information contained in the assets register and that the data removed from the register when the MPs leave the Riksdag are archived in accordance with the Archives Act (1990:782) and thus are still available to everyone. Nevertheless, the “compromise” solution suggested by GRECO to persuade Sweden to extend the registration obligation to the assets of spouses and dependent family, by saying that this would not “not necessarily mean making [them] public” is not practically realistic, and GRECO shows that it doesn’t fully understand the Swedish position. For instance, what does “not necessarily making them public” mean in a system where the general rule is that all information held by public authorities is accessible under the right to freedom of information? Also, if a system with secrecy provisions exists then it seems difficult to conceive of a secrecy provision which would keep this kind of information or situation secret. Eventually, GRECO accepted – or more precisely took note – of Sweden’s refusal in this case to follow its recommendations. GRECO regretfully concluded that the Swedish rules were “at odds with the practice in a large number of member States” “that this part of the recommendation had nevertheless been implemented as the issue has been duly considered in line with the recommendation”.

Although GRECO’s recommendations concerning the declaration of spouses’ assets did not result in a change in Swedish law, the opposite is true of declarations of MPs debts.

The extension of the ratione materiae scope to include debts: GRECO’s recommendations were applied

There appears to have been a process of maturation in Sweden on this issue, and it seems that GRECO’s recommendations were the last little push needed. The developments in this case were as follows: Debts were not mentioned as declarable information in the first version of the Act (1996:810) on the Registration of the Commitments and Economic Involvements of Members of the Riksdag. The issue of whether to declare information on debts

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107 GRECO Second Compliance Report, p. 4.
108 Idem. Interestingly the Act (1996:810) states that “the data in the register shall be public”.
109 The only occurrence of the issue of debts I found in the preparatory works was in a motion criticizing the authors of the proposal for choosing information to be registered, “without closer analysis”. “For instance”, the motion states “it has not been proposed that debts should be covered by the registration”, 1995/96:KU13.
appears to have become an important issue in the mid-2000s. Opinions were divided. The working group tasked with examining issues relating to the register “considered whether debts and funds should be registered and found that they should not be”. However the Riksdag committee opened the door for future changes: “it could not be excluded that new considerations could lead to a modified assessment”. Moreover the Council of legislation also considered that the register “should contain information on MPs debts in order to give a general overview of MPs’ commitments and financial interests”. Some MPs also questioned the existing system by arguing that people’s independence is more influenced by their debts than assets”. Nevertheless the Committee on the Constitution (Konstitutionsutskottet) rejected this motion on the ground that “even without information on MPs’ debts, does the register fulfill its purpose of giving necessary (if not complete) information about MPs financial commitments and interests”. The question was discussed again in 2009, after a new motion was raised but rejected again by the Committee on the Constitution for the same reasons.

Eventually it was GRECO’s recommendations in the 2013 report that a Code of Conduct for MPs should be enacted and that the record of their financial interests should be improved, which resulted in the introduction of information on debts in Swedish law. The Swedish group working on the Code of Conduct considered that one of the changes needed to fully implement the Code was to reform the Act (1996:810) by introducing debts. The Act on the Registration of the Commitments and Economic Involvements of Members of the Riksdag was amended 2016 and now

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110 See Konstitutionsutskottets betänkande 2007/08:KU2 Registreringen av riksdagsledamöters åtaganden m.m., p. 8.
111 Ibidem
112 A body responsible for controlling legislative proposals before they are adopted by the Riksdag but whose assessment is not binding.
113 See bet. 2007/08/KU2, p. 17.
114 Motion: mot. 2007/08:K412.
118 See in Konstitutionsutskottets betänkande 2016/17:KU9.
119 The second change, concerning the adoption of a gifts register, has been tackled supra.
requires that MPs report debts in excess of two basic amounts (SEK 89,600, approximately EUR 8,600).

The Act (1996:810) on the Registration of the Commitments and Economic Involvements of Members of the Riksdag, as the Act (2016:1117) on Registration and Processing of Gifts received by Members of the Riksdag, has a dual nature: it is both a data protection instrument as well as a normative instrument laying down the obligation of registration.

The Code of Conduct and the Guide for its implementation give more detailed information about the MP’s obligation to register.¹²¹

Conclusion

In the above analysis, selected mechanisms contributing to the democratic character of Swedish Parliament have been examined. These mechanisms provide a high degree of people’s participation at general elections, ensuring that competent and socially representative individuals stand for a parliament, and moreover guaranteeing that elected representatives act in the general interest without corrosive external influence.

Our analysis shows that the domestic electoral conditions may be an explanatory factor for the high degree of participation at general elections.¹²² For example, the possibility to vote at highly accessible locations and to vote ahead of election day encourages voter turnout.

In this regard, the existence of polling stations in locations where young adults spend time is particularly interesting both for increasing representation of that cohort of the electorate but also for developing the habit to exercise the right to vote. When it comes to holding national and local elections on the same date, this solution has to a certain extent a positive impact on electoral participation – not least regarding participation in local elections. It constitutes an incentive for people vote, not only because it allows them to vote for three elections through one single visit at the polling station, but also because the possibility to make their voice heard in elections only occurs once every four years. This setup may at the same time, according to some, have detrimental effects on local democracy as “local issues often ends up in the shadow of the national politics” (“rikspolitikens

¹²² As mentioned above I do not address other potential explanatory factors.
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slagsskugga”) and has diminished the position of local candidates.\(^{123}\) If separate election days were introduced in the future, as advocated by some experts,\(^{124}\) it would be interesting to follow-up this analysis and see if such a reform has an impact on voter turnout in parliamentary elections.

Concerning MP’s compensation/remuneration levels, there has been a noticeable trend towards increasingly favourable conditions in order to attract adequate individuals, representative of the different groups of the society. In the meanwhile, the legislator had some legitimacy concerns and therefore opted for a harmonization of the conditions of the MPs with the conditions of the general workforce.

The analysis of the framework aimed to protect the work of MPs from improper external influence shows an even more complex issue. The influences from abroad are felt here more than in any other aspect examined in this paper, and the Group of States against Corruption of which Sweden is a part has played an especially important role. The situation may be described as follows. The Swedish tradition of transparency and a strong no-corruption culture does not seem to be well understood by the European body. It also seems that the Swedish society and its politicians have been naive when it concerns the occurrence of corruption in Sweden. On the whole, one might say that Sweden has become similar to other European countries in terms of the set of mechanisms with the purpose of protecting the parliamentary work from improper influence. It no longer relies on the culture of transparency and the freedom of information framework as had previously been the case. Within this last subject it should be possible to speak of a certain process of Europeanisation, if not globalization.

\(^{123}\) DN debatt 9/9–2019 “Avskaffa gemensamma valdagen för att stärka svensk demokrati” (“Abolish the common elections day in order to strengthening democracy”) Olle Wästberg.

\(^{124}\) The author of the newspaper article DN debatt 9/9–2019 “Avskaffa gemensamma valdagen för att stärka svensk demokrati” Olle Wästberg, who was the president of the Inquiry on Democracy (demokatriutedning) from 2014, strongly recommends to separate the local and the national elections in order to give the local politic a stronger position and the citizens’ will a continuous influence (and not once every four years).
About the authors
