Watchdogs or pussy cats?

How parliaments hold agencies accountable at EU and national level

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1. Introduction

The proliferation of (semi)autonomous agencies and the delegation of tasks to such bodies are well-known phenomena at EU and national level. On the one hand, existing research on national agencies has mainly focused on policy credibility and the delegation of regulatory powers to national regulatory agencies <u>or</u> on efficiency and the managerial autonomy of national agencies. Thus, although in both research agendas parliamentary accountability is included as one relevant aspect of agency governance, the practice of these direct relationships between parliaments and agencies is widely neglected and detailed analyses are missing.

On the other hand, increasingly practitioners, notably parliamentarians, recognise the relevance of agencies in government policy-making and their contribution to the policy process. Although they may have focused – along with the academic debate – on traditional issues such as financial governance and more recent trends of performance contracting and the definition and assessment of corresponding indicators, they also increasingly address more general issues of agency governance and its framework – including their own position within this complex interaction (which was traditionally perceived as an "internal executive phenomenon") (Flemish Parliament 2008; Jann et al. 2008).

This paper aims to analyse these direct relations between parliaments and agencies, but less from a "technical" perspective with regard to instruments and mechanisms of accountability and their application and efficiency and effectiveness in practice, but rather with regard to parliamentary interest to engage in issues of a framework for agency governance and its effects. Hence, this paper addresses the following research question:

To what extent do parliaments act as "meta-governors" of agency governance, i.e. are engaged in framing agencies' institutional underpinnings?

In this paper, the role and influence of the European Parliament (EP) on agency governance in terms of "meta governance" is compared with two other European parliaments at national level. We explicitly focus on parliamentary systems, considering that the situation in the US presidential system is clearly different, where agencies are "caught in the middle" between Congress and President (Weingast 2005). In particular, the UK and Germany are selected as "national cases" for this study because they differ along several relevant dimensions, such as the formal position of parliament within the politico-administrative system and agencification patterns, which allows contrasting the situation at EU-level with heterogeneous national experiences.

In all systems under scrutiny, different agency types are discussed in the literature as well as by practitioners. This paper focuses on particular agency types (see also section 3.2 below): For EU agencies, this paper addresses

primarily those agencies which are often synonymously called "EU agencies" and are created under the first Community pillar. In Germany, it focuses on direct administrative bodies at federal level. In the UK, the paper examines particularly so called "Next Steps agencies" or "executive agencies" which operate "at arm's length" of ministers and ministries and are distinguished from more autonomous bodies.

The structure of the paper is as follows: First, we briefly sketch the academic debate on agencification at national and EU level, with a particular focus on the role of parliaments. Second, we provide a conceptual perspective on the role of parliaments in agency governance which generally speaking assumes a rather procedural development of their role and two general explanations are outlined which account for similarities and differences in patterns of parliamentary accountability regarding agencies. Third, these two independent variables, i.e. the distinct agencification pattern and the resources of parliaments, are described and corresponding hypotheses are formulated. Fourth, three empirical case studies illustrate which role the British, German, and European Parliament performed in agency governance over the last years. Finally, comparing these practices, conclusions are drawn on the relevance of the two explanatory features as well as.

2. Distributed public governance at the European and national level

In this paragraph, we briefly sketch the academic debate on agencification and agency reforms, in which the role of parliaments has not been given major attention. Then, using a "meta governance" perspective as our starting point, we develop a framework for analysing the role of parliaments in agency governance, which differentiates between three broad types of parliamentary attention towards public organisations outside ministries.

In many countries, structurally disaggregated organisations operating outside ministerial departments are basic elements of the administrative apparatus. Whereas some countries have long traditions of using agencies for operative tasks (e.g. Sweden, Norway, Germany), others have launched comprehensive agency reforms during the past 10-20 years (e.g. United Kingdom, Netherlands) (see Döhler/Jann 2007 and Pollitt/Talbot 2004 for an overview). The creation of agencies frequently was accompanied by the introduction of performance contracting, which also gained foothold in some countries where agencies have existed for a longer period of time (Pollitt 2006; Sundström 2004). Furthermore, agencies in several countries have been given more decision-making autonomy in financial and human resources management, the assumption being that they should be governed by focusing on organisational outputs and outcomes, rather than input factors, such as budget and personnel regulations (Lægreid/Roness/Rubecksen 2006; Talbot 2004b; Verschuere 2007).

The debate on the growth of the regulatory state, which is frequently associated with an increasing number of agencies with regulatory functions, has a different background than the abovementioned reforms aiming at administrative efficiency and effectiveness. Here, the rationale for creating agencies is mainly to protect specific policy sectors from short-term political

interventions, providing for predictable policy decisions. In other words, elected politicians commit themselves to keep off regulatory decisions because they neither have the expertise nor the necessary long-term perspective for upholding or creating functioning markets, among others (Majone 1997a). From this perspective, political interventions by oversight ministries may undermine neutral, technical decision-making within the agencies. However, the literature does not particularly address the role of parliaments, as it usually refers to a common category of "elected politicians" which includes both executive and legislative politicians (Thatcher 2005).

Summing up, both debates largely neglect the role of parliaments in agency governance. There are hardly any studies which address how parliaments deal with organisational fragmentation and the use of new managerial instruments in the public sector (e.g. Christensen/Lægreid/Roness 2002; Giddings 1995; Judge/Hogwood/McVicar 1997). The major focus – both of academic research and reforms – is on interactions within the executive itself, rather than on the relationship between the legislative and the executive. Yet, recent developments indicate a growing interest of parliaments on agency governance *per se* and agencies' parliamentary accountability. This development is most visible at the European level, where the EP has raised concerns about the parliamentary accountability of agencies, fearing a continuous expansion of the European Commission's sphere of influence and a loss of control over EU-level agencies (FAZ 22/05/2007; WELT Online 19/07/2007). In addition, the heterogeneity of the "agency landscape" in terms of budgeting, accounting, reporting etc. has also been put on the agenda by the EP, in particular by the Budgetary Committee and Committee for Budgetary Control (Jones/Vitrey 2006). Also, the regional parliament of Flanders (Belgium) has raised concerns regarding a lack of control over autonomous agencies and is looking for ways to improve its control capacity (Flemish Parliament 2008). Although these observations are clearly limited and do not provide a detailed picture of different parliaments' attention towards agency governance, they indicate that distributed public governance may cause problems of parliamentary accountability and control, and that some parliaments address this issue from a general perspective which goes beyond "traditional" forms of parliamentary scrutiny, such as budgeting and financial control, various types of questions, or parliamentary hearings.

From a theoretical point of view, these developments may be regarded as "meta governance" or "institutional policy making" (Jann et al. 2005) which addresses the institutional underpinnings to govern and thus goes beyond traditional policy objectives.[1] Instead, political actors engage in institutional policy-making to increase either the overall capacity to govern or their own influence on the policy process (ibid.) – which seems to give the most accurate description for the abovementioned cases when parliaments fear loosing control on an increasingly differentiated "agency landscape".

If we take this concept as a starting point for a categorisation of parliamentary attention towards agencies, "meta governance" would include deliberate attempts to change the overall institutional framework, such as

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[1]   In the literature, other authors refer to "reflexive government" (Dean 1999) or "third order governing" (Kooiman 1999).

agency types and accountability mechanisms, but also general characteristics of two other governance types, including available instruments and decision-making processes. The second type of parliamentary control is "performance governance", by which we understand parliamentary scrutiny of how agencies perform their tasks and functions, and whether they do this in an effective or efficient way. A typical example would be the use of performance indicators as an instrument of parliamentary scrutiny, or parliamentary hearings or ad-hoc commissions on implementation deficits. Finally, financial governance basically covers the budgetary function or "power of the purse". Here, parliaments control the executive by influencing agency budgets and work force. The three dimensions of parliamentary control on agencies can be summarised as follows:

Figure 1. Dimensions of parliamentary control on agencies

meta governance	• institutional framework, such as agency types and accountability mechanisms • general characteristics of the two other control types
performance governance	• tasks, functions • performance (efficiency, effectiveness) • control via <u>process</u>/<u>output</u>/<u>impact</u>/<u>outcome</u>
financial governance	• budget • personnel • control via <u>input</u>

3. Parliamentary accountability of agencies from a conceptual perspective: "Supply" and "demand" of parliamentary control

Traditionally, legislative oversight of the executive addresses relationships between parliaments and individual executive actors like ministers or corporate executive actors like ministries. However, with the growing number of agencies, this traditional view on the chain of delegation between the legislative and the executive requires an extension with an additional link – the link between parliament and agencies. Although many comparative studies on agency governance focus on structure-oriented explanations (mostly with an institutionalist perspective) or on agency-oriented explanations (e.g. principal-agent-models), this paper aims to explain the differences of parliamentary accountability regarding agencies with the "demand" of such parliamentary control which is strongly shaped by the distinct "agency story", e.g. the respective evolution of agencies, agency traditions etc as well as with the "supply" of such parliamentary control which characterises the resources of parliaments to perform these control functions.

On the one hand, this paper follows key arguments from the theoretical debate on legislative oversight of the executive, in particular the new institutionalist perspective on such delegation relations. Here, the "principal-agent" approach (PA-approach) conceptualises the delegation chain between the legislative and the executive as a relation between a principal and an

agent – which causes inherent problems of information asymmetries and interest conflicts (Moe 1984: 756-757; McNollgast 1987, 1989; Kiewiet/McCubbins 1991; Saalfeld 2000; Strøm 2000). Accordingly, these authors propose several mechanisms and instruments how a principal may ex ante and ex post guide and influence the agent in order to decrease these assumed problems: Whereas principals may ex ante construct a "contract design" and apply "screening and selection mechanisms" to select the best candidate as agent (Kiewiet/McCubbins 1991: 27-31), they are ex post able to control the agent by introducing "monitoring and reporting requirements" or "institutional checks" which create mutual control mechanisms among different agents (Kiewiet/McCubbins 1991: 31-34). For both types of "delegation instruments", principals require distinct capabilities. Hence, several authors claim that such capabilities for legislative oversight of executives are influenced by different institutional features, i.e. the position of parliament vis-à-vis the executive and its formal "control rights", its specialisation as reflected in its organisation of committees shadowing the work of the executive, and its resources and support staff (Saalfeld 2000; Harfst/Schnapp 2003). This paper argues that these theoretical assumptions of the PA-approach may also be applied to analyse the so far less examined (possibly direct) link between parliament and agencies. Accordingly, it assumes that differences in parliamentary accountability are caused on a "supply-side" by the general position of parliament vis-à-vis the executive, its specialisation and professionalisation, and its resources to perform control functions. On the other hand, this paper assumes that also characteristics of agencies or – in theoretical PA-terms – of the agent are crucial and "demand" parliamentary control. Broadly speaking, these address the development and dynamics of agencification as <u>process</u> (evolutionary, rather "slow" development versus radical changes) and as <u>outcome</u> (size of the "agency sector" in terms of budget and personnel as well as the variety of functions and competencies of agencies).

In sum, both the supply and the demand of parliamentary control affect how parliaments hold agencies accountable. This article argues that these parliamentary capabilities and "occasions for attention" reveal a distinct pattern of parliamentary control which ranges from a rather traditional role as "purse" to the deliberate influence of institutional underpinnings to govern as meta-governor. Thus, both explanatory features account for the particular parliamentary accountability of agencies in practice and the intensity of meta-governance at work.

3.1 The supply-side of parliamentary accountability: Position, specialisation, and resources of parliaments

In general, the supply-side of parliamentary accountability addresses the mechanisms and instruments or rather capabilities of parliaments to perform their functions of legislative oversight of the executive. According to the PA-approach, these can be distinguished by their ex ante participation in the creation and set up ("institutional design" of agencies) and their ex post involvement in direct monitoring and controlling as well as in providing institutional checks. These capabilities are provided by the general position of parliaments in the separation of powers and the characterisation of

ministerial responsibility in this legislative-executive nexus, their formal "control rights" and specialisation in committees, as well as their support resources.

Firstly, a wide-ranging literature on typologies of politico-administrative systems refers to the crucial relationship between the executive and the legislative and debates on its dynamics and effects (Lijphart 1999). In this paper, the position of the parliament and its competencies vis-à-vis the executive are particularly analysed for the characterisation of the doctrine of "ministerial responsibility" in the system. Hence, the particular legislative-executive nexus and its dominant principles of ministerial responsibility affect the scope of parliamentary control. Whereas in parliamentary systems with the principle of individual ministerial responsibility these are individually hold accountable before parliament for the work of their department, including its delegated bodies, others operate under collective responsibility whereas the collective cabinet is accountable before parliament. Besides, the formal control rights of parliaments include also those monitoring and information capabilities which are in practice conducted by other actors and thus characterised as institutional checks, e.g. audit offices. These external actors may provide ad hoc control (also after scandals etc) as well as regular monitoring on agencies' financial accountability, performance etc.

In general, the European Parliament evolved from the "Common Assembly" of the European Coal and Steel Community (ECSC) in 1952 which comprised 78 parliamentarians from national parliaments of member states without any legislative powers. When in 1958 the European Economic Community and Euratom were established, the Common Assembly was renamed as "European Parliamentary Assembly" and after the merger of the three communities in 1967 again as "European Parliament" (EP). However, only on 1970 the EP was granted those powers over areas the Community's budget (expanded to the whole budget in 1975) which cause their most prominent role as "second branch" of the Community's "budgetary authority" (Hix et al. 2007). Hence, it shares the traditional "power of the purse" with the Council, but, however, it differs from national parliaments regarding its position in the separation of powers because it lacks the authority of legislative initiative. Besides, the EU system lacks a doctrine of individual "commissioner responsibility". Although the Amsterdam Treaty strengthened parliament's role by granting it a right of approval on the appointment of the President of the Commission and to withdraw confidence to the collective college of commissioners, rather than its previous consultative role, only since the Nice Treaty of 2001, the MEPs approve the members of a new Commission in office as a whole (which are initially nominated by the member state governments). Throughout its term of office, the Commission remains politically accountable to parliament which can pass a "motion of censure" calling for the Commission's mass resignation (Judge/Earnshaw 2002). Moreover, since the Maastricht Treaty of 1993, the European Court of Auditors is recognised as standing institution of the European Communities. The court acts as the EU's external auditor and audits the accounts and the implementation of the EU budget (Art. 246 to 248 TEC [1993]). Thus, it

issues audit reports and opinions on the EU's financial management; frequently special reports are published on distinct issues (Laffan 1999).

In the German Bundestag, the majority which supports the government is either a coalition composed of one of the two major parties and a smaller one, or between the two big parties ("grand coalition"). The Chancellor is normally elected by an absolute majority of the members of the Bundestag. Intra-coalitional conflicts are frequently solved in an informal way between the coalition parties' key representatives in government, parliament, and the party organisations (Rudzio 2006). In practice, almost 60 per cent of all bills are introduced by the government, which can normally count on the support of the coalition's party group in parliament for its policies (Schmidt 2003). As a rule, members of parliament vote along party lines, and the Chancellor may enforce the support of the coalition for the government by asking for the parliament's vote of confidence, which requires the majority of the members of the Bundestag. Also, parliament may only turn down the current government by electing a new chancellor (the so-called constructive vote of no-confidence), which usually requires the formation of a new political coalition. In sum, there is a close relationship between the parliamentary majority and the government, which strengthens the government's position in relation to parliament, and simultaneously weakens the parliament's control function, as only in cases of scandal, corruption etc. the parliamentary majority will support sanctions against ministers or the government as a whole (von Beyme 2000). The Federal Court of Audit (Bundesrechnungshof) is an independent institution which "audits the efficiency and regularity of the budget and the financial management" of the federal government (von Wedel 2005: 81). It regularly reviews all finance-related aspects of the federal governments' operations and provides the basis for the parliamentary discharge procedure. Although the budget committee or the budgetary control committee cannot give directions to the Federal Court of Audit because of its constitutionally guaranteed legal independence, the latter usually takes into account parliamentary requests on particular issues (Eickenboom 1989, von Wedel 2005). In addition, the President of the Federal Court of Audit acts simultaneously as Federal Commissioner for the Efficiency in Federal Administration, which reflects the relevance of this audit body for advising and controlling the executive.

The British Houses of Parliament represents the "backbone" of British governments: Due to the FPTP electoral system, British governments are most often single-party governments; the parliamentary majority's key role is to support government – or to withdraw this support. Hence, time periods of possible coalition governments are literally known as "hung parliament" and assumed as exceptional (Rasmussen 1987). In turn, governments can be defeated by parliaments' "motion of no confidence" as happened in March 1979. Likewise, governments can be forced into resignation or into calling a general election by being defeated in the debate on the Queen's Speech (its legislative programme for the session) or losing its Finance Bill, or other major items of legislation on which it fought a general election campaign. Moreover, the strong overlap between parliament and the executive is reflected in a wide-ranging "patronage system" with the Prime Minister appointing a variety of executive positions with members of parliament

(Hennessy 2000). As a consequence, approx. one third of MPs acts simultaneously in executive positions. Although these close contacts between the legislative and the executive arena facilitate informal networks which offer considerable potential for control, the formal control in parliament is rather weak. Besides, the Comptroller and Auditor General, the head of the National Audit Office (NAO), audits the revenue and expenditure of central government and checks whether monies provided by Parliament were used only for the purposes intended and with due regard for propriety in expenditure. Besides, the NAO conducts frequently evaluations and other projects on the public sector.

In sum, the general position of the parliament vis-à-vis the executive is different across the three systems. Hence:

H_{1a}:   *In systems where individual ministerial responsibility also covers agencies, direct parliamentary control vis-à-vis agencies is less applied than in systems where such doctrines are absent or exclude agencies.*

Particularly external monitoring actors such as audit offices provide additional capabilities for parliaments and thus inform a closely related hypothesis:

H_{1b}:   *The more parliaments are able to rely on additional resources for monitoring (ombudsmen, audit offices etc), the stronger they control agencies.*

Secondly, the general organisation of parliament addresses the competencies and specialisation of committees. Here, the control function of the executive is assumed to increase, the more "corresponding" and specialised parliaments are organised: Strong committees help to reduce the imbalance in policy expertise between the legislative and the executive, i.e. they "can provide legislators with the information that they need to participate effectively with the executive across a wide range of issues" (Mezey 1998: 783). Here, differences in the general competencies of committees regarding monitoring versus law-making and their mandate and scope become relevant: On the one hand, many parliaments "limit" committees' activities to the monitoring of departmental work which may include the performance of agencies subordinated to these ministries. Some parliaments, however, set up also specialised committees for the preparation of particular bills which may include the creation or change of agencies. On the other hand, the specialisation of distinct committees on particular departmental portfolios affects their intensity of monitoring and knowledge of details (Saalfeld 2000).

Since the first general election to the European Parliament in 1979, the number of standing committees remained rather stable around 20. These committees shadow the work of the Commission's directorates general and comprise between 28 to 86 MEPs which are supported by a bureau and a secretariat. The "Conference of Committee Chairmen" acts as coordination body for committee chairs. Besides, temporary committees are set up for specific reports for an initial period of no longer than 12 months.

The German Bundestag is frequently characterised as working parliament in which parliamentary committees' activities are more important than plenary debates, e.g. in comparison to the UK (von Beyme 2000). There are basically two types of committees: permanent committees and ad-hoc committees. The permanent committees usually shadow ministerial portfolios; their number and responsibility corresponds with them and is rather stable (currently 22). In contrast in particular to Anglo-Saxon countries, the permanent committees are characterised by "co-government of the parliamentary opposition" (Schmidt 2003: 93) because the committees' chairpersons and members are nominated according to the number of seats of the parties in parliament and thus reflect the relative strength of the party groups. As a result, several important committees are presided by members of the opposition; conventionally the budgetary committee is headed by a member of the largest opposition party (von Beyme 2000). Ad-hoc committees may be installed either to deal with complex policy issues ("Enquête-commissions") or to elaborate on scandals or government failures ("investigation committees").

In the UK, the general weak position as "majority-provider" for government is also reflected by the organisation of the Houses of Parliament: Only since 1979, the Commons establish select committees to examine the expenditure, administration and policy of the relevant department and its agencies. Committees determine their own subjects for inquiry, they gather written and oral evidence and make reports to the House on which the government subsequently replies. The number of such "departmental select committees" is rather stable and increased from 14 in 1979 to 20 in 2007; modifications to the names and remit of these committees reflect changes in government departments. Most of these committees have 11 members, although by convention no government ministers or front bench opposition members participate in these committees. Each committee has a staff of between three and six drawn from the permanent and neutral civil service of the House (see below). From these committees, the most pivotal committees with regard to the control of the executive are the "Public Administration Select Committee" (PASC) and the "Treasury Committee", formerly called "Treasury and Civil Service Committee" (TCSC). Besides, ad hoc committees are created to accompany legislative procedures to formulate major bills. These "general committees", which were known before as "standing committees", are created since 1882 to consider bills and consist of a minimum number of 16 and a maximum number of 50 members.

In comparison, the structure of parliamentary committees differs in the three systems under scrutiny (see table 1): Although the number of committees shadowing the work of departments or directorates general oscillates between 15 and 20 with a slight trend to grow in all three systems, only the House of Commons also establishes committees for distinct bills, whereas the German and the European Parliament are not further specialised in this respect (although the former may create investigation or other special committees on distinct issues).

Table 1. Parliamentary committees, 1953-2007

		1953	1962	1967	1975	1979	1984	1989	1994	1999	2004	2007
EP	standing	7	13	12	13	18	18	18	20	17	20	20
	select	--	--	--	--	--	--	--	--	--	--	--
BT	standing[*]			23	19	19	20	21	22	24	22	22
	select[†]		1	3	5	1	4	3	2	1	2	1
House of Commons	standing[**]	--	--	--	--	14	14	14	17	17	17	19
	select[††]									39	14	18

Source: UK = Cremin 1993; House of Commons Factsheet P2 [2007];
                D = Rudzio 1996: 231; Datenhandbuch Deutscher Bundestag 2006
                EU = Dreischer 2006: 119.
Note: Work in progress, some numbers are (currently) missing
[*]   excl. Joint Committee
[†]   incl. "investigation committees" (<u>Untersuchungsausschüsse</u>)
[**]   departmental select committees, established since 1979 which work in both Houses
[††]   "general committees", formerly known as "standing committees", accompanying bills

     In sum, the specialisation to monitor the executive and agencies differs across parliamentary systems. Therefore:

H_{1c}:   *The more parliamentary committees correspond to departmental work and the more possibilities parliaments have to engage in distinct legislation, the stronger parliaments hold agencies accountable.*

     Finally, the resources of parliaments include the general number of parliamentarians as well as their support staff which determine the quantitative and qualitative efforts of parliaments to control the executive (Harfst/Schnapp 2003). These resources include their personal staff as well as services provided by the parliamentary administration, ranging from the staff available to distinct committees and parliamentary parties etc, to staff which provides research notes, papers etc and the parliament's library.

     The size of the European Parliament increased significantly over the years with particular growth after its formal authorisation as European Parliament and its first direct general election in 1979 as well as after the general election after the accession of new member states from Middle and Eastern Europe in 2004. The number of MEPs in each member state is based on population size and seats are distributed according to "degressive proportionality" among member states. All MEPs are supported by personal staff, although numbers are difficult to assess and the EP witnessed several scandals on the abuse of the personal expenses allowed for support staff (by employing fictitious staff or family members etc) (Dreischer 2006: 110-6).

     In Germany, until reunification, the number of MPs has been relatively stable at almost 500. Currently, there are about 600 MPs, after the Bundestag's decision of 1995 to reduce the number of MPs to 598. In terms of support staff for German MPs, one can differentiate between personal assistants, the staff of the party groups, and the scientific support staff of the Bundestag itself (Rudzio 2006). Since 1969, German MPs can recruit assistants "to support their parliamentary activities" (Hoffman 1975). Currently, there are about 4.000 personal assistants, about half of them

working in the capital and the other half in the constituencies (Rudzio 2006). Also, the party groups in the Bundestag employ their own staff, which supports the party group leadership and different intra-party working groups, their number amounting to around 300 for the two largest parties, with about one-third having a higher education background (ibid.). Finally, the Bundestag has a scientific support staff of around 500, which each MP may use for the provision of information and expertise. This also includes a library, press documentation, and the parliament's archives (ibid.).

In the UK, the numbers of members of the House of Commons is comparatively stable over time, although the constituencies which each member represents are subject of frequent debates and their boundaries are formally determined by four permanent and independent "Boundary Commissions" which conduct general reviews of electoral boundaries every 8 to 12 years, as well as a number of interim reviews. The proposals of the Boundary Commissions are subject to parliamentary approval, but may not be amended. Thus, the number of MPs was decreased after the last reduction to 646 constituencies. In general, Members of Parliament are supported by personal staff as well as by the neutral civil service of the House, including the House of Commons Library Department.

From a comparative perspective, in all parliaments the number of parliamentarians increased (see table 2), although the British House of Commons was slightly reduced in parliamentary seats after the last general election in 2005. However, the strongest growth of members of parliament can be observed for the EP. In terms of support staff, the numbers are comparatively equal across all three parliaments under scrutiny, although members of the EP rely on less support staff than their German and British colleagues.

Table 2. Members of parliament and staff at their disposal, 1953-2007

		1953	**1963**	**1973**	**1984**	**1987**	**1993**	**1997**	**2003**	**2007**
EP	MEP	78	142	198	434	518	536	626	626	782
	staff	37	461	1.096	2.966	3.328	3.790	4.093	3.961	
BT	MdB	401	499	496	498	498	662	672	603	614
	MdB staff	--	--	845					4.000	
	BT staff							2.161	2.308	2.209
House of Commons	MP	625	630	630	650	650	651	659	659	646
	staff*							3.181	3.963	4.099

Source: UK = SN/PC/02411 [2007]; House of Commons Commission Annual Report 2007;
D = Federal Budget Plans; Hoffman 1975; Barthelmes 2007; Pilz 2004;
EU = Dreischer 2006: 113;.
Note: Work in progress, some numbers are (currently) missing
* MP staff and House of Commons Staff.

In sum, the composition and resources of parliaments differ in the three systems under examination and thus it is reasonable to assume a different quantity and quality of parliamentary accountability as exercised by these groups of parliamentarians and their support:

H_{1d}:   *The bigger the size of parliament and the more support staff, the stronger parliaments hold agencies accountable.*

For the three systems under scrutiny, parliamentary capabilities differ only in some of these three illustrated aspects: Whereas the specialisation of parliaments in committees developed into a rather similar pattern across all three systems and also the number of parliamentarians and their support staff is rather similar, they clearly differ the most with regard to their general position within the politico-administrative system. Although they represent parliamentary systems, the EP lacks the right of legislative initiative in contrast to the British and German parliament. Moreover, the characterisation of ministerial responsibility as practical doctrine which reflects the legislative-executive nexus differs: Whereas in the UK ministers are individually accountable to parliament, German ministers are constitutionally not accountable to parliament on an individual basis, similar to European Commissioners (where the EP nevertheless has the right to withdraw a new Commission ex ante). Accordingly, it is assumed that particular this feature of parliamentary capabilities accounts for possible differences in parliamentary control of agencies.

3.2 The demand-side of parliamentary accountability: Patterns of agencification

In general, the pattern of agencification as a process addresses the dynamics and phases of agencification, i.e. whether agencies emerged in a rather slow evolutionary process or ad hoc in a "path-breaking" manner. As an outcome, the agencification pattern reflects the distinct "agency landscape", i.e. the numbers and size of agencies (in terms of personnel and budget) compared to ministerial bureaucracy as well as their functions and competencies. On the one hand, it is assumed that parliamentarians' attention for controlling the executive is comparatively strong when new elements are set up which require attention (as "honeymoon period") or when radical changes occur which evidently require stronger parliamentary attention. On the other hand, it is reasonable to assume that parliamentarians concentrate on those elements of the executive which employ a comparatively high number of public officials or spend the most amount of public expenditure respectively. This rather economic interest may be challenged by other interests of policy-seeking and vote-seeking, e.g. when an element of the executive performs politically sensitive functions or operates in a politically sensitive field, when scandals occur, or – rather simply – the element is located in the parliamentarian's constituency. All of these considerations may also apply to agencies: They may also perform sensitive functions such as regulation, operate in sensitive fields such as consumer protection, may be subject of scandals or simply are located in different constituencies. Hence, these interests vary in practice across agencies and individual members of parliament. Accordingly, this paper focuses on the relationship between two corporate actors and assumes that the interest of parliament as collective actor to hold agencies accountable increases the more personnel of the civil service is employed in these entities and the more public expenditure is spend on agencies.

Different typologies of EU agencies exist in the academic literature as well as from practitioners (see e.g. Barbieri 2003; Groenleer 2006: 156-57; Dehousse 2002: 9; Bergström/Rotkirch 2003: 16-18; Kreher 1997: 236-238; Vos 1999: 191-194; Yataganas 2001: 24), partly caused by the lack of a general definition of "agency" in EU law. Hence, Commission, EP and Council agreed that any body complying with the criteria laid down in Art. 185 of the Financial Regulation should be considered as an EU agency (originally for the purpose of applying Art. 47 of the IIA):

> "1. The Commission shall adopt a framework financial regulation for the bodies set up by the Communities and having legal personality which actually receive contributions charged to the budget. The financial rules of these bodies may not depart from the framework regulation except where their specific operating needs so require and with the Commission's prior consent" (Council Regulation No 1605/2002).

Hence, different entities can be characterised as EU agencies under that definition (see for the following Jones/Vitrey 2006: 8-9): Firstly, so called "Community agencies" are set up under the first (Community) pillar during three different time periods: The first generation of these EU agencies comprised two agencies which have been created in the 1970s to improve effectiveness in the achievement of specific policy objectives (namely development of vocational training and improvement of living and working conditions). The second generation of these EU agencies included nine agencies which were set up in the 1990s. These agencies were most often linked in their mandate to the completion of the internal market (and agency statutes refer to different policy areas). The third generation of these EU agencies has been created since 2000, they comprise eleven agencies and their institutional design is often connected to the administrative reform programme of the Commission (White Paper on European Governance). Often, these agencies are discussed under the term "European regulatory agencies" although – from a formal perspective – they are not carrying out discretionary powers (see e.g. Groenleer 2006; Geradin 2005; Barbieri 2003). Recently, also other agencies were created under the second and third pillar of the EU; they are referred to as "intergovernmental agencies". One group of three agencies (also characterised as "Common Foreign and Security Policy agencies") is supposed to carry out specific technical, scientific and management tasks within the framework of European Union's Common Foreign and Security Policy (CFSP) (e.g. European Defence Agency). The other group of four agencies (also named as "Police and judicial cooperation in criminal matters agencies") is dedicated "to help the EU Member states co-operate in the fight against organised international crime" (e.g. European Police College). Although two other types of agencies are created at EU level (three "executive agencies" as successors of so called BATs and three "Joint Undertakings" as well as the European Institute for Technology), this paper concentrates particularly on the first type of EU agencies, commonly referred to as "Community agencies". In sum, the agencification trend arose at EU level only in the early 1990s and although recently additional agencies were created, their number is small compared to national experiences, e.g. in the UK (see below).

In terms of personnel, the staff of Community agencies significantly increased over the years, starting with two agencies and their staff in the 1970s and approx. 500 staff members of all agencies in the mid-1990s during the second wave of agency-creations, nowadays the number of staff employed by these agencies reached approx. 3.500 (in 2008: approx. 3.800). In general, Community agencies employ officials recruited through a formal transfer agreement with the releasing institution which is, however, only carried out for the majority of staff of only one agency (OHIM). In all other agencies, the majority of staff members are so called "temporary agents", with the exception of the Reconstruction Agency which has a substantial number of local staff. Around two-thirds of staff members employed by Community agencies are temporary agents; the remaining third consists of slightly more contract agents than officials (Jones 2007: 9).

In terms of budget, most of the Community agencies are financed from a Community subsidy set aside for the purpose in the general budget of the European Union. However, several agencies are partly or entirely self-financed (EMEA, OHIM, CVPO, EASA), all of which are able to charge fees, and the TCB, which receives financial contributions from its clients (the other agencies in particular). Because the majority of the budget is spend for personnel costs (on average about ⅔ of agency budgets are allocated to staff and administrative expenditure, see Haug/Virrankoski 2007: 8), the budget of Community agencies increased simultaneously to the increasing number of agency staff. However, compared to the general budget of the EU, the share of agencies' subsidies increased only slightly and amounts to a rather insignificant amount of 0,4 %. In sum, the "agency story" at EU level is characterised by different radical moves of "executive action" when the Commission proposed a number of agencies within a rather short time period. Compared to the Community's general budget, though, the budget of Community agencies at EU level is rather small.

In Germany, structurally disaggregated organisations outside ministries are a traditional feature of the federal administration, dating back to the end of the 19th century and the Weimar Republic. This paper mainly addresses the "higher federal authorities" (Bundesoberbehörden), which are created by statutory law, operate at the national level, and are (with very few exceptions) fully responsible to a departmental ministry (see Bach 2008 for a more extensive discussion). According to the departmental principle, each minister independently conducts the affairs of his department under his own responsibility, though within the political guidelines set by the chancellor and the cabinet as a collective decision-making body. This wide-ranging authority of each minister, which may even include interference in single agency decisions, has to be seen in conjunction with the equally important doctrine of ministerial responsibility, which requires any minister to appear before parliament, to report and to answer questions, and to take the blame for anything that goes wrong within the ministry's area of responsibility, including agencies.

In the German system of executive federalism, the implementation of laws is largely in the hands of the states, whereas policy-formulation is located at the federal level (with the state governments participating in policy-formulation via the Bundesrat). As a consequence, agencies operating

at the national level usually do not have regional and local offices. There are some exceptions to this rule mentioned in the constitution, e.g. the customs and tax administration and the border police. For the creation of multi-tiered agencies with regional and local offices in other policy domains, the consent of the majority of the states in the <u>Bundesrat</u> is required. Agencies administrating federal laws without regional and local offices can be created by simple legislation (i.e. a rejection of the bill by the <u>Bundesrat</u> can be overruled by the Bundestag). In sum, considering the that the number of agencies has been more or less constantly growing since the early 1950s, the principle of executive federalism could not prevent the creation of new agencies at the federal level (Döhler 2002).

Currently, there are about 100 federal agencies in Germany that are legally part of the state ("direct administration") and report directly to one of the federal ministries (Bach 2008). Around half of those are "higher federal authorities", which perform so-called "core state functions" including regulation and sectoral oversight, but also research and policy advice. Another 30 organisations are "public institutions" which do not have a statutory basis, with mainly advisory functions or non-coercive tasks, such as providing services to other governmental organisations. In addition, around 210 organisations with a legal personality on their own have to be considered as part of the federal administration. To a large extent, these are social security organisations functioning according to the self-governance principle, but some of them are also subject to hierarchical ministerial control, including Germany's largest agency, the Federal Employment Agency. Whereas the latter organisations almost by definition have some decision-making autonomy in "policy" decisions, the autonomy of "direct administration" agencies – both in terms of managerial and professional, task-related decisions will usually depend on the willingness of the oversight ministry to grant such autonomy (ibid.).

Most agencies are to a large extent financed via the federal budget. However, they may also raise some additional revenues, e.g. via user fees. Similar to expenditures, revenues of agencies are part of the mother department's line-item budget. As a rule, agencies are not free to use these revenues, and the type of expenditure that can be covered by particular revenues is prescribed in the annual budget. Some agencies raise quite important shares of their expenditures from user charges. Indirect administrative bodies in the field of social welfare generate large parts of their revenues from the contributions of their members. The number of agency staff may provide some indications as to the relative importance of federal agencies in the overall politico-administrative setting. On the one hand, the number of persons working in federal agencies and indirect administrative bodies is relatively low, as more than 80 per cent of the overall public service belongs to state and local administrations (Bach 2008). On the other hand, the staff numbers of (direct administrative) agencies are much higher (about 258.000 staff) than those of the ministerial administration (about 19.500 staff). Hence, in terms of administrative costs (there are no reliable figures available for the overall agency budgets), the largest share of the federal budget is spent on running agencies, rather than ministries.

In Britain, the agencification started in the early 1980s with a government report on next steps to improve efficiency and effectiveness in central government (Ibbs report, see below). Steered from the centre by a particular Next Steps Reform Team, the departments selected remits and functions for "executive agencies", commonly known as "Next Steps agencies". Starting in 1988 with three agencies, their number grew very fast up to 35 agencies in 1990 and 159 agencies in 2005. These agencies perform a wide range of functions and e.g. the first two agencies were the Queen Elizabeth II Conference Centre and the Employment Service (Duggett 1997). Nowadays, functions and services provided by executive entities under "agency status" range from the Prison Service to the Driver and Vehicle Licensing Agency or the Jobcentre Plus (as largest agency in terms of staff numbers). Next to these agencies, also so called "Non-Departmental Public Bodies" (NDPBs) or "quangos" were created over the last two decades. Although these bodies are not an integral part of a departments and carry out functions "at arm's length" from ministers, they differ from executive agencies because they are explicitly not created to <u>implement</u> policy, but are instead more self-determining and independent, mostly set up under statute and directly accountable to parliament. In 2007, approx. 900 such public bodies are classified as NDPBs by the UK government, including bodies such as the Bank of England, the BBC, and NHS bodies, which employ 96.456 staff members and spend a total expenditure of £37 billion (CO 2007). However, this paper concentrates on Next Steps agencies.

In terms of budget, the majority of Next Steps agencies are financed by their parent department (as so called "non-trading agencies") and a minority may raise revenues by charging customers (as so called "trading agencies", approx. 10% of all agencies; James 2003: 20). However, their particular budget is difficult to calculate, particularly after the reform of the budgetary procedure in 1998 which allows British departments to set up multi-annual budgets. Moreover, the introduction of Public Service Agreements involves also delegated bodies such as agencies but additionally blurs budgetary information on these entities.

Similar to the increasing number of agencies, though, the staff employed in executive agencies grew from 6.000 staff members in 1988 to 250.000 staff members only five years later in 1993 (James 2001: 28; see below). In sum, the agencification process in UK was characterised by a rather radical break with the past when in the end-1980s a number of agencies were created which soon rose to a comparatively high number of entities. Moreover, their staff and budget soon extended significantly the staff numbers of ministerial administration and public expenditure spend for departmental work.

These differences in the agencification pattern as process and outcome are assumed to cause a particular demand for parliamentary accountability and inform the next hypothesis:

H_{2a}:   *When the agencification pattern as process is characterised by radical changes, parliaments gain particular attention to hold agencies accountable.*

H_{2b}:   *The more personnel and financial resources are allocated to agencies, the stronger are parliaments interested in holding them accountable.*

Moreover, the distinct agencification pattern reveals the detailedness and transparency of the information available on these entities, not only regarding their budget and personnel, but also particularly on their functions and performance. Again, it is assumed that parliaments are more strongly engaged in controlling agencies when this information is available to them, at least via other bodies such as audit offices. In practice, this "information setting" is strongly connected with the relationship between ministries and agencies which may range from traditional oversight without further formal information (but maybe strong informal relations) to contract relationships which are characterised inter alia by several formal information requirements.

Most Community agencies are obliged by their statute to formulate a work programme with a corresponding report on an annual basis. Although these documents inform on agency activities, they do not provide any performance indicators (except agencies which are bound by statute to specific procedures and thus obliged to perform distinct functions within a given period of time, e.g. EMEA with its involvement in certification procedures which is in turn reported by the average length of the procedure in the annual report). Besides, although agencies became objects of parliamentary attention, their location across the Community's territory impedes strong informal relations between parliament and agencies.

In the German context, the major source of information on agencies is annual or bi-annual reports published by almost every federal agency. There are no common standards for these reports, which leads to a large variety of reporting "styles". Agency reports are mostly activity reports, rather than accountability reports with detailed and relevant performance information (Döhler/Jann 2002). Also, there is no strong evidence for the use of performance management techniques on a large scale. According to official sources, 203 out of 429 federal authorities had "goal agreements" with their respective oversight authority, and the number of authorities using performance agreements with subordinated organisations has increased from 38 in 1998 to 203 in 2005 (BT-Drs. 15/5111; Bundesregierung 2002). However, those goal agreements are usually not published, and the usual way of assessing agencies' goal achievement, financial management, and performance is via internal control by the ministries. In terms of informatory accountability, the relationship of federal agencies to the Bundestag is an indirect one, as the latter will have to actively use its common instruments of parliamentary control, such as questions to government and individual ministers, to have access to information about agencies.

For British executive agencies, so called "Framework Agreements" are negotiated between the parent department and the agency, together with the Treasury (Gains 2003). These framework agreements include their mandate and define their functions, set out a corporate plan, define targets and objectives, set out financial arrangements for the agency, define personnel and staffing policy, and reveal other characteristics such as location. In contrast to NDPBs, executive agencies do not publish an "annual report" or other types of reports to parliament and instead report only to the ministry. However, agencies' chief executives report frequently on agencies' operational performance and are held responsible for their individual contribution to operational performance before parliament (whereas ministers

remain responsible for strategic issues of these agencies) (James 2003). Therefore, chief executives are called in front of parliamentary committees on a routine basis, as well as to account during specific inquiries into certain events or topics. In that sense, accountability to parliamentary committees extends across all areas of the agency's operations. However, this public appearance of chief executives was not only questioned by the current Labour government (see below), but also applies to a general principle whereby everyone could be forced to provide evidence before parliament.

In sum, the available setting of information differs across the three parliamentary systems and thus differences of parliamentary accountability are very likely:

H_{2c}:   *The more information is available on agencies, the more parliaments are able to hold them accountable.*

4.   Comparing parliamentary accountability of agencies in practice: Parliaments as meta-governors?

In practice, parliaments hold agencies accountable differently. This paper is less interested in a detailed analysis of accountability frameworks and an assessment of instruments and mechanisms which are applied and their results and effects. Instead, it aims to identify the broad dimensions of parliamentary accountability with a particular focus on parliamentary activities which refer to meta-governance. Thus, the following sections illustrate briefly the role of parliaments in the process of agencification and its outcome with a special attention to their deliberate involvement or avoidance of meta-governance of agencies.

4.1 Parkinson's law and parliamentary accountability: The relations between the European Parliament and EU Agencies

In general, one may broadly distinguish three foci of parliamentary control of EU agencies and involvement in agency governance at EU level. Firstly, the EP is involved in the establishment of EU agencies, although with different competencies. When the first two EU agencies were set up in the 1970s, the attention of parliament was rather low: Established under the consultation procedure, its formal role was limited to consult on these Commission proposals (Art. 235 (ex 308) TEC). However, the second wave of agencification in the early 1990s gained more parliamentary attention and involvement because few agencies were established on specific Treaty provisions which provided for the co-decision procedure. Thus, EP was formally stronger involved in the creation of these agencies and e.g. introduced particular evaluation requirements regarding the need of the agency in future (e.g. EEA). However, in two cases, EMEA and OHIM, the Council changed the initial Commission provision for the co-decision procedure and instead the consultation procedure was applied which limited parliamentary influence (Kreher 1997: 232). The stronger influence of the European Parliament in the establishment of new agencies in the second wave of agencification is widely acknowledged as "by-product" of its increasing powers as legislative actor alongside the Council (Groenleer 2006: 164). Although parliament asserted its influence particularly by using its

budgetary powers, it also started to recognise that the creation of agencies and accompanying delegation of tasks to such entities which are widely controlled by member state representatives may undermine its own influence in policy implementation (Kelemen 2002: 104). This position was supported during the third wave of agencification when most of EU agencies were set up with the co-decision procedure. However, the EP acts in these creation processes less as corporate actor because in practice distinct parliamentary committees participate in these legislative procedures according to the policy field to which the agency is aligned (Kreher 1998: 106). In general, parliament's amendments to initial Commission proposals reveal that it pays most attention to the tasks and authorities of EU agencies, the composition of their internal organs (most often advisory and management boards) and the initial evaluation of agency's work. Thus, e.g. in the case of EMSA, the responsible "Committee for Regional Policy, Transport and Tourism" stipulated that the new agency's responsibilities should be limited to provide "technical assistance" to the Commission which would be "restricted to ship and relevant companies and recognised security organisations authorised to undertake certain security-related activities in this context" (PE 331.385 [2004]). In case of ENISA, the responsible "Committee for Industry, External Trade, Research, Energy" claimed that the agency's management board should be approved not only by the Commission, but also by the European Parliament and that experts at the agency's advisory board should include representatives from industry, consumer associations and the science and research sector in the area of network and information security. Besides, the committee stressed that the Council and the EP should have a say in whether the agency's life-span is extended beyond 2008, rather than leaving this to the Commission (PE 316.296 [2003]).

Secondly, as reflected in its general characterisation as part of the budgetary authority, particularly the "Committee on Budgets" and the "Committee on Budgetary Control" are strongly involved in EP's control of agencies. Hence, since 1995 a "trialogue meeting" is organised on an annual basis by both committees with the representatives of the EU agencies to discuss "in a budgetary context horizontal matters concerning all agencies as well as specific issues of individual agencies" (Haug/Virrankoski 2007: 2). However, also specialised committees' increasingly appoint standing rapporteurs on those agencies which operate in their remit or rather are formally connected to those directorates general of the Commission which they shadow (and participate in trialogue meetings).

Thirdly, EU agencies shall "regularly carry out ex ante and ex post evaluations of programmes or activities" (Art. 25(4) of the Financial Regulation[2]), placing hereby the obligation to evaluate on the agencies. Moreover, also the constituent acts of several agencies place a responsibility for evaluation – although not to parliament but rather to the Commission or agencies themselves (e.g. on the management board), particularly for those created since 2002. However, results of these evaluation reports should be

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[2]   Commission Regulation (EC, Euratom) No 2343/2002 of 23 December 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities; *OJ L 357, 31.12.2002.*

forwarded by the Commission to the EP and the Council and made public. In addition, external evaluations have been carried out by academics which have been published and subsequently debated in parliament (Everson et al. 1999; see also Commission 2003).[3]

Finally, EP also engaged more strongly in the overall frameworks of agencies – acknowledging their status as means of "administrative politics" by the Commission (Fleischer 2007) and "institutional leverage" within the inter-institutional setting at EU level. When in 2002 a broader attempt was undertaken to bring EU agencies into line with the New Financial Regulation of June 2002 and the Regulation relating to the access to public documents of May 2001, the "Committee on Budgets" specified in several cases budgetary provisions and called the Commission to consult EP before undertaking any revision of the framework regulation for the agencies (PE 318.749 [2002]). Similarly, when the Commission issued a communication for a framework for those EU agencies which are characterised as "regulatory agencies", the "Committee on Constitutional Affairs" (AFCO) adopted an own-initiative report as response which called on the Commission to define the framework conditions for the use of regulatory agencies by adopting a framework regulation which should be preceded by an interinstitutional agreement spelling out common guidelines. MEPs stressed the Commission to submit an assessment of the budgetary implications and the viability of such agencies in comparison with centralised and similar activities before submitting a legislative proposal to set up regulatory agencies, and to make specific proposals for restructuring administrative and staff resources with a view to avoiding additional operational costs. Moreover, the committee stipulated that the agency director chosen by the Commission should be invited to make a statement before the competent parliamentary committee and reply to questions by MEPs. Here, the EP reasoned that this "ex-ante" political scrutiny would naturally complement the "ex-post" political scrutiny in the form of the discharge for the implementation of the budget. Besides, the report said that the Commission should conduct a review of all the existing agencies with a view to proposing possible amendments to their basic instruments so as to adapt them to the models to be defined for the future regulatory framework.

As a response, the Commission issued a draft inter-institutional agreement (COM(2005)56 final) which aimed to establish a horizontal framework for the creation, structure, operation, evaluation and control of European regulatory agencies. Despite general support from the European Parliament, negotiations stalled during 2006 as the Council was reluctant to give attention to the issue and doubts were raised over the use of an inter-institutional agreement as an appropriate vehicle for improving the working of the EU agencies. Ultimately, the Commission admitted the failure of the agreement and tried to re-launch the inter-institutional dialogue by issuing a new communication on "European agencies – the way forward" (COM(2008) 135 final). AS a response, the EP issued as own-initiative a "Report on a

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[3]   In October 2007, the Commission has provided the Budgetary Authority with a summary of the main findings of the existing evaluations concerning decentralised agencies and aims to further analyse the "agency system" in the context of a meta-study planned to be carried out in 2008 which is based on existing studies.

strategy for the future settlement of the institutional aspects of Regulatory Agencies" for which AFCO is responsible and which is due in July 2008 (PE 407.635 [2008]).

In sum, at least since the second wave of agencification at EU level, EU agencies were perceived by the EP as "institutional leverage" in the European institutional setting and thus less as policy actor which needs corresponding parliamentary control than as means to affect the "institutional rules of the game" in EU policy-making.[4] Hence, MEPs view EU agencies less from a functional perspective as relevant actors for their distinct policy fields (initially affected by the judicial limits to delegate only non-majoritarian tasks to these entities due to the application of the Meroni-Principle, see Majone 1997b; recently also select committees start to recognise "their agencies" as actors in the policy field) but rather from an institutional perspective – disregard their small amount of the general budget and numbers of staff. However, due to its formal position ass second branch of the budgetary authority, the EP strongly transmits these general interests to "meta-govern" agencification at EU level with budgetary means and thus particularly those committees engaged in these issues act as "meta-governor" (although recently also the Committee for Constitutional Affairs took an interest).

4.2 Too close to control?
The House of Commons and Next Steps agencies

In 1987, Robin Ibbs was appointed as new Special Adviser to Prime Minster Margaret Thatcher on Efficiency and Effectiveness and as new head of the "Efficiency Unit" which existed since 1979 and had previously conducted several scrutinies in central government efficiency (known a "Rayner scrutinies") (Bray 1988). Under his directorship, the Efficiency Unit was asked by the PM to assess the progress achieved in improving management in the Civil Service". Hence, the unit issued a report on "Improving Management in Government: The Next Steps" which stressed the need for more achievements in "better value for money". Accordingly, the report recommended that the civil service should be reduced to a small "core" of policy makers, with all other officials transferred to work under free-standing agency boards. In practice, agencies should be set up to carry out executive functions within a policy and resources framework set by departments. Moreover, the report explicitly recommended that departments should select and define suitable agencies – in line with reform proposals by another previous expert commission (the "hiving off" proposals of the Fulton Report 1967). To ensure a comprehensive implementation of these reforms, the report recommended appointing a Permanent Secretary as "Project Manager".

As response, Whitehall departments worked to prepare a number of candidates during 1987 to become agencies and to identify the people that would run the programme. All was revealed in the Statement to the House made by the PM in February 1988 – which marks the first time of official

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4   Also national parliaments increasingly recognise the relevance of EU agencies within the institutional setting (BT-Drs. 16/7746 [2008]).

parliamentary debate on agencies. Here, particularly the Treasury and Civil Service Committee considered the Next Steps programme and gained its strong support – which was also shared by the opposition party. Initially, the framework agreements which revealed an agency's functions, mandate, corporate plan, targets, personnel and staffing policy etc were not published but after a report by the TCSC which criticised this practice, agency framework documents and their annual reports were published as House of Commons papers and therefore in the parliamentary and public domain (TCSC 1991). Moreover, framework agreements entail also the arrangements for dealing with parliamentary questions and letters from MPs on matters concerning the agency as well as the customer complaints procedure and the arrangements for handling Parliamentary Commissioner for Administration (Parliamentary Ombudsman) cases. In the early years of agencification, agency chief executives replied privately to MPs questions; this practice was gradually amended, first so that a copy of each chief executive's reply was placed in the House of Commons library and then eventually so replies were printed in Hansard, the official printed transcripts of parliamentary debates (TCSC 1993: 207). Likewise, chief executives are called in front of parliamentary committees on a routine basis, as well as to account during specific inquiries into certain events or topics. Many authors observed that parliamentarians started to ask them questions about policy matters that are the remit of parent departments, whereas permanent secretaries of parent departments were asked questions about operational matters that are formally the preserve of agencies (Massey 1995). In practice, "it is now accountability to the minister by the chief executive rather than accountability of the minister to the House of Commons that is on offer: these are different" (Jordan 1992: 13). Consequently, chief executives gained some form of accountability beyond that owed to ministers and superiors. When the new Labour government came into power in 1997, this practice was reversed and instead ministers became reluctant to allow chief executives to appear before parliament (Talbot 2004a: 107). Accordingly, ministers protected the neutrality of agency heads attending select committees and the rules governing attendance by agency heads at select committees were receded from the parliamentary reform agenda (Gains 2003). Although also parliament, particularly the TCSC conducted several evaluations of executive agencies with considerable effects on amending current bad practices (TCSC 1990, 1991, 1995), also external evaluations were regularly issued, e.g. by the National Audit Office (NAO 2000). Moreover, also central government evaluated executive agencies, e.g. jointly sponsored by ministers in the Cabinet Office and Treasury (CO 2002).

In sum, over the years the House of Commons extended accountability arrangements regarding executive agencies to strengthen its control role vis-à-vis these "statutory orphans". With increasing scandals, it developed next to its traditional budgetary interest also a sense of accountability for the performance and role of agencies in government policy-making, although more strongly towards policy implementation and contacts between agencies and citizen than policy formulation. However, the parliament gained only limited interest in the meta-governance of agencies.

4.3 Parliamentary control of agencies in a federal state: The case of Germany

The development of the German "agency landscape" took place without any large-scale reform policies. In terms of agency creation, the 1950s have been a peak period, when around 20 higher federal authorities were set up, some of them based on already existing organisations (Döhler, 2007). After this period, only a handful of agencies were created until the end of the 1980s. In the 1990s, most changes of the agency landscape were organisational mergers, although some agencies were created by splitting up existing organisations, too. Also in the current decade, most newly created agencies are mergers of existing organisations, such as the merger of three agencies in the field of banking, insurance and stock exchange regulation resulting in one regulatory agency. Thus, in contrast to the early years of the Federal Republic, the development of the agency sector can now be characterised by consolidation, rather than expansion. Also, agency reforms are driven by ad-hoc, sectoral motives, rather than comprehensive agency reforms across many policy sectors.

Furthermore, federal agencies have a rather low profile within the politico-administrative system (Döhler 2002). In the German context, the usual catchphrase for agencies is "non-ministerial administration" or "subordinate sphere", implying a rather low importance of those organisations and a lack of a more differentiated picture of agency governance as such. This perspective on agencies may be linked to the idea of "legislative programming" of the administration, according to which parliament decides among policy alternatives in the form of statutory laws, whereas the administration's task is to impartially implement those laws (Grauhan 1969). As a result, the implementation process, which takes place under ministerial supervision, is considered as predominantly administrative affair, which does not require any further parliamentary involvement (Döhler 2007). In other words, parliamentary control of agencies is exercised indirectly via the responsible ministers' parliamentary responsibility. This may be illustrated by an evaluation report of the Federal Court of Audit on how ministries organise and perform their oversight function towards agencies, emphasising the relevance of the findings for the parliamentary control of the executive (BRH 2005). In other words, parliamentary control of agencies is about ensuring that the ministries adequately perform their functions as oversight authorities, rather than more direct forms of control. Generally speaking, parliamentary attention towards agencies' performance will only be high in the case of obvious crises and implementation deficits. In addition, federal agencies' small share in policy implementation in relation to state and local administrations also contributes to the general lack of attention to agencies and their weakly developed profile as "non-ministerial administration".

In addition, the design of administrative structures and processes is largely considered as the domain of the federal ministries, which jealously guard the departmental principle. The major actor in drafting enabling laws for agencies is the ministry that will be the supervisory ministry of the agency. The Bundestag will be involved in this process via consultation with the rapporteurs of the budget committee which are responsible for the

ministry in question, as setting up or reforming agencies usually will have financial consequences. As any other bill, drafts of agencies' enabling laws will be discussed in the permanent committees of the Bundestag, but usually without major proposals for change. In addition, enabling laws generally contain only a few paragraphs on the internal organisation and procedures of agencies, which are supplemented by detailed regulations in the ministerial bureaucracy (Döhler/Jann 2002). Summing up, administrative organisation is largely considered as the domain of the executive, in which parliament only plays a remote role.

As a general rule, the budget of direct administration agencies is part of the budget of their overseeing ministerial departments. Agencies send their draft budget to the ministry, but are usually not involved in the subsequent process of drafting the government's budget proposition and the ministries' negotiations with the budget committee rapporteurs. Thus, again, there is no direct relationship between the Bundestag and federal agencies. However, the Bundestag, more precisely the budget committee – may influence the organisation of the executive via the allocation of budgetary resources for personnel, which often leads to conflicts between the budget committee and the executive (Eickenboom 1989).

Finally, in terms of external support resources, the budgetary control committee of the Bundestag closely cooperates with the Federal Court of Audit, which audits the budget and financial management of all federal organisations, including those organisations which have their own budget and hence are included in the state budget (Eickenboom 1989; von Wedel 2005). The parliamentary discharge procedure in the budgetary control committee is based on the annual report of the Federal Audit Office, which also contains remarks and critique about the efficiency of federal agencies. From a legal point of view, there is no difference between the auditing of a department ministry and non-ministerial agencies or public organizations with their own legal personality. The committee usually supports the recommendations of the Federal Audit Office, which typically consist of requests to the government to correct mismanagement within the federal administration. However, due to the high level of detail involved in this procedure, the attention of the plenary to the discharge decision is rather low. Also, the discharge procedure is an instrument of political control; its refusal will not lead to any legal consequences for the government.

Summing up, the relationship between parliament and agencies in Germany is an indirect one, which is mediated by the ministerial bureaucracy. The main focus of parliamentary control is on budget and personnel, whereas performance governance – except for scandals and crises – and meta governance of agencies plays only a remote role. Quite remarkably, although the ministerial bureaucracy is the key actor in monitoring agency performance, until now, there is no evidence for cross-cutting "meta" reforms aiming at the overall population of federal agencies.

5.   Explaining different patterns of parliamentary accountability

Applying the PA approach, empirical analysis reveals the explanatory relevance of the supply- and the demand-side of parliamentary control of agencies for similarities and differences of these control relations in practice and the role of parliaments as "meta-governors" (see figure 2).

On the one hand, the comparative analysis confirms that particularly the position of each parliament within the particular politico-administrative system accounts for its control of agencies: Whereas the German parliament is rather separated from the executive (also supported by the fact that the German electoral law traditionally creates coalition governments) and thus less able to conduct meta-governance, the British parliament enjoys close relations with the executive due to the strong overlapping of both arenas. Hence, a report issued by the TCSC as most relevant parliamentary committee serves as conventionally way to influence central government reforms. In contrast, the EP takes a comparatively weak position (although its authority and power increased over the last years with new treaties), but also recognises its weaknesses and strongly aims to overcome these deficiencies by influencing the further development of the European "institutional infrastructure" – which includes EU agencies as new element of the European executive. Moreover, its earlier attempts to shape the agency landscape at EU level during the 1990s may also be caused by its comparatively weak position vis-à-vis Council and Commission – and its reasonable fear of loosing status in the inter-institutional bargain.

Moreover, the analysis also confirmed the explanatory relevance of the exercised doctrine of ministerial responsibility for parliamentary control of agencies. Due to the formal independence of EU-level agencies, it is reasonable to argue that this mechanism is much more effective in the UK and Germany, where parliamentary accountability of cabinet members also includes agencies. In other words, in the two national contexts, parliament can indirectly control agencies via the responsible cabinet member, whereas this is not possible in the EU setting. Thus, in terms of the negative effects of ministerial responsibility on patterns of direct agency control, our observations support this hypothesis.

Likewise, additional resources for parliaments to control agencies are relevant and affect their parliaments' interest in agency governance: The strong British NAO scrutinises agencies not only from a financial or performance perspective, but also in terms of rules and requirements which frame their activities – and thus delivers parliament frequently with new information and ideas how to improve agency governance on a "meta-level" (e.g. NAO 2000). Similarly, the European Court of Auditors began recently to scrutinise the agency system at EU level from a more comprehensive perspective (although it is too early to assess the effects on parliamentary control). In contrast, the German Court of Audit produced some reports on efficiency and effectiveness of federal administration in general in the past – but without much effect on parliamentary interest regarding agency governance.

However, the other two indicators for the supply of parliamentary control of agencies, i.e. the specialisation of parliaments and their general size and available resources, reveal less explanatory strength, particularly if

one takes into account the respective beginning of agencification (although the EP started its specialisation only in the late 1970s, it increased significantly over the next years and thus was rather "prepared" when EU agencies emerged). Besides, the empirical analysis showed in all cases the comparatively strong involvement of the budget committee in agency matters (derived from the parliament's traditional role in controlling the executive via budget and discharge) and hence refers to the relevance of capabilities of distinct committees rather than to the specialisation and capacities of parliament as a whole.

On the other hand, the comparative analysis validates the explanatory relevance of the second set of variables which address the demand-side of parliamentary control of agencies. Firstly, the pattern of agencification as process reveals strong differences between the three systems under scrutiny: Whereas in the UK and EU the process is characterised by "path-breaking" dynamics, in the former case by an internal report which recommended the hiving-off of executive activities and in the latter case by new waves of agency creations in frequent intervals, the German pattern of agencification lacks any larger changes. Hence, the stronger interest of the EP and the British parliament to frame the organisation and activities of agencies may be explained with these dynamics of agencification which inherently provoked parliamentary attention.

Likewise, the agencification as outcome reveals strong differences: Although the number of agencies and staff employed in these entities is comparatively equal in UK and Germany, agencies in the former case spend much more public expenditure and the latter actually employs most of its personnel in public administrations at state and local level (thus, in terms of budget and personnel the British agencies are comparatively large). In contrast, the number of EU agencies and the staff members employed in these entities are comparatively small. Thus, the higher interest of the EP in general issues of agency governance cannot be explained with the personnel and financial resources which are allocated to agencies, although at national level this explanatory pattern is observed where the British parliament shows more attention to agencies (also because of the high percentage of the general budget and personnel allocated to these entities) than the German parliament (according to the lower number of personnel compared to the general "executive workforce" and the smaller amount of the general budget which is spent on and by them).

Similarly, the relevance of information on agencies differs across the systems but explains parliamentary interest to act as meta-governor for agency issues only at national level: Whereas in the UK this information is provided in framework documents and league tables etc, the EP and the German Bundestag lack detailed information which goes beyond budget plans and personnel planning. Hence, whereas at national level the quantity and quality of available information may affect parliamentary attention to meta-governance of agencies, the strong attention of the EP in these issues cannot be explained with this feature because the available performance information is comparatively low and no contract management or equivalent mechanisms are at work.

Figure 2. Dimensions of parliamentary control on agencies

	EU	**Germany**	**UK**
meta governance	• inter-institutional agreement → Commission communication (regulatory agencies)	---	• TCSC reports (NAO reports)
performance governance	---	---	• performance indicators in Framework Agreements
financial governance	• budgetary control, incl. personnel	• budgetary control, incl. Personnel	• budgetary control, incl. personnel

6.   Conclusion

This paper shows that the direct relationships between parliaments and agencies are crucial for agency governance, although they are widely neglected by the academic debate. Moreover, it illustrates how parliaments increase their interests in agency governance and expand their traditional role as "power of the purse" towards the functions and performance of these entities in their respective policy fields and with regard to efficiency and effectiveness concerns as well as up to the general framework of agency governance – including its own position within these complex webs of relationships. Hence, parliaments may use trends of agencification as initially purely "executive turnover" to strengthen their own role vis-à-vis the executive and to shape government policy-making in general.

However, it became also evident that parliaments act less as "unitary actors" than the wider parts of our analysis supposed. Hence, particular committees pursue different interests to frame agency governance in general (most often budgetary committees are highly engaged) and further analyses are needed to assess the internal relationships between these actors within parliaments (the "generalists" of committees on budget or budgetary control versus the "specialists" in specialised committees which shadow particular departmental portfolios).

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