

# THE ADOPTION OF POSITIVE AND NEGATIVE PARLIAMENTARISM: SYSTEMIC OR IDIOSYNCRATIC DIFFERENCES?

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## ABSTRACT

The distinction between positive and negative parliamentarism relies on the way parliament is involved in the government formation process: countries where the government needs to win an investiture vote are said to have positive parliamentarism, while countries in which the government just needs to be tolerated by parliament are said to have negative parliamentarism. In short, these two forms of parliamentarism are defined only on the basis of the rules governing cabinet inauguration, that are generally established in the Constitution. However, to date it is unclear whether the choice of either system is only due to idiosyncratic reasons or it has a systemic nature. In this case, we should expect this choice to be related to other constitutional and micro-institutional rules regulating the executive-legislative relations. To shed some light on this question this paper adopts a mixed research strategy. Firstly, with a focus on Western Europe, we assess whether and to what extent countries adopting positive and negative parliamentarism differ on several constitutional and micro-institutional features related to the executive-legislative subsystem. Secondly, we perform a more in-depth analysis focusing on the choice of the voting system in three South European countries whose constitutions were drafted after the end of an authoritarian regime: Italy, Portugal and Spain. This comparison will show whether the adoption of positive (Italy and Spain) and negative (Portugal) parliamentarism was related to a more general conception of the executive-legislative relations.

## *POSITIVE AND NEGATIVE FORMATION RULES: A SYSTEMIC DIFFERENCE?*

The distinction between positive or negative formation rules, introduced by Bergman (1993) has gradually acquired a growing interest. Undoubtedly, the choice of either kind of formation rules may have some consequences for the delegation chain from parliament to government: for instance, it has been argued that positive investiture rules make life harder for minority governments (De Winter, 2003; Strøm, 1990). In theoretical terms, the choice of negative or positive investiture rules affects the "contract design" phase, one of the most important instruments through which parliaments try to avoid agency loss before the government takes office. It seemed therefore appropriate to define two kinds of "parliamentarism" based on this institutional feature: positive and negative parliamentarism. Recently, it has been suggested that the difference between negative and positive parliamentarism is more comprehensive and systemic being associated not only with the investiture rule (and procedure) but also with other aspects such as agenda powers (Cheibub et al., 2013). This idea is not completely new: looking at the whole set of oversight instruments, it has been argued ex-ante and ex-post instruments are related. For instance, countries in which the parliament has strong agenda power (ex-post oversight) tend to have a shorter government formation process and a lower percentage of ministers with parliamentary background (ex-ante oversight) (De Winter, 1995; Saalfeld, 2000).

Our primary interest is in the adoption of institutional models. Claiming that the investiture rule has systemic might have two different meanings:

1. That the choice of investiture rule has systemic effects on the executive-legislative subsystem
2. That such choice is the consequence of a systemic principle that has also effects on other institutional features

If this is the case, we should expect that positive and negative formation rules are also related to other formal institutions designed to prevent agency loss in the relationship between parliament and government. Moreover, we should expect that the choice of either system, made during the constitution writing process, was explicitly related to the desired equilibrium between parliament and government.

In other words, we argue that if the choice between negative and positive formation rules reflects different conceptions of the executive-legislative relations, two implications should follow:

1. From an empirical point of view, countries with positive and negative investiture rules should differ with regard to other institutions shaping the executive legislative relations.
2. The adoption of either system was fully intentional and explicitly related to the aim of creating a certain equilibrium between parliament and government.

To test the hypothesis that the choice of formation rule has systemic relevance, we adopt a mixed strategy, consisting of an extensive statistical analysis of the relationship we want to explore and of a thick description of three illustrative cases. Firstly, with a focus on Western Europe, we assess whether and to what extent countries adopting positive and negative parliamentarism differ on several constitutional and micro-institutional features related to the executive-legislative subsystem. In particular, building on the argument made by Saalfeld (2000), we hypothesize that the mix of ex-ante and ex-post oversight instruments follows a systematic pattern. Secondly, we perform a more in-depth analysis focusing on the choice of the voting system in three South European countries whose constitutions were drafted after the end of an authoritarian regime: Italy, Portugal and Spain. This comparison will show whether the adoption of positive (Italy and Spain) and negative (Portugal) parliamentarism was related to idiosyncratic factors or to a more general conception of the executive-legislative relations.

In the next paragraph the theoretical relationship between formation rules and ex-post oversight is assessed. Subsequently, the formal ex ante and ex post control instruments adopted in the main Western European countries will be reviewed and evaluated relying on the existing literature. Next, the reasons for adopting a negative or positive formation rule in Italy, Portugal and Spain will be assessed looking at the historical roots of parliamentarism in these countries and, more specifically, at their democratic transitions. Finally, the findings of these two analyses will be assessed in the concluding paragraph.

### *FORMATION RULES AND EX-POST OVERSIGHT INSTRUMENTS*

In the neo-institutional approach institutions are seen as the rules of game setting the incentives for each actor's behavior. Institutions can be studied as independent variable, when we look at how they influence political behaviour, or as dependent variable, when we look at what caused their adoption.

In parliamentary systems where coalition majorities are frequent<sup>1</sup> the formation of a government can be seen as a process of negotiation among parties but also between backbenchers and frontbenchers within each party. The content of the negotiation mainly concerns an allocation problem regarding offices and policies that have to be distributed according to the preferences of the parties. Like all negotiations, the government formation process has costs that are mainly due to the problem of delegation: these costs are generated by the necessity to acquire information, to design contracts and to enforce them afterwards.

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<sup>1</sup> However the same kind of problems may arise also in case of single-party governments when the governing party is factionalized.

The adoption of a constitution is the creation of a framework of coordination underpinned by several institutions (Hardin, 1999). Each single institution included in such a framework can be seen as an instrument to lower the costs of a coordination problem. It is not a coincidence that constitutions of parliamentary systems include provisions to regulate the formation of a new government and its relationship with the parliament. Likewise the *Rules of Procedure*, which are usually adopted with a broad consensus, set up additional mechanisms through which parliaments may contain agency loss.

A rich literature (Andeweg and Nijzink, 1995; Bergman, 1993; De Winter, 1991; Strøm, 1995) has focused on describing all the measures which are used to minimize the risk of agency loss in the delegation between members of parliament and governments.

The first formal control measure is the investiture rule, which belongs to the contract design family. Bergman proposes the distinction between positive formation rules, where a government must win a formal vote in parliament before assuming power, and negative formation rules, where an appointed government remains in office until the parliament votes a no confidence motion. Different institutions have the power to produce different outcomes even in presence of constant preferences, and the investiture rule is a good example of it. Negative formation rules obviously help the formation of minority governments, because the onus of gathering a majority is on those who want to break the government.

Saalfeld hypothesized that "there may be a trade-off between strong parliamentary ex-ante controls through positive formation rules and weaker ex-post oversight once the government has been formed" (2000, p. 258). However, this hypothesis is not based on the assumption both forms of oversight depend on the same guiding principle, but on the idea that ex post-oversight is influenced by the kind of formation rule. Under positive formation rules parliaments might have more power in the negotiation phase, but the governments emerged at the end of such a challenging ex-ante confrontation are likely to be less vulnerable. On the contrary, under negative formation rules minority governments are expected to be more frequent, and this gives parliamentarians more incentives to monitor them during the legislative term. However, if the choice of negative and positive formation rule depends on more comprehensive guiding principle a positive relation between ex-ante and ex-post oversight instruments cannot be logically excluded. There might be countries where the parties agreed to have a very weak or very strong parliament vis-à-vis the government, and designed all the control instruments accordingly.

The empirical evidence on the effect of positive and negative parliamentarism looks still somehow weak and vague. In his pioneering work, Saalfeld shows some signs of negative correlation between the extent of parliamentary control of the agenda (strong ex-post oversight) and the percentage of members of government that were part of the parliament prior of government formation (strong ex-ante screening). However, De Winter (1995) found that in countries where governments have strong agenda power (weak

ex-post oversight) the government formation is shorter (weak ex-ante contract design). More generally, the work done so far has been focused mainly on the causal relationships between institutional devices and procedural outcomes; for instance, Warwick (2004) showed the more likely survival expectation of governments under a rule of positive parliamentarism. Much less evidence has been produced concerning the relationships between specific institutional mechanisms, in order to test a correlation between models of parliamentary control and systemic or constitutional “designs” .

Only a more comprehensive recognition based on general statistic inferences combined to in depth qualitative analyses can generate, in our opinion, a clearer picture of such a complicate puzzle.

### *EX POST OVERSIGHT INSTRUMENTS IN 16 WESTERN EUROPEAN PARLIAMENTARY DEMOCRACIES*

As noted earlier, to assess whether the choice of investiture vote was related to the choice of ex-post oversight instruments it is necessary to restrict the analysis to institutional and formal instruments, leaving aside behavioural strategies that for which exogeneity cannot be assumed. In this paper we consider four types of instruments:

1. Budgetary powers
2. Agenda power
3. Committees
4. Parliamentary questions

For each of them we provide a ranking of countries, from those having the most effective instruments to those having the least effective ones, based on a number of measures commonly adopted in the literature. Finally, it will be checked whether and to what extent countries with positive or negative investiture rule actually differ.

Committees are probably the most important monitoring device to implement police patrol oversight. In most countries bills are discussed and analyzed in committees before being considered by the plenary. Although the committee system developed in nineteenth century parliaments to expedite the analysis of bills (Blondel, 1973), by a process of development and imitation most parliaments gradually adopted a structure of specialized committee mirroring the competences of government departments. Today, there

is no doubt that the articulation of parliaments in permanent committees reflects the division of labour among members and fosters specialization. Covering different policy areas, specialized committees alleviate the asymmetry of information usually suffered by assemblies. It is not by coincidence that, according to Mezey (1979)<sup>2</sup> legislatures with strong policy making powers "have highly developed committee systems which enable them to divide the legislative labour in such a way that a degree of legislative expertise is generated in most policy areas". The power of committees is strictly related to the power of parliaments (Blondel, 1973; Loewenberg and Patterson, 1979). However, it is not easy to measure the strength of committees in a comparative way without resorting to impressionistic judgements. Mattson and Strøm (1995) considered different institutional and procedural features of committees in Western Europe, and found that committee power consists of two dimensions, drafting authority (basically the possibility to initiate and rewrite bills) and agenda control. The score of each dimension was computed through factor analysis with orthogonal rotation. Building on this first attempt, Martin (2011) elaborated an index of committee strength based on the analysis of nine institutional features of committee systems, collapsing together both the aspects having to do with drafting authority and those regarding the agenda power. The index, calculated for 39 countries, empirically ranges from 0 to 7 with higher scores indicating stronger legislative committees. With regard to the countries analyzed in this paper the Martin index does not correlate with the Mattson-Strøm measures or with their sum. The three most likely reasons for this lack of correlation are the following: first, those indexes were computed for two very different periods (the 1980s for Mattson and Strøm and the 2000s for Martin); secondly, the Martin index covers additional aspects; third, the Mattson-Strøm indexes were computed using factor analysis based on Pearson's correlation on ordinal variables with only a few categories, possibly introducing some artefacts.

Table 1 reports the different score for all countries included in our analysis.

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<sup>2</sup> As quoted in Mattson & Strøm (1995)

**Table 1. Indexes of committee strength**

Country	Martin index (2000s)	Mattson-Strøm indexes	
		Drafting	Agenda
AUT	6	0,87	0,5
BEL	4	1,21	-0,17
DEN	4	-1,71	1,84
FIN	5	0,88	-1,23
FRA	3	-0,93	0,29
GER	4	0,09	0,32
GRE	1	-0,5	-0,25
ICE	4	0,52	1,12
IRE	6	-1,19	-1,89
ITA	5	-0,34	-0,48
LUX	4	0,97	-0,78
NET	4	-1,62	0,96
NOR	5	0,21	-0,33
POR	5	-0,24	0,6
SPA	5	0,67	0,31
SWE	4	1,08	0,88
UK	4	-1,19	-1,89

Parliamentary questions are the simplest formal instrument for members of parliament to elicit information from the government. Parliamentary questions are ubiquitous, as it is very difficult to find parliaments where there are not present (Pelizzo and Stapenhurst, 2004). In the distinction between police-patrol and fire-alarm oversight introduced by McCubbins and Schwartz (1984) questions are usually classified as a police patrol instrument (Saalfeld, 2000). Police patrol oversight is the routine work of systematically monitoring government activities, it is usually centralized because is done within the parliament, and relies on formal instruments. On the contrary, fire alarm oversight occurs when someone, often sitting outside the institutions, complain about how programs are administered. The subjects initiating fire alarms oversight can be a constituent, an interest group or the media. It is a highly decentralized process relying on outside actors to "sound an alarm", and it is of course not systematic. Recent empirical works reveal that parliamentary questions have more to do with fire alarm than with police patrol, because many of them respond to external inputs by constituents or the media and to press certain issues on the agenda (Soroka, 2002; Vliegenthart et al., 2011). Whether their main political significance is to elicit information or to set the agenda, parliamentary questions are a cheap and effective instrument in the hands of the parliament. There are a few contributions aimed at comparing the different kinds of questioning instruments adopted in different parliaments, with a European (Wiberg, 1995) or global focus (Pelizzo and Stapenhurst, 2004). However, the first attempt to compare the effectiveness of parliamentary questioning procedures on a cross country base has been provided by Russo and Wiberg (2010), who measured the potential for confrontation and for information in Western European

parliaments. The potential for confrontation, measuring the capacity to promote a lively debate between parliamentarians and members of government<sup>3</sup>, is closely related with the ability for parliaments to perform fire-alarm oversight. The potential for information, being based on the capacity to elicit information from the government, is a good proxy for police patrol potential<sup>4</sup>. Both measures theoretically ranges from 0 to 3. Table 2 reports the score of each country for both indexes.

**Table 2. Russo-Wiberg indexes of questioning effectiveness.**

Country	Potential for information	Potential for confrontation
AUT	1	3
BEL	1	2
DEN	3	2
FIN	2	3
FRA	2	2
GER	2	1
GRE	2	1
ICE	3	3
IRE	3	2
ITA	2	1
LUX	1	2
NET	2	2
NOR	3	3
POR	1	3
SPA	2	1
SWE	3	3
UK	3	2

Agenda power is not an oversight instrument in a strict sense, but parliaments which can independently decide how to allocate their time are in a better position to control the government than those whose agenda is strongly influenced by the executive. Döring provides several ways to measure the capacity of parliaments to organize their agendas. The single most important indicator is a seven point scale measuring the "Authority to Determine Plenary Agenda", where high values indicate strong parliamentary prerogatives in front of the government.

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<sup>3</sup> The index include three dichotomous indicators: the presence of oral question with debate open to other members, spontaneous question, spontaneous question with open debate.

<sup>4</sup> The index consists of three dichotomous indicators: the possibility to ask questions on individuals, the time by which a reply is due (above or below the median) , the presence of other limitations.



Submitting various indicators of agenda control to factor analysis, Döring (1995, p. 668) found that the indicators measuring "authority to determine the plenary agenda", "the committee agenda powers" the frequency and publicity of "public interests hearings" and the "restrictions on MPs" to submit law proposals heavily load on a "Governing Priority" dimension. Negative scores indicate low parliamentary control of its agenda and vice versa. For the countries included in this analysis the overall dimension is highly correlated (Pearsons' rho =0.82) to the first indicator.

The Döring index does not include budgetary powers, since in many countries budget laws follow a typical procedure, different than ordinary laws. Moreover, special rules often apply during the budget session, concerning the timing deserved to the arguments of the opposition and to the amendment regime. However, the power to control expenditures is a major channel of influence for parliaments. Among the several indexes measuring the level of centralization or dispersion of powers in the budgetary process (Poterba and Von Hagen, 2008; Von Hagen, 1992) we decided to rely on an index explicitly developed by Wehner (2006) to measure the degree of "legislative influence in the budgetary process", in other word whether the parliament has the "power of the purse". The index theoretically ranges from 0 to 100. Table 3 reports the average values of the three indexes we have selected and above described.

**Table 3. Selected Indexes of parliamentary agenda, government priority and legislative influence.**

Country	Authority to determine the plenary agenda	Döring index of "Government Priority"	Wehner index of "Power of the Purse"
AUT	4	-0,76	55,6
BEL	4	0,37	47,2
DEN	5	0,26	55,6
FIN	5	0,43	38,9
FRA	2	-1,16	19,4
GER	4	0,52	52,8
GRE	2	-1,03	19,4
ICE	5	1,21	38,9
IRE	1	-1,32	16,7
ITA	6	0,13	33,3
LUX	3	-0,98	NA
NET	7	1,88	59,7
NOR	4	0,26	61,1
POR	3	0,1	38,9
SPA	4	-0,9	41,7
SWE	5	1,73	65,3
UK	1	-1,23	22,2

Does a relationship exist between the strength of ex-ante delegation and ex-post delegation institutional mechanisms? In the preceding tables, important instruments to oversight the government were surveyed based on the most popular measures employed in the literature. The 16 countries included in the present analysis were ordered on the basis of the effectiveness of their instruments for ex-post oversight: low scores indicate weak instruments and vice-versa. All this information can be used to see whether general patterns emerge. In particular, two questions arises. First, are there parliaments with coherently strong or weak ex post prerogatives? Second, does it emerge a relation between ex-ante investiture vote and ex-post instruments? Table 4 helps answering these questions by providing the Spearman correlation matrix among all the indicators and indexes presented in the paper (the "government priority" index was not included because by definition it is by highly correlated with both the "Agenda Plenary" and "Mattson Agenda Power" indicators by definition).

**Table 4. Rank correlation among institutional and procedural oversight instruments.**

	Investiture rule*	Agenda Plenary	Comm. Drafting Authority	Comm Agenda Power	Martin Index Comm. Power	Wehner Power Purse	Questioning Confrontation	Questioning Information
Investiture rule	1.00							
Agenda Plenary	0.09	1.00						
Comm. Drafting Authority	0.11	0.19	1.00					
Comm. Agenda Power	-0.05	<b>0.50</b>	0.01	1.00				
Martin Index Comm. Power	-0.07	0.03	0.23	-0.27	1.00			
Wehner Power Purse	0.05	<b>0.59</b>	0.34	<b>0.57</b>	0.07	1.00		
Questioning Confrontation	<b>-0.70</b>	0.14	0.38	0.23	0.30	0.36	1.00	
Questioning Information	-0.14	0.02	-0.33	-0.05	-0.12	0.03	0.11	1.00

\*Investiture enters here as a three levels scale (0=negative rule, 1=positive rule with simple majority, 2= positive rule with absolute majority). Results are very similar using a dichotomous indicator.

Statistically significant correlations ( $p < 0,05$ ) are in bold: as already shown in Döring (1995) the indicators measuring the autonomy of the plenary and committees to set their own agenda are highly

correlated. Moreover, both these indicators are positively correlated with the Wehner's measure of legislative budgetary powers. Parliaments that can set their own agenda are usually also well equipped to influence the budget. Rather surprisingly, , the only significant relation between the investiture vote and ex-post oversight instruments is that concerning the potential for confrontation of the procedures for questioning the government. In particular, the trade-off "between strong parliamentary ex-ante controls through positive formation rules and weaker ex-post oversight once the government has been formed", as hypothesized by Saalfeld, seems to hold only with regard to the questioning procedure. Indeed, countries with negative formation rules offers effective instruments to create general debates by means of parliamentary questions.

This is a simple but interesting finding, confirmed by other illustrative analyses<sup>5</sup>, we can use as a stepping stone in order to explore the hypothesis of a systemic relationship between ex-ante and ex-post mechanisms of parliamentary control which would mark the deliberate willing to trace since the very beginning a given model of parliamentarism. According to our research design, an in-depth insight of such a possible systemic relationship can be achieved by a qualitative analysis of the the long term transformations of different parliamentary democracies. For the limited and explorative purposes of this paper we will deserve our attention to the three cases already mentioned.

### *TALES OF POSITIVE AND NEGATIVE PARLIAMENTARISM. THE CASES OF ITALY, PORTUGAL AND SPAIN.*

This and the next sections provide an in-depth exploration of the dynamics leading to the current mechanisms of investiture rules in Italy and Spain, and the current system of negative parliamentarism in Portugal. In particular, we look at the establishment of three parliamentary institutions highlighting the historical and political factors determining the different constitutional and procedural choices. As already mentioned, the cases selected for our empirical assessment are comparable because they share several important features:

1. The Southern-European democracies here under analysis represent three cases of later-comer *first democratization* processes dominated by uncertainty and leading to a deep crisis with interruption of

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<sup>5</sup> An explorative factor analysis, using polychoric correlations to take into account the ordinal nature of the variables, highlighted the presence of two dimensions, the first composed by "investiture rule" and "potential for confrontation" and the second including all the measures of agenda power including budgetary powers.

democracy (Morlino, 1998)

2. In all the three cases of process of re-democratization, both the number of political parties expected to be relevant and the overall degree of political polarization were quite high since the first general elections held immediately after the return of a democratic rule (Sani and Sartori, 1983).

Although these historical determinants allow us to define Italy, Spain and Portugal as similar cases the adoption of different mechanisms of government investiture is surely an important element of distinction. As the table 5 shows in details, Italy and Spain meet the requirement of positive parliamentarism, although showing rather different procedures. On the contrary, Portugal embraced a negative form of parliamentarism, since a new government is not requested to pass a inaugural vote of confidence.

More in details, in Spain the mechanism of parliamentary delegation is truly an “ex-ante” instrument of confidence, since the inaugural vote is actually a sort of *green light* provided by the lower chamber on the name of the candidate chief of the executive. In Italy, the investiture vote follows the oath of the prime minister, but it is an important test for the majority, to be repeated by few days in both the chambers of the parliament. In both these two countries, the support to the government is provided by a vote from the simple majority of the chambers, but the effect of a negative vote is slightly different, since in Italy the government is immediately forced to resign (remaining in charge for the ordinary administration) while in Spain the constitutional term of two months give to a new attempt of government formation keeps the opportunity open for the same political formula (and even for the same candidate) .

Italy	Article 94 (Vote of Confidence) 1. Government has to enjoy the confidence of both chambers. 2. Confidence is granted or withdrawn by each chamber on a reasoned motion by vote using a roll-call. 3. The government has to appear before each chamber no later than ten days after its appointment to get a vote of confidence.				
Portugal	Article 192 (Presentation of the Government's Programme) 1. Within at most ten days of its appointment, the Government shall submit its Programme to the Assembly of the Republic for consideration, by means of a Prime Ministerial statement. 2. In the event that the Assembly of the Republic is not in full session, its President shall obligatorily call it for this purpose. 3. The debate shall not last for more than three days, and until it is closed, any parliamentary group may make a motion rejecting the Programme, and the Government may request the passage of a confidence motion. 4. Rejection of the Government's Programme shall require an absolute majority of all the Members in full exercise of their office.				
Spain	Article 99 (Appointment of President of Government and Vote of Investiture) 2. The candidate nominated in accordance with the provisions of the foregoing subsection shall submit to the Congress the political programme of the Government he or she intends to form and shall seek the confidence of the House. 3. If the Congress, by vote of the overall majority of its members, grants to said candidate its confidence, the King shall appoint him or her President. If overall majority is not obtained, the same proposal shall be submitted for a fresh vote forty-eight hours after the previous vote, and confidence shall be deemed to have been secured if granted by single majority. 4. If, after this vote, confidence for the investiture has not been obtained, successive proposals shall be voted upon in the manner provided for in the foregoing paragraphs 5. If within two months of the first vote for investiture no candidate has obtained the confidence of the Congress, the King shall dissolve both Houses and call for new elections, with the countersignature of the Speaker of the Congress				
Coded details of parliamentary involvement in the processes of government formation and investiture vote					
	Involvement of parliamentary groups in the government formation	Mandatory inaugural vote of confidence	Timing	Decision Rule	Consequence of Failure
Italy	Yes (customary)	Yes (Double vote)	Ex-post	Simple Majority	Government resignation and new attempt
Portugal	Yes (art. 187,1 const.)	No	Ex post (if required by parliamentary groups)	Absolute majority	Government resignation and new attempt
Spain	Yes (art. 99,1 const.)	Yes	Ex-ante	Simple Majority	Immediate new Attempt

**Table 5. Constitutional rules concerning the relationship between the legislature and the new executive in Italy, Portugal and Spain**

The form of negative parliamentarism introduced in Portugal offers another interesting variation. Although without considering a compulsory inaugural vote of confidence, the constitution does not forget the link between the governmental “pledges” and the opinions of the parliamentary majority. That is why the “parliamentary communication” of the executive’s guide lines is provided. The possible motion introduced the majority of parliamentary groups on this document can bring to an immediate vote of confidence, a mechanism which somehow balances the absence of a inaugural vote, but which has been not particularly relevant in the institutional practice.

Other crucial differences should be noticed looking more in general to the relationship between legislatures and fresh executives in these countries. In all the three democracies, parliamentary groups are more or less directly involved in the negotiation for the next government formation, but the role of the head of the State marks clear differences in this process. Once again, Portugal is the *outlier* in the group, due to the active role of the directly-elected President of the Republic<sup>6</sup>. A third important difference to be stressed is finally that of compatibility between the office of MP and minister: Portugal does not allow such a compatibility while in Italy and Spain MPs can serve as ministers.

Why these dissimilar rules have emerged? Are they linked to some kind of consistent “visions” of parliamentarism? We will try to answer these questions now, paying a particular attention to the historical evolution of the systems and to the rationales emerged during their *constituent phase*, focusing on the different choices adopted and on the possible exclusion of some alternative mechanisms. Our analysis is mainly based on secondary analysis of normative sources and on the existing literature, but we have also benefited from the advises of some expert scholars<sup>7</sup>.

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<sup>6</sup> However, a deep look to the involvement of the Italian President and the Spanish King in the practices of government formation and dissolution shows a number of interesting variations, concerning the different type of legitimacy and the different constitutional role of these two institutional actors.

<sup>7</sup> In particular, we wish to thank Antonio Costa Pinto, Maurizio Cotta, Miguel Jerez Mir, Pablo Onate, José Real Dato, Juan Rodriguez Teruel, Joao Pedro Ruivo and Pedro Tavares de Almeida for their suggestions.

## *HISTORICAL BACKGROUNDS OF PARLIAMENTARY DEMOCRACY*

According to Von Beyme (2001) countries facing democratic transitions have solved the problem of constitution design in three ways: reintroducing the constitution of the pre-authoritarian phase to affirm the continuity between that period and the new democratic order (Austria in 1945, Lithuania and Latvia); a second solution is to amend the authoritarian constitution (Hungary 1989); the third possibility is to adopt a brand new constitution, with the purpose to overcome the inadequacies of the pre-authoritarian phase.

All of the three cases analysed here belong to the third group, but this is not very much surprising: the re-birth of a democratic regime after a long and brutal dictatorship is indeed the common trait of the three stories we are talking about. The inevitable legacy of such a historical experience is the necessity to avoid an unbalanced concentration of power in the hands of one only ruler (the so called *syndrome of the tyranny*, according to many authors). We can argue that this necessity has been present in all the three transitions under analysis, but the different historical conditions at the time of the re-democratization, and even the path dependent factors to be connected to the previous experiences can help in explaining the different outcomes of the constitutional process. Let's start with the analysis of the long term patterns of consolidation of parliamentary democracy.

In Italy, the relations between parliament and government in the pre-fascist unitary state (1861-1924) presented a patent continuity with the experience of the Kingdom of Sardinia after the adoption of the Albertine Statute (1848), which in fact had become the constitution of Italy after unification. The Statute designed a bicameral system consisting of a royally appointed Senate and an elected Chamber of Deputies. The parliament was not provided with powers of confidence or with negative powers of no-confidence: according to the Statute, the executive was only responsible to the King. Despite these formal provisions, during the so called *Liberal age* the cabinets became gradually dependent from the confidence of the Chamber of Deputies. However, an inaugural vote of confidence in the chamber was casted only in 1906, when the speech of the incoming Prime Minister, presenting the program of the government, was followed by a parliamentary motion (Cotta and Verzichelli, 2007)

In 1922 Benito Mussolini – leader of an extreme-right party just entered in parliament with a little number of deputies – was called to form a new government respecting the formal and informal rules of procedure, including consultations of political leaders, royal appointment, and inaugural confidence vote (Calamandrei, 1948). However, the establishment of this cabinet was achieved as a result of a extensive use of political violence and under the intimidation of a “March on Rome” operated by a Fascist militia. In less than three years, the authoritarian regime would have replaced the parliamentary system.

In Spain, a tradition of parliamentarism was born with the so called second republic (1931-1939). In fact, during the short experience of the first republic (1873-1874) as well as after the restoration of the constitutional monarchy, there was no attempt to introduce a set of rules legitimating the relationship between the parliamentary majority and the executive. The constitutional monarchy reshaped in 1876 had therefore many similarities with the Italian *liberal age*. At first, the executive power was still in the hands of the king, who could dispose of his ministers (including the *Presidente del Gobierno*) without any form of parliamentary control. Secondly, the legislative institution was a bicameral body with one of the two branches appointed by the king. Just like in the already observed Italian case, between the end of the XIX and the beginning of the XX century the lower chamber became increasingly autonomous, developing some practices of informal parliamentary control over cabinet ministers (Linz et al., 2013) but the *Monarquía parlamentaria* had no chance to evolve in a truly parliamentary government, given the fragility of the political system.

After the dictatorship of Primo de Rivera (1923-1930) and the re-inauguration of the Republic, a decisive step toward a truly parliamentary model of democracy was taken: according to the 1931 constitution, the prospective President of Government had to have a parliament majority. However, the inaugural vote was not introduced by the new constitution: art. 64 simply stated that the congress could vote a *censura* (no-confidence motion) against the government or some of its ministers.

Technically, these rules of negative parliamentarism did not provide a *strong delegation* to the executive. However, the situation of political fragmentation and polarization were not favorable to the consolidation of an parliamentary democracy based on the “predominance of the legislature”: informal pressures on President of Republic were high: one of the presidents had to resign when he tried to have a direct approval for his candidate as President of Government<sup>8</sup>. It was indeed a complicated period of political turbulence. Parties were not enough consolidated (with the partial exception of PSOE) to impose discipline to their representatives, institutional loyalty was very low and the process of government formation took longer than 100 days in the average. Such a fragility of the constitutional rules was surely corroborating the progressive detachment leading to the civil war and to the breakdown of the democratic regime. Subsequently, the long authoritarian regime established by Francisco Franco cancelled all the traces of parliamentarism: the *Cortes*, re-established in 1943, was a sort of body of corporative representation

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<sup>8</sup> Since the key actor of the process was, during the second republic, the President of the Republic, it has been argued that this institutional figure transformed the Spanish regime in a sort of *semi-presidentialism ante litteram*. However, depending on the political conjuncture, the President of the Republic could be also penalized by a complicate system of rules. Indeed, Presidents Alcalà-Zamora was forced to resign, according to the constitution, after using two times his power of parliamentary dissolution, in the attempt to have a direct approval for his candidate as President of Government (Linz et al. 2013)



without an effective political role. In any case, the governments chaired by Franco between 1939 and 1975 never presented their goals and programmes to the legislators.

In Portugal, although an elected parliament was existing during the Constitutional monarchy following the Liberal revolution of 1820, the tradition of a parliamentary democracy was consolidated only in the course of the XX century. As a matter of fact, the oligarchic and clientelistic regime established after the 1820 constitution did not evolve in a form of *poliarchy*, obstructing the emergence of a responsive relationship between legislative and executive institutions.

It was the 1910 “republican” constitution to introduce a formal relationship of parliamentary confidence: an ex-post mechanism of control was in fact considered, mentioning the constitution the necessity of a “tolerance” from the parliamentary floor, without ruling a compulsory inaugural vote after the formation of the government. This system of government, however, could not be consolidated due to an extraordinarily high degree of party fragmentation and to the dominance of radical instances. As a result, 45 governments were formed between 1911 and 1926, alternating phases of open competition to restrictions of freedom, specially due to the invasive presence of the military elite in power. The republic finally collapsed in 1926, when a corporatist regime, called *Estado Novo* (New State) could be established, characterized by the long hegemony of Antonio de Oliveira Salazar. Although codified as a typical authoritarian regime, the Portuguese dictatorship was surely not *lighter* than the Italian and the Spanish one in terms of limitation to political rights (Costa Pinto, 1995). Moreover, one has to bear in mind that the democratic interruption (1926-1974) is indeed the longest among the three political system under analysis here, and one of the most long-lasting in Europe.

### *THE CONSTITUENT PHASE AND THE PROBLEM OF PARLIAMENTARISM*

However important, history alone cannot explain the emergence of different constitutional settings. Writing a constitution is mainly a political bargain in which several political forces try to adopt a system that is closer their preferences. For this reason, we move to the analysis of the constituent phase in which a given model of parliamentary control over the executive has been discussed and adopted. We will start with the Italian case, which is the most distant in time.

The Italian transition after the fall of the fascist regime (July 1943) marks its first turning point in June 1946, when a referendum established the Italian Republic and a Constituent Assembly composed by 556 deputies was elected. The Assembly was dominated by three mass parties: the Christian Democratic Party (DC, 209), the Communist Party (PCI, 104) and the Socialist Party (PSI, 65). Although not codified in formal regulations,

the practice of holding an inaugural confidence vote was strictly followed already during the transitional period<sup>9</sup>.

When deciding the constitutional form of the Republic and the relationship between parliament and government the assembly was inspired by two opposite concerns. On the one hand, the syndrome of tyranny advised against a Presidential system, a preference of some minor parties seen as too dangerous for the Italian political environment; as a consequence, the Assembly quickly decided to establish a Parliamentary System. On the other hand, the weakness of the pre-fascist governments and the political fragmentation registered in the 1946 elections recommended to adopt some features to strengthen the executive and to achieve governmental stability.

The adoption of a positive formation rule was included since the first draft of the article regulating government formation. Many aspects of the designation process were widely debated, but there was almost complete consensus on the introduction of an explicit vote to delegate sovereignty to the cabinet. The adoption of a negative formation rule was initially considered, but soon discarded. To assure a strong and transparent delegation Costantino Mortati, one of the most influential members of the Constituent Assembly, proposed to specify in the Constitution that the incoming government should present its program in front of the Chambers and receive a vote of confidence on it. In 1946 it was already predictable that coalition governments would have been the norm rather than the exception, and that formulation was intended to force parties to explicitly approve the program of the government. The members of the Assembly thought that an explicit confidence on a well defined program would disincentive parties to withdraw their confidence for futile reasons. In the language of the principal-agent theory, the choice of a positive investiture rule was deliberately made to favor the emergence of explicit contracts among governing parties and between parliamentary parties and governments.

In the final draft of article 94 of the Constitution the explicit reference to the necessity for incoming governments to present their program in front of the Chambers was dropped and substituted with the requirement that the inaugural confidence must be given "through a *reasoned* motion". The formal investiture procedure established by the Constitutional Assembly states that "The President of the Republic appoints the President of the Council of Ministers and, on his/her proposal, the Ministers" (art. 92); after being sworn in by the President of the Republic (art. 93), the Government has ten days to obtain the confidence of both Houses (art. 94), thus determining a peculiar example of *redundant* explicit

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<sup>9</sup> Indeed, there were investiture votes for both the De Gasperi II and De Gasperi III governments, the governments formed during the work of the Constituent Assembly.

inaugural vote of confidence<sup>10</sup>. The same article of the Constitution specifies that “Each House grants or withdraws its confidence through a reasoned motion and which is voted on by roll-call”.

In Spain, the phase of the constituent assembly following the end of the dictatorship was not crossed by divisive debates on the specific point of the formation of the Government, with the only exception of the Communist Party (PCE) which since the very beginning was against the solution of a positive parliamentarism. The Conservatives and Centrist parties forces wanted initially to avoid an extensive debate in the Lower Chamber but then they adjusted their position meeting the proposals from the other groups.

The uncertainties during the constituent phase, concerning this point of the parliamentary debate and other points of the process of government formation<sup>11</sup> have to be probably associated, more to the “legacy” of the authoritarian past, to the fragility of the political situation during the transitional phase. In fact, right after the Constitution was approved, and after the new elections, candidate for President of the Government Suarez was elected (voted) as President without previous debate, against what article 99 of the Constitution ruled, while the next centrist candidate (Calvo Sotelo, in 1981) was appointed as President of the Government with a previous debate in the Chamber.

The investiture vote in the lower chamber is compulsory, but it is not intended as a yes-or-not pronouncement on the overall governmental experience: art. 112 of the constitution states, indeed, that it is the prime minister that, after deliberation of the Council of ministers, poses a question of confidence on his policy program. Interestingly enough, in some cases when this inauguration vote has been held, the prime ministers had still to complete the composition of his cabinet.

If we look to the overall involvement of the parliament in the process of government formation, we can say that the role of the prime minister has emerged, rationalising the traditional parliamentary centrality and opening the perspective of a cabinet system inspired to the *kanzlerdemocratie*. According to an interpretation based on the principal-agent logic, this is therefore a system which aims at enforcing the

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<sup>10</sup> We call this mechanism a “redundant vote” since the equivalent proportional effect of the electoral systems designed by the same Constituent Assembly for the Lower Chamber and the Senate determined very similar political compositions in the two parliamentary branches. As we will see later, this redundancy was evolved in a more complex situation after 1993, when the two electoral systems produced some relevant differences in the political composition of the chambers.

<sup>11</sup> Some controversies during the constituent process concerned the kind of vote to pass a confidence vote asked by the president of government and the censure vote proposed by the opposition. Overall, these change did not modify the framework of positive parliamentarism designed already in the first constitutional draft, but they showed the concerns of the different political forces in organising the multiple ex ante mechanism over the delegation link between the parliament and the chief executive.

political role of the government (Flores Juberias, 2003): at this stage of the delegation chain, delegation would therefore be much more evident than *accountability*, and the prime ministerial *agent* is relatively free from the control of his parliamentary principal, as well as from the interdiction of other external actors.

Even in Portugal, for sure, the long absence of democratic rule influenced the constitutional process taking place after the *Revolução dos Cravos* (Carnation revolution) – a coup organised by the progressive wing of the armed forces, in order to overcome the authoritarian government led by the successor of Salazar, Marcelo Caetano. The subsequent process of constitutional reform was complex and time-consuming: the original draft was not an unitary one, but the compromise among the proposals raised by all the parliamentary parties. On the specific point of governmental confidence, the projects were not so dissimilar, as they respected the first constitutional agreement signed with the *Council of the Revolution*. However, the final draft of the Constitution had to summarise a number of elements introduced by the parties and re-negotiated with the same Council of the Revolution in a second signed agreement.

In the end, art. 190 of the Constitution signed in 1976 stated that "... the Prime Minister is appointed by the President of the Republic after consulting the Council of the Revolution and the parties represented in Parliament". The prime minister remained the uncontested principal within his own cabinet, but the President of the Republic had a relevant constitutional "say" even when the different appointments are at stake.

A formal investiture vote was deliberately avoided although the government programme, formally presented in parliament (art. 195) can be submitted to a vote of confidence requested by at least 25% of the MPs or, alternatively, from the government itself. This is a crucial point in the construction of the new system of government (Amorin Neto, 2003), marking the difference with the two other parliamentary democracies here under analysis. The expectations at the basis of such a choice were twofold: one the one hand the *negative parliamentarism* was a way to conceive a more direct process of government formation, avoiding the effects of the high fragmentation traditionally present in the Portuguese parliament. On the other hand, such a solution reinforced the potential role of an external actor like the president of the republic.

In 1982, the Constitution was amended: the Council of the Revolution (the main holder of the revolutionary legitimacy) was abrogated and therefore, from 1982 onwards, only the parties represented in parliament had to be formally consulted by the President of the Republic before the appointment of the Prime Minister. In addition, the consideration of the government programme in parliament was shortened from 5 to 3 days. Rejection of the government programme, that had been framed by the approval of a vote of rejection, also became possible through the non approval of a vote of confidence requested by the

government. Although the discussion on the effective penetration of a *semi-presidential* form of government is still very open, the constitutional rule introduced in 1976 and amended in 1982 clearly design a *dual delegation* process with a strong agency power in the hands of the president of the republic and a second channel of delegation from parliament to cabinet (Amorin Neto, 2003).

Overall, we can post-code some of the information from this brief historical account to individuate the most relevant factors in explaining the choice of positive and negative investiture at the basis of our three models of parliamentary democracy as in table 6.

**Table 6. Important factors for the adoption of positive/negative formation rules in Italy, Portugal and Spain.**

	<b>Pre authoritarian and authoritarian periods</b>				
	Institutionalization of pre-authoritarian parliament	Inaugural vote	Institutionalized parliamentarism	Assemblearism	Length of democratic interruption (years)
Italy	High	Customary	Y	Y	23
Spain	Moderate	N	Y	Y	40
Portugal	Low	N	N	Discontinuous	49
	<b>Constituent phase</b>				
	Nature of constituent process	Problematic alternation	Expectations of government coalition	Veto to the introduction of positive parliamentarism	Solidity of the constitutional pact
Italy	Constituent Assembly	Y	High	N	Y
Spain	Constitutional Cortes and Referendum	?	Low	Minor actors	Y
Portugal	Constituent Assembly pacts with rev. council	N	Low	Y	Not immediate

All in all, some elements of historical legacy are visible in this picture: in Italy and Spain, the presence of some degrees of previous parliamentary institutionalization helped in conceiving a full “contract design” inspired by vision of positive parliamentarism. On the contrary, the absence of a tradition of parliamentary rule in Portugal did not suggest the introduction of a “new” form of ex-ante mechanism of delegation. The main difference between Spain and Italy, on the other hand, concerns the effect of the *syndrome of tyranny*. In Italy, where the constitutional consensus among parties was not associated with the perspective of an easy democratic alternation in power, the checks and balances introduced were in fact protecting the parliamentary agent, determining the conditions for very different types of coalition government (Cotta and Verzichelli, 2000). In Spain, UCD and PSOE played the role of two opposing players able to build a competitive system where a strong executive could find an immediate consolidation. Moreover, the possibility to evaluate the experiences of other European democracies was decisive to move to the *Kanzlerdemocratie* model.

## *INVESTITURE RULE, GOVERNMENT FORMATION AND THE ADOPTION OF QUESTIONING INSTRUMENTS IN ITALY, PORTUGAL AND SPAIN.*

In the cross-sectional analysis of sixteen Western European Parliaments we have highlighted a close relation between the adoption of negative formation rules and effective questioning instruments, at least with regard to the capacity to create a public confrontation. However, this relation can be direct or mediated by other phenomena: it is direct if the trade-off might is inspired by a coherent model of executive legislative relations; it is indirect if effective questioning instruments are adopted as a consequence of the kind of governments that were formed. In particular, the frequent formation of minority governments under negative parliamentarism might have created incentives for parliamentarians to craft strong questioning devices.

The index measuring the potential for promoting debate of parliamentary questions consider three features of oral questions: the first indicator is the possibility to have a debate on oral questions in which not only the questioner and the relevant minister can speak but also other members can take the floor . In most cases this kind of oral question "with debate" is called interpellation. Other important indicators are the presence or absence of at least a form of spontaneous questioning (a question whose content is not known in advance by the relevant minister), and the possibility to initiate an open debate after it.

Procedures for questioning in both Spain and Italy are classified as having weak potential to promote confrontation because they lack any form of truly spontaneous interaction between parliamentarians and government. On the contrary, Russo and Wiberg (2010) classify Portugal as a case with maximum potential form confrontation. To understand the nature of this relation, whether direct or indirect, it is necessary to know when such effective procedures have been adopted. Looking at the first version of the Portuguese Rules of Procedure adopted in 1976 we learn that at the beginning only "oral question with debate" (article 220) were adopted. On the contrary, no mention was done to any form of spontaneous questions. The Rules of Procedure of the Portuguese Parliament were amended several time, but spontaneous questions were only introduced in 2007 after more than 30 years from the constituent phase. We can conclude that in Portugal the adoption of effective questioning procedures was not based on an explicit attempt to counterbalance weak ex-ante delegation. If a relation exists, it must be indirect.

Saalfeld (2000) suggested that the trade-off between ex-ante and ex-post control can be mediated by the presence of minority governments. Also the literature on the use of parliamentary questions stresses the importance of minority governments. Minority governments need the support of some parties that are not in the government, and for this reason, they are in a relatively weak position. In fact, to pass any piece of legislation, they need to negotiate with someone, who in turn acquires a certain influence. In this scenario, the government is forced to be more "responsive" to the requests of parties and parliamentarians, and

their attempts to exert some influence may prove to be effective. The contemporary appearance of minority governments and the sudden growth of parliamentary questions has led some scholars to relate these phenomena, which seem to be found at least in Denmark (Damgaard, 1994), Portugal (Amorin Neto, 2003) and Sweden (Mattson, 1994).

However, the actual use of questioning instruments (behavioural change) is a different thing than the introduction of a new form of questioning (institutional change). With regard to Italy, Spain and Portugal, can we say that the frequent presence of minority government led to the adoption of more effective questioning procedures?

Looking at the whole democratic period (from the transition to 2011) minority governments have been the rule in Spain and rather common in both Portugal and Italy. However, despite being formally minority governments, Spanish executives have generally been based on solid agreement with regionalist parties. It is not a coincidence that cabinets have proved to be more stable in Spain than in Portugal or Italy (table 7). With regard to government formation, Spain can be considered as a the fully “rationalised” system of parliamentarism. Such a system, which as we saw above was shared by the main parties during the constituent phase and achieved thanks to the emulation of the German *Kanzlerdemocratie system*, was deliberately imposed and characterised the political realm since the first years of the democratic consolidation (Capo Giol et al., 1991). The main consequence of this rationalised positive parliamentarism was the governmental stability, somehow favoured by the disproportional effect of the PR system "Spanish version".

**Table 7. Government formation in Italy, Spain and Portugal (1948/1976 – 2011)**

Country	Period	N Cabinets		Minority cabinets		Minimum winning / One party majority		Surplus Coalition Majority		Of which: care-taker/ technocratic governments		Mean duration cabinets
		N		N	%	N	%		%	N	%	
Italy	1948–2011	60		29	48,3	3	5,0	28	46,7	3		403
Portugal	1976–2011	21		10	47,6	3	14,3	8	38,1	4		625
Spain	1977–2011	12		9	75,0	3	25,0	0	0	0		1042

Source: ParlGov database (Döring & Manow, 2012)

The Portuguese negative parliamentarism was characterized by a less intrusive role of parliament and a shift of power towards a “parallel chain of delegation”, as the semipresidential system imposes. Such a model proved to be a "successful story", although the incremental process of elite settlement required a



longer time and several steps, from the different "pacts" during the constituent phases to the constitutional reform of 1982 (Cruz and Lobo Antunes, 1990). The negative formation rule actually allowed the birth of rather unstable governments. From 1995 to 2002, after previous phases of caretakers and minority governments, Portugal experienced almost seven years of single party minority governments. The 2007 reform of the Rules of procedure through which the Parliament introduced several forms of spontaneous questioning reinforce this point of view. Indeed the timing of the evolution of the Portuguese Rules of Procedure is compatible with the hypothesis that minority governments triggers the adoption of more effective questioning instruments.

On the other hand Italy, with its frequent and unstable minority governments and very weak questioning procedures, casts some doubt on the argument's solidity. However, a more careful look at the logic of government formation and the character of executive legislative relations can explain this apparent paradox. The Italian case can be label as a natural-born consensus democracy system characterised by ex ante mechanisms of governmental control and by an evident centrality of parliament. The syndrome of tyranny and the fear of alternation led the Italian Constituent Assembly to avoid strong government adopting redundant bicameralism, a collegial structure of the executive and a weak prime minister. These measures, together with the impossibility of alternation, favoured the emergence of weak and short-lived governments (Cotta and Verzichelli, 2007). There was simply no need to devise additional instruments to control the government, whose initiative was constantly in the hands of the parliament. It is not a coincidence that pressures to adopt new kinds of questions, including the actual adoption of some form of question time (though not completely spontaneous, because questions are known in advance), begun in the nineties when governments acquired some new powers.

## *CONCLUSION*

This paper is a first attempt to understand the systemic nature of the choice between positive and negative formation rules. The basic cognitive question from which we have moved is if such a choice might be considered the consequence of a systemic view of executive-legislative relations. To shed some light on this question we have checked the association between formation rules and other forms of ex-post oversight including agenda powers. Apparently, with regard to Western European countries, the only significant relation is between formation rules and the existence of parliamentary questioning procedures with a high potential for confrontation. However, due to the limitations of the data currently available we could not test the hypothesis that this trade-off between weak ex-ante control and strong ex-post oversight depends on a coherent and intentional institutional design. Data on parliamentary questioning come from a cross-national survey done in 2008, many years later than the investiture rules were chosen. The second part of

the paper presented an in-depth analysis of the constituent phase in Italy, Portugal and Spain, all countries democratizing after a long authoritarian period. While Italy and Spain opted for a positive investiture rule, Portugal opted for a negative rule. These choices can be mainly justified with reference to previous experiences with democracy, institutional imitation and harmonization with other institutional choices. In both Italy and Spain it seems previous problems with assemblarism have recommended an explicit ex-ante pact among parties. On the other hand, Portugal had not previously experienced an institutionalized form of parliamentarism, and the constitutional choices made in 1976 seem more related with contingent problems (namely the balance between parties and the military). However, the similarities stop here.

Taken alone, the investiture rule is not an indication of the vision held by the constituent actors. However, things might differ if the whole "investiture procedure", and not only the formulation of the voting rule, is considered (Cheibub et al., 2013).

Among the three countries analysed here, only Portugal has effective procedures for parliamentarians to engage in lively debates with the government. However their late adoption shows that if a relation between investiture rule and questioning procedures is indirect. The argument according to which minority governments give incentives to engage in ex-post oversight seem confirmed by the Portuguese case, because the reform of the Rules of Procedure took place after a prolonged period of minority governments. However, also Italy and Spain have minority governments, but they did not reform the Rules of Procedure in a similar way. The possibility remains open that the coexistence of minority governments (rising the need for oversight) and absence of positive investiture created the condition for adopting effective ex-post instruments. But the evidence is too thin to make any generalization attempt.

All in all, this paper suggests that the investiture rule taken in isolation has not systemic origin, depending on historical heritage, institutional imitation and contextual factors. However, it might have systemic effects on some forms of ex-post oversight whose nature, strength and applicability should be further investigate.

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